

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

California Energy Commission

**DOCKETED**  
**11-AFC-3**

TN # 68558

NOV. 19 2012



November 15, 2012

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

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

Dear Ms. Farmer:

Previously, you submitted Applications for Confidentiality on behalf of Quail Brush Genco, LLC, ("Applicant"), seeking confidential designation for Cultural Resource reports. This application is similar and requests confidential designation for preliminary results from a supplemental cultural resource survey. This survey occurred on additional parcels of land near the project site.

Applicant states that the report and data identify the potential locations of cultural 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 resources, such as the information that you have submitted in the above-referenced reports, is expressly in the public interest.

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Therefore, the Applicant's Confidentiality Application is granted in its entirety. The supplemental survey results identifying resource locations will be kept confidential for an indefinite period. Generalized summary information of the supplemental survey may be released so long as specific site location information is not disclosed.

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 flourish extending to the right.

Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Eric Solorio, Commission Project Manager