

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

October 1, 2007

Michael J. Carroll  
Latham & Watkins, LLP  
650 Town Center Drive, 20th Floor  
Costa Mesa, CA 92626-1925

<b>DOCKET</b>	
<b>07-AFC-1</b>	
<b>DATE</b>	<b>OCT 01 2007</b>
<b>RECD.</b>	<b>OCT 01 2007</b>

**RE: Archaeological Records: Application for Confidentiality,  
Victorville 2 Hybrid Power Project,  
Docket No. 07-AFC-1**

Dear Mr. Carroll:

On September 17, 2007, the City of Victorville (Victorville), filed an application for confidentiality for information provided to the above referenced project. The application seeks confidentiality for certain archaeological records (see attached application for confidentiality, pages 2-3) and provides corrected information for an earlier confidentiality filing.

Victorville's application for confidentiality states, in part:

The Primary Record forms, the Archaeological Site Record forms, and maps 1-5 of Figure 5 should be kept confidential indefinitely to protect cultural resources sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting.

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 [Energy] Commission to keep the record confidential."

The California Public Records Act recognizes the confidentiality principles of federal law. (Gov. Code, § 6254(k).) 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. § 470hh.) Non-disclosure of the archaeological and cultural resources, such as the information that you have submitted, is expressly in the public interest. Therefore, the information that Victorville has submitted with this application, including the corrected information from the earlier filing, is granted confidentiality in its entirety. This information will be kept confidential for an indefinite period.

Any subsequent submittals related to archaeological and cultural resources can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if

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Victorville files a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

In addition, an appeal of this confidentiality determination must be filed within fourteen days from the date of this decision. The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, title 20, section 2505.

If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, appearing to read "B. B. Blevins for". The signature is fluid and cursive, with a large loop at the end.

B. B. BLEVINS  
Executive Director

Attachment

cc: Docket Unit  
Energy Commission Project Manager