

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

September 28, 2012

California Energy Commission

**DOCKETED**  
**09-AFC-2C**

TN # 67374

SEP 28 2012

Brian S. Biering  
Ellison, Schneider & Harris LLP  
2600 Capitol Avenue  
Sacramento, CA 95816

RE: **Almond 2 Power Plant: Application for Confidential Designation:  
Paleontological Resources  
Docket No. 09-AFC-2C**

Dear Mr. Biering:

The California Energy Commission (Energy Commission) is in receipt of an Application for Confidentiality submitted on behalf of the Turlock Irrigation District ("Applicant"). The Application seeks confidential designation for the following document related to location information of paleontological resources:

- 1) Paleontological Resource Report in response to COC PAL-7

Applicant states that the report identifies the potential locations of 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 resource site locations must be kept confidential in order to preserve them. (16 U.S.C. sec. 470hh.) Non-disclosure of paleontological resources, such as the information that you have submitted in the above-referenced report, is expressly in the public interest.

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Therefore, the Applicant's Confidentiality Application related to paleontological resource location information is granted. The location information within the document 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 Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Bruce Boyer, Compliance Project Manager