

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

California Energy Commission

DOCKETED**12-AFC-2**

TN # 68557

NOV. 19 2012

November 15, 2012

Melissa A. Foster
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

RE: **Application for Confidentiality, Cultural Resources Location
Records. Huntington Beach Energy Project
Docket No. 12-AFC-02**

Dear Ms. Foster:

The Energy Commission is in receipt of your Application and repeated Application for Confidentiality on behalf of AES Southland Development, LLC ("Applicant"). The Application seeks confidential designation for cultural resource submissions which include maps of cultural resource sites and results of field surveys.

Applicant states that public disclosure of information identifying the potential locations of cultural resource sites in the project area could result in unauthorized excavation and destruction of 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 resources, such as the information that you have submitted in the above-referenced reports, is expressly in the public interest.

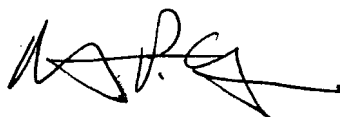
Therefore, the Applicant's Confidentiality Applications are granted in their entirety. The documents will be kept confidential for an indefinite period.

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Any subsequent submittals related to cultural 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 'R. P. Oglesby', with a long horizontal line extending to the right.

Robert P. Oglesby
Executive Director

cc: Docket Unit
Felicia Miller, Commission Project Manager