

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

April 19, 2013

California Energy Commission

DOCKETED
97-AFC-2C

TN # 70427

APR. 22 2013

Douglas M. Davy, Ph.D
CH2M Hill Engineers, Inc.
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833

RE: **Application for Confidentiality,
Sutter Energy Center,
Appendix 3.3 CHRIS Records Search Results
Docket No. 97-AFC-2C**

Dear Dr. Davy:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Calpine Construction Finance Company, L.P. ("Applicant"). The Application seeks confidential designation for the following document related to cultural resources and Amendment 6 to the Sutter Energy Center:

- 1) *Appendix 3.3, CHRIS Records Search Results*, dated March 22, 2013.

The application states:

... The record contains sensitive information related to archaeological and historic properties... If the information in the submitted record is released to the public, there is a risk that the information could be used to loot, vandalize, or otherwise damage sensitive archaeological and historic properties of interest and value to the public.

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, § § 6254.10 and 6254(r). The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code, § 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. §. 470hh.) Non-

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disclosure of cultural resources, such as the location information that you have submitted in Appendix 3.3, is expressly in the public interest. Therefore, Applicant's confidentiality application seeking confidentiality of cultural resource site location information contained within *Appendix 3.3 CHRIS Records Search Results* is granted in its entirety. Resource site location data 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
Christine Stora, Energy Commission Compliance Project Manager