

DOCKETED

Docket Number:	19-SPPE-01
Project Title:	Laurelwood Data Center (MECP I Santa Clara I, LLC)
TN #:	227895
Document Title:	Response to Application for Confidential Designation re Cultural and Archaeological Resources Laurelwood Data Center
Description:	N/A
Filer:	Liza Lopez
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	4/30/2019 11:44:40 AM
Docketed Date:	4/30/2019



April 30, 2019

Ms. Samantha G. Neumyer
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816

**RE: APPLICATION FOR CONFIDENTIAL DESIGNATION FOR CULTURAL AND
ARCHAEOLOGICAL RESOURCES LAURELWOOD DATA CENTER
Docket No. 19-SPPE-01**

Dear Ms. Neumyer:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Laurelwood Data Center (Applicant). The application seeks confidential designation for 115 documents that reflect cultural and archaeological resource studies in the surrounding areas, performed over the years, as part of prior construction projects. The State Historical Resources Commission, the State Lands Commission, and the Native American Heritage Commission maintain the studies and consider them confidential. Examples of the studies include:

- 1) *Archaeological Surveys*
- 2) *Cultural Resource Reports*
- 3) *Geoarchaeological Reports*
- 4) *Historic Property Surveys*

The application states:

The information is exempt from disclosure under the Public Records Act pursuant to Government Code sections 6254.10... Section 6254.10 specifically exempts from disclosure records relating to archaeological site information, in addition to reports maintained by the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, or other agencies.

Disclosure of sensitive cultural and archaeological resources sites may result in theft or unauthorized collection of materials.

Ms. Samantha G. Neumyer

April 30, 2019

Page Two

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 California 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.) 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-disclosure of cultural and archaeological resources, such as the location information that you have submitted is expressly in the public interest. Therefore, Applicant's application seeking confidentiality of cultural and archaeological site location information contained within the filed documents and reports is granted. Resource site location data will be kept confidential for an indefinite period.

Any subsequent submittals related to cultural or archaeological 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).

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 attorney, at (916) 651-1462 or Jared.babula@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director

cc: Docket Unit
Gabriel Roark, Cultural Resources unit
Jared Babula, Senior Attorney
Lon Payne, Energy Commission Project Manager