

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

January 18 2007

Angela Leiba
Starwood Power-Midway, LLC
591 West Putnam Avenue
Greenwich, CT 06830

DOCKET 06-AFC-10	
DATE	JAN 18 2007
RECD.	JAN 18 2007

RE: **Cultural Resources Application for Confidentiality,
Starwood Power-Midway, LLC
Docket No. 06-AFC-10**

Dear Ms. Leiba:

On December 11, 2006, Starwood Power-Midway, LLC, (hereinafter referred to as "Starwood") filed an application for confidentiality on behalf of the Starwood Power-Midway Peaking Project (Docket No. 06-AFC-10). The application seeks confidentiality for the Cultural Resources Survey contained in Appendix J (hereinafter referred to as "Appendix J"). Starwood states that Appendix J:

. . . should be kept confidential indefinitely to protect cultural resources site locations identified in the report. If the descriptions of the location of the sites are released to the public domain, there is an unacceptable risk of looting. . . The site descriptions are essentially equivalent to the information maintained by the State Historical Resources Commission, . . . The public interest would be served by nondisclosure by preventing the unauthorized looting of the cultural resources sites described in the report specified in response 1. . . .

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 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 paleontological resources, such as the information that you have submitted in Appendix J, is expressly in the public interest.

Therefore, Starwood's December 11, 2006, confidentiality application for cultural resources is granted in its entirety. Appendix J will be kept confidential for an indefinite period. Any subsequent submittals related to cultural resources can be deemed

Angela Leiba
January 18, 2007
Page 2

confidential as specified in this letter without the need for a new application as specified in the California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), and 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 Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

B. B. BLEVINS
Executive Director

cc: Docket Unit
Energy Commission Project Manager