

DOCKETED

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June 27, 2023

Via Email

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**Application for Confidential Designation
Sutter Energy Center
Docket No. 97-AFC-02C**

Dear Samantha Neumyer:

The California Energy Commission (CEC) has received Sutter Energy Center's (applicant) Application for Confidentiality, dated May 19, 2023 (TN 250249) covering the following information:

- Figure BIO-3

The applicant states that the map contained in Figure BIO-3 should be kept confidential because it contains sensitive information regarding the location of certain special status species. The applicant asserts Government Code section 7922.000 as the basis for confidentiality of Figure BIO-3.

The applicant states that the information is accessible to employees or consultants working on behalf of the applicant, biological resources professionals and organizations with access to the California Natural Diversity Database (CNDB), and regulatory agencies that have regulatory oversight or other responsibilities over either the information or the Sutter Energy Center.

The applicant asserts, under Government Code section 7922.000, that the public interest in nondisclosure of the information outweighs disclosure because disclosing the information may enable entities to locate sensitive biological resources and collect or disturb those resources without authorization.

A properly filed application for confidentiality shall be granted under 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 CNDB contains detailed maps and Geographic Information System (GIS) shape files reflecting the location of biological resources based on surveys and sightings. The CNDB contains language within the database that restricts public disclosure of maps of certain resolution and California Department of Fish and Wildlife (CDFW) has met with CEC

staff to confirm the need to protect these maps. Consistent with this direction from CDFW, CEC staff directed the applicant to submit maps of certain resolution under confidential cover.

The CEC staff discussed confidentiality of the map submitted by Sutter Energy Center and determined that the map need not be confidential due to the resolution of the map. The map resolution is low enough such that the exact locations of the biological resources contained therein are not obvious or easily obtained. Therefore, confidentiality is denied for Figure BIO-3. The CEC will file Figure BIO-3 in docket No. 97-AFC-02C.

You may request that the CEC determine the confidentiality of records for which the executive director denied confidential designation. You have 14 days to request that the CEC determine the confidentiality of the record. If you make such a request, the CEC will conduct a proceeding pursuant to the provisions in the California Code of Regulations, title 20, section 2508.

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

Any related subsequent submittals can be deemed confidential, without the need for an application, by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have questions, please email confidentialityapplication@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director