

<b>DOCKETED</b>	
<b>Docket Number:</b>	01-EP-10C
<b>Project Title:</b>	Enterprise Emergency Peaker Project - Compliance
<b>TN #:</b>	255903
<b>Document Title:</b>	CEC's Response Letter to Calpeak Power-Enterprise, LLC's Application for Confidential Designation, dated 3-14-2024
<b>Description:</b>	N/A
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<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	4/24/2024 12:03:25 PM
<b>Docketed Date:</b>	4/24/2024



April 24, 2024

**Via Email**

Samantha Neumyer  
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**Application for Confidential Designation: Enterprise Emergency Peaker Project  
Docket No. 01-EP-10C**

Dear Samantha Neumyer:

On March 14, 2024, the California Energy Commission (CEC) received the CalPeak Power-Enterprise, LLC's (applicant) application for confidentiality (TN 255072) for the following document in its entirety:

- Cultural Resources Technical Report, March 2024 (report)

The report was submitted by the applicant in support of its Petition for Post-Certification Amendment for the CalPeak Enterprise Emergency Peaker Project 52-Megawatt Battery Energy Storage System Project. The report contains sensitive and confidential information concerning archaeological resources, including locational maps.

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."

**Discussion**

The applicant states the report should be kept confidential indefinitely to protect cultural resources identified therein. The applicant asserts that if the descriptions of the locations of the sites are released to the public domain it may enable location of sensitive cultural resources by thieves, vandals, or persons conducting unauthorized collection of materials. The applicant states the report is protected under Government Code Sections 7927.000 and 7927.005 as the report may contain information regarding Native American places, features, and objects, as well as archaeological site information and reports maintained as confidential by the California Office of Historic Preservation and California Department of Parks and Recreation.

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

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American Heritage Commission, another state agency, or a local agency. (Gov. Code, §§ 7927.000, 7927.005.)

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 California Government Code section 7922.000 provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure.

### **Executive Director's Determination**

Protection of cultural and archeological resource location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. The applicant has made a reasonable claim that the report can be maintained as confidential indefinitely. As such, the applicant's request for confidential designation of the report is granted.

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](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director