

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

December 18, 2008

Douglas Wert
Martifer Renewables Solar Thermal LLC
12333 High Bluff Drive, Suite 100
San Diego, CA 92130

DOCKET	
08-AFC-12	
DATE	DEC 18 2008
RECD.	DEC 18 2008

RE: **Cultural / Paleontological Records: Application for Confidentiality,
San Joaquin Solar 1 & 2
Docket No. 08-AFC-12**

Dear Mr. Wert:

On November 23, 2008, Martifer Renewables Solar Thermal LLC (Applicant) filed an application for confidentiality to the above-captioned docket on behalf of San Joaquin Solar 1 LLC and San Joaquin Solar 2 LLC (collectively referred to as "the projects"). Applicant seeks confidentiality for documents containing cultural and paleontological resource information for the projects. Specifically, Applicant requests confidential designation for the Archaeological Survey Report, Appendix G of the Application for Certification, and for the Paleontological Survey Report, Appendix H of the Application for Certification, including maps and correspondence included with those documents.

Your application for confidentiality states, in part:

The information should be kept confidential indefinitely to protect cultural resources site locations identified in the appendix[es]. If the descriptions of the location of the sites are released into the public domain, there is an unacceptable risk of looting. . . .Such looting would preclude scientific study of the worthy site to gain historical data about human use of the area.

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 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, is expressly in the public interest, to be kept confidential pursuant to the Archaeological Resources Protection Act. Therefore, your application will be granted confidentiality in its entirety, and Appendix G and Appendix H will be kept confidential for an indefinite period.

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Please note that any subsequent submittals related to this application 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 Beacon 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.

If you have any questions concerning this matter, please contact Deborah R. Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Jones', with a large, stylized flourish at the end.

MELISSA JONES
Executive Director

cc: Docket Unit
Christopher Meyer, Project Manager