

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

California Energy Commission

**DOCKETED**  
**12-AFC-03**

TN # 68857

DEC. 12 2012

December 12, 2012

John A. McKinsey  
Stoel Rives LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814

RE: **Application for Confidentiality, AES Southland Development, LLC,  
Cultural and Paleontological Resources  
Docket No. 12-AFC-03**

Dear Mr. McKinsey:

The California Energy Commission (Energy Commission) is in receipt of two Applications for Confidentiality both dated November 20, 2012, and submitted on behalf of AES Southland Development, LLC ("Applicant"). The Applications seek confidential designation for the following documents related to cultural and paleontological resources:

1. Location information of resources contained in submitted maps, field survey results and archival and literature research data.

The applications state:

... disclosure of such information could heighten the risk of unauthorized excavation of such resources, and/or unauthorized removal...

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 and paleontological 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

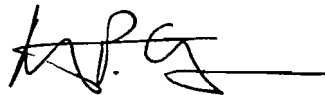
John A. McKinsey  
December 12, 2012  
Page 2

location information that you have submitted, are expressly in the public interest. Therefore, Applicant's confidentiality applications seeking confidentiality of cultural and paleontological resource site location information contained within the submitted materials, are granted in their entirety. Resource site location data will be kept confidential for an indefinite period.

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

Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Patricia Kelly, Energy Commission Project Manager