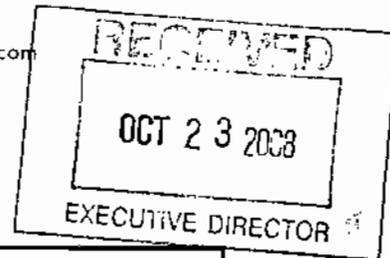


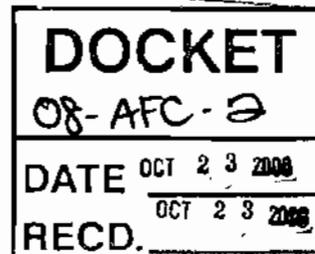
Sophia J. Rowlands
srowlands@downeybrand.com



October 23, 2008

VIA HAND DELIVERY

Melissa Jones
Executive Director
California Energy Commission
1516 9th Street
Sacramento, CA 95814



COMPLETED

Re: Request for Confidential Designation of Certain Cultural Resources Attachments Provided in Connection with Project Beacon Supplemental Responses to Data Requests 30 & 32 (Docket No. 8-AFC-02)

Dear Ms. Jones:

Pursuant to Title 20 California Code of Regulations § 2505, Beacon Solar, LLC ("Beacon") hereby submits this application for confidential designation for the enclosed *Evaluation of Cultural Resources for Beacon Solar Energy Project, Kern County, California: Attachments 3, 4 and 5* ("Attachments") prepared by EDAW, Inc. in connection with the Beacon Solar Energy Project ("Project") Application for Certification (AFC).

Beacon requests that the enclosed documents containing confidential cultural resources information be kept confidential. These Attachments identify confidential cultural resources information, such as the location and content of archaeological and cultural sites. Specifically, this information is set forth in detail in Attachment 3 (Project Maps), Attachment 4 (DPR Site Forms), and Attachment 5 (Catalogs). These three Attachments comprise a total of 110 pages. Beacon requests that the California Energy Commission ("Commission") keep this information confidential permanently. The requested time frame is consistent with the definition of public records contained in California Government Code Section 6254.10. Section 6254.10 indicates that:

Nothing in this chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records

that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

Id. Furthermore, California Government Code Section 6254(r) does not require the disclosure of information regarding Native American graves, cemeteries and sacred places. Id. The Report provides just the type of information discussed in the above-cited Government Code sections. Consistent with the intent and philosophy of Cal. Gov. Code Sections 6254.10 and 6254(r), such information should be considered a confidential record permanently.

Cultural resources are assets providing insight into prior cultures and lose a great deal of value if they are improperly disturbed. Publication of location and specific descriptions of these assets at best invites the curious, who may unwittingly disrupt or destroy the assets, and at worst encourages destruction or theft from these sites. Thus, in order to protect the integrity of these sites and to respect the resting places of any deceased, these site descriptions and locations should be kept confidential. Beacon's interest in seeking confidentiality for these documents is preservation of the resources rather than any competitive advantage.

The information in a non-confidential, aggregated form is already included in the AFC and the narrative portion of Beacon's Responses and Supplemental Responses to Data Requests. Therefore, further aggregation of the information is unnecessary. Masking the information contained in the Attachments would render the information provided useless, and Beacon believes that the Commission and staff will need the detailed information provided in these confidential Attachments to properly carry out their analysis. The public document included in Beacon's Supplemental Responses to Data Requests 30 & 32 can serve as a generalized basis for the Commission's analysis without disclosing information that could facilitate damage to the sites.

The cultural resources information related to the Project and found in the Attachments is known only to specific employees of Beacon, the specific consultants hired by Beacon for this AFC, Beacon's attorneys, and local representatives of Native Americans. This information has not been publicly disclosed. Beacon has marked this information as "CONFIDENTIAL", is segregating it from other Project files and is restricting access to it on a need-to-know basis as determined by Beacon's consultants, attorneys, and contractors.

For the reasons specified above and the specific statutory protection provided for cultural records, the Commission should designate these Attachments as confidential.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to make the application and certification on behalf of Beacon Solar, LLC.

Very truly yours,

DOWNEY BRAND LLP



Sophia J. Rowlands

SJR:SJR

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10/22/08