

DOCKETED	
Docket Number:	01-EP-10C
Project Title:	Enterprise Emergency Peaker Project - Compliance
TN #:	262803
Document Title:	CEC Response Letter Enterprise Emergency Energy - Application for Confidentiality
Description:	N/A
Filer:	Marianna Brewer
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	4/25/2025 1:28:48 PM
Docketed Date:	4/25/2025



April 28, 2025

Via Email

Mark Strother, Project Archaeologist
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**Application for Confidential Designation: Enterprise Emergency Peaker Project
Docket No. 01-EP-10C**

Dear Mark Strother:

On March 25, 2025, the California Energy Commission (CEC) received Enterprise BESS, LLC's (applicant) application for confidentiality (TN 262348) for the following document:

- Enterprise Battery Energy Storage System (BESS) Project Cultural Resources Technical Report (Volumes 1 through 4)

The report was submitted by the applicant in support of its Petition for Post-Certification Amendment for the Enterprise BESS Project. The report contains sensitive and confidential information concerning archaeological resources, including locational maps. The Applicant requests this document be held as confidential in its entirety.

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 result in looting and destruction of sensitive cultural resources. The applicant states the report is protected under former Government Code section 6254, subdivisions (e), (k), and (r) as the report may contain information regarding Native American places, features, and objects.

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 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.)

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 people 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,



Drew Bohan
Executive Director