

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

May 27, 2008

DOCKET	
98-AFC-1C	
DATE	MAY 27 2008
RECD.	MAY 28 2008

Mr. Jeffery D. Harris
Ellison, Schneider & Harris, L. L. P.
2015 H Street
Sacramento, CA 95811-3109

**RE: Cultural / Archaeological Records: Application for Confidentiality,
Los Medanos Energy Center Project,
Docket No. 98-AFC-1C**

Dear Mr. Harris:

On May 5, 2008, the Los Medanos Energy Center, LLC (Los Medanos) filed an application for confidentiality pertaining to the above-captioned docket. Los Medanos seeks confidentiality for the Cultural Resources Records Search Report from the California Historical Resources Information Systems (CHRIS).

Los Medanos's application for confidentiality states, in part:

Consistent with applicable law, this information should be held confidential indefinitely in order to protect the cultural resources identified therein. . . . The public interest in nondisclosure is that disclosure may enable location of these resources by thieves, vandals, or persons conducting unauthorized collection of materials.

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 (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, to be kept confidential pursuant to the Act. Therefore, Los Medanos's application will be granted confidentiality in its entirety, and it will be kept confidential for an indefinite period.

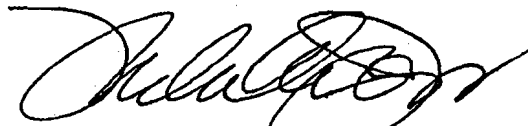
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Please note that any subsequent submittals related to this application can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if Los Medanos 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.

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 'Melissa Jones', written in a cursive style.

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager