DOCKETED			
Docket Number:	03-AFC-02C		
Project Title:	Los Esteros Phase II Compliance		
TN #:	261281		
Document Title:	Los Esteros Critical Energy Facility (03-AFC-02C) Application for Confidential Designation for Biological Resources Information		
Description:	N/A		
Filer:	Amanda Cooey		
Organization:	Ellison Schneider Harris & Donlan LLP		
Submitter Role:	Applicant Representative		
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Docketed Date:	1/24/2025		



January 24, 2025

Mr. Drew Bohan Executive Director California Energy Commission 715 P Street Sacramento, CA 95814

## RE: Los Esteros Critical Energy Facility (03-AFC-02C): Application for Confidential Designation for Biological Resources Information

Dear Mr. Bohan:

Pursuant to Sections 2505 *et seq.*, of Title 20 of the California Code of Regulations, Los Esteros Critical Energy Facility, LLC, on behalf of Tanager Power, LLC, hereby submits this *Application for Confidential Designation* for biological resources figures contained in Appendix C, Biological Environmental Setting Assessment, to the *Petition for Modification: Tanager Battery Energy Storage System Project*.

Please contact us at (916) 447-2166 if you have any questions or require additional information. Thank you.

Sincerely,

/s/

Samantha G. Neumyer Jeffery D. Harris Ellison Schneider Harris & Donlan LLP

Attorneys for Los Esteros Critical Energy Facility, LLC

## APPLICATION FOR CONFIDENTIAL DESIGNATION Los Esteros Critical Energy Facility 03-AFC-02C

Specifically indicate those parts of the record which should be kept confidential.
a. Title, date, and description (including number of pages) of the information or data for which you request confidential designation.

b. Parts of the information or data for which you request confidential designation

On behalf of Tanager Power, LLC, Los Esteros Critical Energy Facility, LLC (the "Applicant") seeks confidential designation for the following biological resources information (the "Information") submitted in support of the *Petition for Modification: Tanager Battery Energy Storage System Project* ("*Petition*").

Document	Title	Subject Area/ Description	# of Confidential Pages
<i>Petition,</i> Appendix C	Tanager BESS Project - Biological	Biological Resources	3
	Environmental Setting	Figure BIO-5a	
	Assessment	Figure BIO-5b	
		Figure BIO-6	

The Information should be kept confidential in its entirety as it contains sensitive information regarding the location of certain biological resources.

2. State the length of time the record should be kept confidential, and provide justification for the length of time.

The Information should be held confidential for the duration determined necessary by California Energy Commission ("CEC") Staff to protect the biological resources information identified therein.

- *3. Cite and discuss:* 
  - (a) the provisions of the Public Records Act or other law that allow the Commission to keep the information or data confidential, and explain why the provision applies to the material.
  - (b) the public interest in nondisclosure of the material submitted for confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The Information includes details regarding special status and common species occurrences and locations in the areas surveyed on behalf of the Tanager Battery Energy Storage System Project ("Project") obtained from the California Natural Diversity Database ("CNDDB"), in addition to information obtained from surveys conducted on behalf of the Applicant. California Government Code Section 7922.000 provides that an agency may withhold information from

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disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure. The public interest in nondisclosure outweighs that of disclosure, as disclosure may enable the location of sensitive biological resources sites by entities conducting unauthorized collection or disturbance of such resources.

The Applicant is submitting this Application out of an abundance of caution for review by CEC Staff to determine whether these figures should be retained as confidential to protect the biological resources information identified therein.

4. State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.

Figures depicting general locations and other descriptive details contained within the Information have been provided as part of the *Petition*, but at a less granular level of detail. This facilitates an understanding of the types and general locations of the biological resources in the study area without disclosing specific site information. Non-confidential portions of the Biological Resources Assessment can be disclosed if the confidential information is redacted. A public version of Appendix C was docketed as part of the *Petition*.

5. State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.

The Information is accessible to employees or consultants working on behalf of the Applicant; biological resources professionals and organizations with access to the CNDDB; and regulatory agencies that have regulatory oversight or other responsibilities over either the Information or the Project.

I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make this Application and Certification on behalf of the Applicant.

Dated: January 24, 2025

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By: /s/

Samantha G. Neumyer Jeffery D. Harris Ellison Schneider Harris & Donlan LLP

Attorneys for the Applicant