

## CALIFORNIA ENERGY COMMISSION

1518 NINTH STREET  
SACRAMENTO, CA 95814-5512

September 30 2008

<b>DOCKET</b>	
08-AFC-7	
DATE	SEP 30 2008
RECD.	OCT 01 2008

Jerry Salamy  
CH2MHill  
2485 Natomas Park Dr, Ste. 600  
Sacramento, California 95833

RE: **Cultural Resources Application for Confidentiality,  
GWF Energy, LLC,  
Docket No. 08-AFC-7**

Dear Mr. Salamy:

On September 15, 2008, GWF Energy, LLC, filed an application for confidentiality on behalf of the GWF Tracy Combined Cycle Power Plant project (Docket No. 08-AFC-7). The application seeks confidentiality for the Cultural Resources Reports (hereinafter referred to as "the Reports"). Specifically, you seek confidential designation for the following records:

1. Appendix 5.3B TPP Cultural Resource Assessment
2. Appendix 5.3C GWF Tracy CHRIS Literature Search Results
3. Appendix 5.3E Cultural Resource Figures 5.3E1a – 5.3E1d

GWF states that the Reports:

... should be kept confidential indefinitely to protect potential cultural resource sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting. ... The public interest will be served by nondisclosure by preventing looting of the resource sites described in the Cultural Resources Reports.

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, sec. 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. sec. 470hh.) Non-disclosure of archeological resources, such as the information that you have submitted in the Reports, is expressly in the public interest.

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Therefore, GWF's September 15, 2008, confidentiality application for the Cultural Resources Reports is granted in its entirety. The Reports will be kept confidential for an indefinite period.

Any subsequent submittals related to 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 you file a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Be advised that persons may petition to inspect or copy 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 Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,



MELISSA JONES  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager