

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



March 12, 2009

Elisha Back
TRC Solutions
21 Technology Dr
Irvine, Ca 92618

RE: Deficient or Incomplete Application for Confidentiality
Orange Grove Project - Compliance (08-AFC-4C)

DOCKET

08-AFC-4C

DATE MAR 12 2009

RECD. MAR 12 2009

Dear Mr. Larsen

On March 06, 2009, TRC Solutions submitted materials to the California Energy Commission for confidential designation. Pursuant to California Code of Regulations, an entity seeking confidentiality for certain materials needs to submit an application for confidentiality. (Cal. Code Regs., tit. 20, § 2505 et seq.) We have identified the application and/or materials submitted as deficient¹ or incomplete for the reason[s] listed below:

- The submitted application and/or supporting materials do not have an identifiable and/or complete docket number typed or printed on the materials. (Cal. Code Regs., title 20, § 1209(b)(2))
- The materials, for which confidentiality is sought, have not been submitted with the application. (Cal. Code Regs., title 20, § 2505(a)(1)(A))
- We have received materials labeled as confidential, but there is no accompanying application for confidentiality. (Cal. Code Regs., title 20, § 2505(a)(1)(A))
- The application for confidentiality does not have an original signature by an authorized representative of your company, and/or does not include the certification as required by regulation. (Cal. Code Regs., title 20, § 2505(a)(1)(G))
- We have not received the required number of copies of the confidential material. (Cal. Code Regs., title 20, § 1209(c))
- The data submitted with your application for confidentiality is inconsistent with the data identified in your application. Please make sure that the data is clearly identified and labeled. (Cal. Code Regs., title 20, § 2505(a)(1)(B))

Once the deficiencies identified above have been corrected, please return the completed application for confidentiality to the Energy Commission's Executive Director. Be advised that the record[s] for which confidentiality is requested shall not be disclosed for 14 days from the date of this letter. If you have any questions concerning this matter, please contact Deborah Dyer, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

TERAJA` GOLSTON

¹ A deficient or incomplete application shall be returned to the applicant with a statement of its defects. The record or records for which confidentiality was requested shall not be disclosed for fourteen days after return of the application to allow a new application to be submitted except as provided in Section 2507 of this Article. (Cal. Code Regs., title 20, § 2505(a)(2))



21 Technology Drive
Irvine, CA 92618

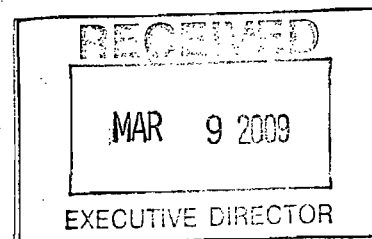
949.727.9336 PHONE
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www.TRCSolutions.com

March 6, 2009

OGP Compliance Log # 2009-034a

Mr. Ron Yasny
(Docket No. 08-AFC-4C)
California Energy Commission
1516 Ninth Street (MS-2000)
Sacramento, CA 95814



**Subject: Orange Grove Project (08-AFC-4)
Condition of Certification CUL-3
Cultural Resources Monitoring and Mitigation Plan (CRMMP) –
confidential appendix**

Dear Mr. Yasny:

Enclosed for your review and approval is the confidential appendix for the draft Cultural Resources Monitoring and Mitigation Plan (CRMMP) for the Orange Grove project. We have included the application for confidential designation.

This document and enclosure are being submitted in compliance with Condition of Certification CUL-3 as set forth in the Amended Staff Assessment and the Presiding Member's Proposed Decision for the Orange Grove Project. Orange Grove Energy, L.P. understands that this is being submitted at risk since the Final Decision has not yet been issued.

Please note that the enclosure for submittal will not be uploaded onto the Portal Site. If you need electronic copies of this enclosure, please let us know. If you have any questions regarding this submittal, please feel free to contact me at (949) 727-7390 or eback@trcsolutions.com.

Sincerely,

Elisha Back
Principal, Natural Sciences and Permitting

Enclosure:
Confidential Appendix for the CRMMP

APPLICATION FOR CONFIDENTIAL DESIGNATION
(Title 20 Cal. Code Regs., § 2505 et seq.)

To: ENERGY COMMISSION EXECUTIVE DIRECTOR, MS-39

ENERGY COMMISSION CONTRACT/DOCKET NO. (IF APPLICABLE): 08-AFC-4

APPLICANT: Orange Grove Energy, L.P.

ADDRESS: 1900 East Golf Road, Suite 1030, Schaumburg, IL. 60173

1(a). Title, date, and description (including number of pages) of the information or for which you request confidential designation. Information or data seeking a designation of confidentiality must be included with this application.

See response to 1(b) below.

1(b). Specify the part(s) of the information or data for which you request confidential designation.

All of the following information considered to be confidential has been prepared by qualified consultants and has not been disclosed to any other party.

All of the information in **Appendix C** from the Orange Grove Project Cultural Resources Monitoring and Mitigation Plan (CRMMP) is confidential. Appendix C includes two (2) cultural resource location maps. These depict the locations of previously known and newly recorded or updated archaeological sites. The information depicted on these maps was derived from survey work and record searches. All information garnered from record searches was transmitted by the South Coast Information Center of the California Historical Resources Information System (CHRIS) and submitted to the qualified consultant according to the terms of a confidentiality agreement, as required by all Information Centers of the CRHIS. These maps were prepared for TRC and submitted to the California Energy Commission.

2. State and justify the length of time the Energy Commission should keep information or data confidential.

The above referenced figures should be kept confidential in perpetuity. If the descriptions of the locations of the sites are released to the public domain, there is risk of looting or other acts of vandalism to the cultural resources identified.

3(a). State the provision(s) of the Public Records Act (Gov. Code § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

The above referenced figures identify site locations and areas of potential American cultural significance. It is thus protected under Government Code Section 6254 (r).

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The public interest will be served by nondisclosure by preventing looting of the cultural resource sites described in the above referenced figures. Such looting would preclude scientific study of the sites to obtain data about the cultural resource areas.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

The above referenced figures cannot be disclosed in whole, or in any part (e.g. masked) in order to protect sensitive cultural resources.

5. State how the material is kept confidential by the applicant and whether it has been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

This material described in 1a and 1b is marked "Confidential", stored separately from other Orange Grove Project files, and will be made available on a "need to know" basis as determined by Orange Grove Energy, L.P. or its consultants/attorneys/contractors. The materials have been provided to California Energy Commission as part of the Orange Grove Project CRMMP.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and I am authorized to make the application and certification on behalf of the applicant.

Dated: 03-06-2009

Signed: 

Name (print or type): R. Michael Jones

Title (print or type): Project Manager

Representing: Orange Grove Energy, L.P.

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.