

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



August 20, 2009

Anne Runnalls
URS Corporation
1615 Murray Canyon Road, Ste. 1000
San Diego, CA 92108

DOCKET**08-AFC-12**

DATE AUG 20 2009

RECD AUG 20 2009

RE: **Application for Confidentiality**
Cultural Resources Data Request Set #1
San Joaquin Solar 1 & 2
Docket No. 08-AFC-12

Dear Ms. Runnalls:

On July 22, 2009, San Joaquin Solar, LLC, and San Joaquin Solar 2, LLC (collectively referred to herein as "Applicant") filed an application for confidentiality in the above-captioned Docket. Applicant seeks confidentiality for the response to California Energy Commission staff's Data Request Set #1, including the maps and correspondence submitted with the response, which contains cultural resource information.

Applicant claims that the information should be kept confidential because:

If the descriptions of the location of the sites are released to the public domain, there is an unacceptable risk of looting. . . the public interest would be served by nondisclosure by preventing the unauthorized looting of the cultural resources sites described in the appendix specified in Response to #1. . . Such looting would preclude scientific study of the worthy site to gain historical data about human use of the area.

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.) Furthermore, the Public Records Act specifically exempts disclosure of records of Native American graves, cemeteries, and sacred places. 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 Archaeological Resources Protection Act. Therefore, the application for confidentiality

will be granted in its entirety and the information identified above will be kept confidential for an indefinite period.

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 Applicant 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 Deborah R. Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager