

DOCKETED

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April 30, 2020

Mr. Jeff Miller
AES
21730 Newland Street
Huntington Beach, California 92646

**APPLICATION FOR CONFIDENTIAL DESIGNATION: CULTURAL
RESOURCES DATA, DOCKET NO. 12-AFC-02C**

Dear Mr. Miller:

The California Energy Commission (CEC) is in receipt of AES's (Applicant) Application for Confidentiality covering the *HBEP Cultural Resources Report*.

The application states that the report should be kept confidential indefinitely to protect potential cultural resources and sites. According to your application, if the descriptions and locations of the sites are released to the public domain, there is potential for unauthorized collection or damage to the sites.

A properly filed application for confidentiality shall be granted under the 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 California Public Records Act provides for the nondisclosure of archaeological site information and reports as well as records of Native American places, features, and objects. (Gov. Code sections 6254(r), 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code section 6254(k).)

The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. section 470hh.)

Protection of cultural resources location information to prevent damage and unauthorized collection is in the public interest and covered expressly under the law. Therefore, the requested confidentiality of location information contained in

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the cultural resources report is granted in its entirety. Resource location data will be kept confidential for an indefinite period. Portions of the report that do not provide location information or otherwise disclose information that would allow one to locate the archaeological resource may be disclosed publicly.

Any subsequent submittals related to cultural resources 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).

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 designated previously 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 2506-2508.

If you have any questions concerning this matter, please contact Jared Babula at (916) 651-1462 or Jared.Babula@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director