

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

November 14, 2011

<b>DOCKET</b> 11-AFC-3 NOV 14 2011
<b>DATE</b> NOV 16 2011
<b>RECD.</b> _____

Constance Farmer  
Tetra Tech EC, Inc.  
143 Union Blvd. Suite 1010  
Lakewood, CO 80228

RE: **Application for Confidentiality, Cultural Resources and Paleontological Information. Quail Brush Generating Project**  
**Docket No. 11-AFC-3**

Dear Ms. Farmer:

On October 24, 2011, you submitted additional Applications for Confidentiality on behalf of Quail Brush Genco, LLC, ("Applicant"). The Applications seek confidential designations for the following reports related to cultural and paleontological resources:

- 1) AFC Section 4.1
- 2) Appendix C: Cultural Resources Technical Report
- 3) Cultural Resource Data provided in response to Data Adequacy requests
- 4) Paleontological Data provided in response to Data Adequacy requests

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

"If the confidential locations of these resources are released to the public domain, there is potential risk of destruction and or looting of these resources."

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 California [Energy] Commission (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 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 Cultural and Paleontological, Confidentiality Applications are granted in their entirety. The documents will be kept confidential for an indefinite period.

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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,

A handwritten signature in black ink, appearing to read "Rob Oglesby", with a long horizontal line extending to the right.

Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Pierre Martinez, Commission Project Manager