

DOCKETED	
Docket Number:	03-AFC-02C
Project Title:	Los Esteros Phase II Compliance
TN #:	261284
Document Title:	Los Esteros Critical Energy Facility (03-AFC-02C) Application for Confidential Designation for Cultural Resources Information
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
Submission Date:	1/24/2025 3:38:47 PM
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 Cultural 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 Confidential Appendix E, Cultural Resources Assessment, to the *Petition for Modification: Tanager Battery Energy Storage System Project*.

Please contact us at (916) 447-2166 should 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**

1. *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 cultural resources information (the “Information”) submitted in support of the *Petition for Modification: Tanager Battery Energy Storage System Project* (“*Petition*”):

Document	Title	Subject Area/ Description
<i>Petition, Confidential Appendix E</i>	Cultural Resources Assessment and Literature Search Results	Cultural resources assessment conducted in support of the Tanager BESS Project, including project maps, survey photographs, records search results.

The Information containing the locations and details of sensitive cultural resources should be kept confidential in its entirety.

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 indefinitely in order to protect the cultural resources 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 Public Records Act exempts from disclosure records containing information regarding historically or culturally significant matters, including: (1) records regarding Native American places, features, and objects and (2) archaeological site information and reports maintained by or in the possession of agencies. (See, Govt. Code §§ 7927.000, 7927.005.) The Public Records Act (“PRA”) also provides a specific exemption from disclosure where “...on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Gov’t Code § 7922.000.)

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

The Information is exempt from disclosure under these provisions as the appendices may contain information regarding both Native American places, features and objects, and archaeological site information and reports maintained as confidential by the California Office of Historic Preservation and California Department of Parks and Recreation. Further, the public interest served in nondisclosure, protection of cultural resources, outweighs that of disclosure. Disclosing the Information may enable location of sensitive cultural resources by thieves, vandals, or persons conducting unauthorized collection of materials.

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.*

Summaries depicting the substance of the Information have been provided as part of the *Petition*. This facilitates an understanding of the types and general locations of the cultural resources in the study area without disclosing specific site information. Non-confidential portions of the Cultural Resources Assessment can be disclosed if the confidential information is redacted.

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, cultural resources professionals, and regulatory agencies that have regulatory oversight or other responsibilities over either the Information or the Los Esteros Critical Energy Facility.

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

Attorneys for the Applicant