

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

January 27, 2010

DOCKET**09-AFC-5**DATE JAN 27 2010RECD. JAN 28 2010Cara Corsetti
SWCA Environmental Consultants
625 Fair Oaks Avenue, Ste. 190
South Pasadena, CA 91030**RE: Application for Confidentiality, Geoarchaeological Testing Report
Abengoa Mojave Solar Project
Docket No. 09-AFC-5**

Dear Ms. Corsetti:

On December 28, 2009, you submitted an Application for Confidentiality on behalf of the Abengoa Mojave Solar Project (“Applicant”) (Docket No. 09-AFC-5). The application seeks confidential designation for the Geoarchaeological Testing Report (“the Report”), including attachments:

Applicant states that the Report:

. . . specifically identifies locations and areas of potential cultural resource sensitivity. . . . The public interest will be served by nondisclosure by preventing looting of potential culturally sensitivity areas described in (the Report). Such looting would preclude scientific study of the sites to obtain data about the cultural resource areas.

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 resources, such as the information that you have submitted in the records, is expressly in the public interest.

Therefore, Abengoa Mojave Solar Power Project’s December 28, 2009, confidentiality application for the Report is granted in its entirety. The document will be kept confidential for an indefinite period.

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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,

/S/

Melissa Jones
Executive Director

cc: Docket Unit
Energy Commission Project Manager