

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

November 10, 2009

John McKinsey
Stoel Rives, LLP
980 Ninth Street, Suite 1900
Sacramento CA 95814**DOCKET****79-AFC-4C**

DATE NOV 10 2009

RECD NOV 12 2009

**RE: Application for Confidentiality
Bottle Rock Power Plant Cultural Resources
Docket No. 79-AFC-4C**

Dear Mr. McKinsey:

On October 7, 2009, Bottle Rock Power, LLC, filed an application for confidentiality to the above-captioned docket, on behalf of Bottle Rock Power Plant ("Applicant"). The application seeks confidentiality for Attachment A to the Petition to Amend the California Energy Commission's Bottle Rock Power Plant Final Decision. Applicant states that the Attachment:

. . . contains information regarding cultural resources in the BRPP area, which may be impacted by the proposed project changes. . . This cultural resource information includes confidential maps of cultural resource sites and confidential results of field surveys, a literature search, and archival research on potential cultural resources. . . . disclosure of such information could heighten the risk of unauthorized excavation of such resources, and/or unauthorized removal of the same from locations of potential resources referenced in the report.

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 provides for the nondisclosure of archaeological site information and reports. Gov. Code, sec. 6254.10. The Public Records Act also 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 cultural and archaeological resources, such as the information that you have submitted in the Attachment, is expressly in the public interest.

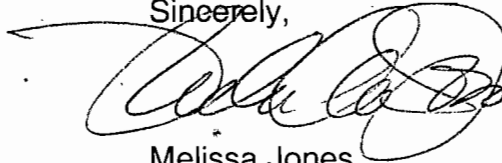
Therefore, Applicant's October 7, 2009, confidentiality application for Attachment A is granted in its entirety. The Attachment will be kept confidential for an indefinite period.

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Any subsequent submittals related to archaeological 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,

A handwritten signature in black ink, appearing to read 'Melissa Jones', written over a circular scribble.

Melissa Jones
Executive Director

cc: Docket Unit
Energy Commission Project Manager