

DOCKETED	
Docket Number:	21-AFC-02
Project Title:	Willow Rock Energy Storage Center
TN #:	256496
Document Title:	CEC Response Letter re Confidentiality Application dated March 04 & 07, 2024
Description:	N/A
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	5/21/2024 2:52:21 PM
Docketed Date:	5/21/2024



May 21, 2024

Via Email

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

**Repeated Applications for Confidential Designation: Willow Rock
Energy Storage Center
Docket No. 21-AFC-02**

Dear Samantha G. Neumyer:

The California Energy Commission (CEC) has received repeated applications for confidential designation from Willow Rock Energy Storage Center (applicant), docketed March 4, and March 7, 2024 (TNs 254789, 254905).

The applicant requests confidential designation for the following Biological Resources Information provided as part of the Supplemental Application for Certification:

- Appendix 5.02D, CNDDDB Forms
- Confidential Draft Results of Crotch's Bumble Bee Surveys
- Confidential Results of Sensitive Plant Surveys
- Confidential Swainson's Hawk Focused Survey
- Confidential Biological Resources GIS Shapefiles

The applicant also requests confidential designation for the following Cultural Resources Information provided as part of the Supplemental Application for Certification:

- Cultural Resources Assessment of Willow Rock Energy Storage Center Advanced Compressed Air Energy System Project
- Appendix A: Records Search Results
- Appendix B: Native American Consultation
- Appendix C: Survey Results Figures
- Appendix D: DPR 523-Series Forms
- Appendix E: Previous Studies

The applications state that confidential designations were granted on June 1, 2022, and December 13, 2021, regarding certain information relating to biological and cultural resources for the Willow Rock Energy Storage Center (TNS 243369, 241005). The applicant further states that the information that was previously granted confidential designation is substantially similar to the information contained in the listed documents and that all facts and circumstances relating to the prior determination of confidentiality remain unchanged. These statements were made under penalty of perjury.

CEC regulations permit information be designated as confidential on these grounds. Specifically, California Code of Regulations, title 20, section 2505(a)(4) provides:

Repeated Applications for Confidential Designation. If an applicant is seeking a confidential designation for information that is substantially similar to information that was previously deemed confidential by the Commission pursuant to Section 2508, or for which an application for confidential designation was granted by the executive director pursuant to subdivision (a)(3)(A) of this section, the new application need contain only a certification, executed under penalty of perjury, stating that the information submitted is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain unchanged. An application meeting these criteria will be approved.

Conclusion

The applications for confidentiality previously submitted by the applicant regarding biological and cultural resources documents were granted by letters dated June 1, 2022, and December 13, 2021, based on California Code of Regulations, title 20, section 2505(a)(3)(A). By certifying under penalty of perjury that the information submitted is substantially similar to this prior submission and all the facts and circumstances relevant to confidentiality remain unchanged, the applicant has met the criteria for the identified records to be deemed confidential pursuant to California Code of Regulations, title 20, section 2505(a)(4). The documents will be maintained as confidential indefinitely, consistent with the time period originally 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan
Executive Director