

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

March 20, 2008

DOCKET 07-AFC-7	
DATE	MAR 20 2008
RECD.	MAR 24 2008

Mr. David L. Wiseman
Galati / Blek, LLP
555 Capitol Avenue, Suite 600
Sacramento, CA 95814

RE: **Archaeological / Cultural Records: Application for Confidentiality,
Kings River Conservation District Community Power Plant,
Docket No. 07-AFC-7**

Dear Mr. Wiseman:

On February 25, 2008, the Kings River Conservation District (KRCD) filed an application for confidentiality on behalf of the Kings River Conservation District Community Power Plant (KRCD CPP). The application seeks confidentiality for Archaeological Survey Report Figures 2 through 7 (Revised Appendix A) (hereinafter "Archaeological Figures").

KRCD's application for confidentiality states, in part:

Confidential Archaeological Survey Report Figures 2 through 7 (Revised Appendix A) should be kept confidential indefinitely to protect potential cultural resources sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting. . . . Confidential Archaeological Survey Report Figures 2 through 7 (Revised Appendix A) specifically identifies areas of potential cultural significance. It is thus protected under Government Code Sections 6254(e) and 6254(k).

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, § 6254(k).) The Archaeological Resources Protection Act (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-disclosure of the archaeological and cultural resources, such as the information that you have submitted in the Archaeological Figures, is expressly in the public interest to be kept confidential pursuant to the Act. Therefore, the Archaeological Figures will be granted confidentiality in their entirety, and it will be kept confidential for an indefinite period.

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Please note that any subsequent submittals related to the Archaeological Figures 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 KRCD files a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Persons may petition to inspect or copy the 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.

In addition, an appeal of this confidentiality determination must be filed within fourteen days from the date of this decision. The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, title 20, section 2505.

If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,



MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager