

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

October 31, 2011

DOCKET**11-AFC-4**DATE OCT 31 2011RECD. NOV 03 2011Brian S. Biering
Ellison, Schneider & Harris LLP
2600 Capitol Avenue
Sacramento, CA 95816**RE: Application for Confidentiality, Cultural Resources and
Paleontological Information. Rio Mesa Solar Projects
Docket No. 11-AFC-4**

Dear Mr. Biering:

On October 14, 2011, you submitted two Applications for Confidentiality on behalf of Rio Mesa Solar, LLC, ("Applicant"). The Applications seek confidential designations for the following reports related to cultural and paleontological resources:

- 1) Cultural Resources Technical Report
- 2) Appendix E: Confidential Figures
- 3) Appendix F: Record Search Results-Previously Conducted Investigations
- 4) Appendix G: Newly Recorded and Updated Cultural Resources
- 5) Paleontological Technical Report-Appendix 5.8A

Applicant states that the reports identify the potential locations of cultural and paleontological resource sites in the project area, and that:

. . .disclosure may enable location of these resources by thieves, vandals, or persons conducting unauthorized collection of materials.

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

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kept confidential in order to preserve them. (16 U.S.C. sec. 470hh.) Non-disclosure of cultural and paleontological resources, such as the information that you have submitted in the above-referenced reports, is expressly in the public interest.

Therefore, the Applicant's October 14, 2011, Confidentiality Applications are granted in their entirety. The documents will be kept confidential for an indefinite period.

Any subsequent submittals related to cultural and paleontological 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 Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,

/S/

Robert P. Oglesby
Executive Director

cc: Docket Unit
Pierre Martinez, Commission Project Manager