

DOCKETED

Docket Number:	07-AFC-06C
Project Title:	Carlsbad Energy Center - Compliance
TN #:	230350
Document Title:	Response Letter to Application for Confidential Designation Paleontological Resources Report
Description:	N/A
Filer:	Liza Lopez
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/25/2019 10:02:22 AM
Docketed Date:	10/25/2019



October 24, 2019

Mr. Scott Seipel
NRG Carlsbad Energy Center, LLC
4600 Carlsbad Blvd
Carlsbad, CA 92008

**APPLICATION FOR CONFIDENTIAL DESIGNATION: PALEONTOLOGICAL
RESOURCES REPORT, DOCKET NO. 07-AFC-06C**

Dear Mr. Seipel:

The Energy Commission is in receipt of Carlsbad Energy Center LLC's (Applicant) Application for Confidentiality for the Paleontological Resources Report titled:

Paleontological Resources Report for the Amended Carlsbad Energy Center Project, 07-AFC-06C, Carlsbad, California, Prepared by PaleoWest Archaeology, December 2019.

The application states that the report contains photographs and maps of paleontological resource sites, results of field observations and archival research related to those resources. The application also states that confidentiality is necessary in order to guard against potential unauthorized excavation or removal of resources. You state that any disclosure of this information could heighten the risk of unauthorized excavation.

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the California Energy Commission to keep the record confidential."

The California Public Records Act provides for the nondisclosure of archaeological and paleontological site information and reports as well as records of Native American places, features, and objects. (Gov. Code §§6254(r), 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code §6254(k).)

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The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. sec. 470hh.)

Protection of paleontological resources location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. Therefore, the requested confidentiality of location information contained in the resource report is granted in its entirety. Resource location data will be kept confidential for an indefinite period. Portions of the report that do not provide location information or otherwise disclose information that would allow one to locate the paleontological resource may be publically disclosed.

Any subsequent submittals related to cultural resources can be deemed confidential, without the need for an application, by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the Executive Director may disclose or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, or raising, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506-2508.

If you have any questions concerning this matter, please contact Jared Babula at (916) 651-1462 or Jared.Babula@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director