

DOCKETED

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Project Title:	Sutter Power Plant Application for Certification
TN #:	250794
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June 28, 2023

Via Email

Samantha G. Neumyer
Ellison Schneider Harris & Donlan, LLP
2600 Capitol Ave, Suite 400
Sacramento, California 95816
Sgn@eslawfirm.com

**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 (TN 250248), dated May 19, 2023, covering the following documents:

Appendix C to Cultural Resources Assessment for the Petition for Modification of the Sutter Decarbonization Project.

The applicant states that the cultural resources documents contained in Appendix C of the Cultural Resources Assessment should be kept confidential to protect cultural resources and sites. The applicant asserts Government Code section 7927.005 and section 7922.000 as the basis for confidentiality of the cultural resource information.

The applicant states that they have not disclosed any of the information in the cultural reports to anyone other than employees or consultants working on behalf of the Sutter Energy Center and regulatory agencies that have regulatory oversight or other responsibilities over either the cultural resources or Sutter Energy Center.

The applicant states that the information contained in Appendix C of the Cultural Resources Report contains locations of archaeological sites and information maintained as confidential by the California Office of Historic Preservation and California Department of Parks and Recreation. Further, the applicant asserts that the public interest in nondisclosure of the information outweighs disclosure because disclosing the information may enable entities to locate sensitive cultural 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 California Public Records Act provides for the nondisclosure of archaeological site information and records of Native American places, features, and objects 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. (Gov. Code, §§ 7927.000, 7927.005.) The California Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code § 7927.705.)

The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations on public lands must be protected to preserve them. (54 U.S.C. § 306131.)

The applicant has made a reasonable showing that the cultural resource information contained in Appendix C should be maintained as confidential.

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,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a stylized flourish at the end.

Drew Bohan
Executive Director