

CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512
www.energy.ca.gov

DOCKET
09-AFC-6



March 3, 2010

DATE MAR 03 2010

RECD. MAR 16 2010

David Wiseman
Galati Blek LLP
455 Capitol Mall, Suite 350
Sacramento CA 95814

**RE: Applications for Confidentiality
Cultural Resources Data Requests 122, 128-133, and 146-148
Blythe Solar Power
Docket No. 09-AFC-6**

Dear Mr. Wiseman:

On January 28, 2010, Solar Millennium LLC, filed two applications for confidentiality to the above-captioned docket, on behalf of Blythe Solar Power Project ("Applicant"). The first application seeks confidentiality for Applicant's responses to Data Requests 146-148. Applicant states that the Responses contain information related to Traditional Use Areas at the project. The second application seeks confidentiality for Applicant's Responses to Data Requests 122, 128-133. Applicant states that those Responses contain Revised Department of Parks and Recreation Archaeological Site Record Forms for Newly Recorded Sites at the Blythe project. Since both applications relate to similar records, and site identical law, the two applications will be considered jointly herein.

Applicant claims that the Responses to Data Requests 122, 128-133, and 146-148:

. . . specifically identify and describes areas of potential cultural and archaeological significance . . . The public interest will be served by nondisclosure by preventing looting of the cultural and archaeological resources sites described in (the Responses). Such looting would preclude scientific study of the sites to gain data about the cultural and archeological resources 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 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 Responses to Data Requests 122, 128-133, and 146-148, is expressly in the public interest.

Therefore, Blythe Solar Power Project's two January 28, 2010, confidentiality applications for the Responses to Data Requests 122, 128-133, and 146-148, are granted in their entirety. The Responses 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,

/S/

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager