

DOCKETED	
Docket Number:	97-AFC-02C
Project Title:	Sutter Power Plant Application for Certification
TN #:	257580
Document Title:	CEC response letter to CCFC Sutter Energy, LLC regarding confidentiality application, dated June 4, 2024
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July 3, 2024

Via Email

Samantha Neumyer
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**Application for Confidential Designation:
Sutter Energy Center Decarbonization Project – Biological Resources
Technical Memorandum
Docket No. 97-AFC-02C**

Dear Samantha Neumyer:

The California Energy Commission (CEC) received CCFC Sutter Energy, LLC's (applicant) Application for Confidentiality, dated June 4, 2024 (TN 256687) covering *Biological Resources – Technical Memorandum Special Status Species Habitat Assessment*. The biological resources report was prepared in support of the Sutter Energy Center Decarbonization Project's Petition for Modification.

The applicant states that the biological resources report contains information on the location of special-status species. The applicant requests that the information be kept confidential indefinitely to protect the potential locations of certain sensitive biological resources. The applicant states that the special-status species information is accessible only to employees or consultants working on behalf of the applicant and regulatory agencies that have oversight or other responsibilities over the special-status species information or the Sutter Energy Center Project. The applicant states that a version of the biological resources report that redacts the location of the special-status species can be publicly disclosed. The applicant asserts Government Code section 7922.000 as the basis for confidentiality of the information.

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 CEC has consulted with the California Department of Fish and Wildlife (CDFW) to review the CNDDDB information submitted by the applicant. Based on CDFW's review,

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CEC staff determined that disclosing the information would result in potential risk to the identified biological resources. Therefore, the applicant has made a reasonable claim that the information be maintained as confidential. Confidentiality is granted for the information that identifies locations of special-status species contained in the biological resources report indefinitely. The applicant has 14 days to docket a redacted version of the report to the proceeding's docket.

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 the 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.

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