DOCKETED				
Docket Number:	21-AFC-01			
Project Title:	Pecho Energy Storage Center			
TN #:	240703			
Document Title:	Application for Confidential Designation for AFC Appendix 53B Cultural Existing Conditions Report			
Description:	N/A			
Filer:	Amanda Cooey			
Organization:	Ellison Schneider Harris & Donlan LLP			
Submitter Role:	Applicant Representative			
Submission Date:	11/23/2021 1:06:02 PM			
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November 23, 2021

Mr. Drew Bohan Executive Director California Energy Commission 1516 Ninth Street Sacramento, CA 95814

RE: Pecho Advanced Compressed Air Energy Storage Facility Project (21-AFC-01) Application for Confidential Designation for AFC Appendix 5.3B

Cultural Existing Conditions Report

Dear Mr. Bohan:

Pursuant to Sections 2501 *et seq.*, of Title 20 of the California Code of Regulations, Pecho LD Energy Storage, LLC (the "Applicant") hereby submits this *Application for Confidential Designation* for Appendix 5.3B, *Cultural Existing Conditions Report*, of the Application for Certification of the Pecho Advanced Compressed Air Energy Storage Facility Project.

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

Sinc	erely,
	/s/
Jeffe	antha G. Neumyer ery D. Harris on Schneider Harris & Donlan LLP
Atto	rneys for Applicant

Cc: Linda Barrera, CEC Chief Counsel

APPLICATION FOR CONFIDENTIAL DESIGNATION Pecho Advanced Compressed Air Energy Storage Facility Project, (21-AFC-01)

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.

Pecho LD Energy Storage, LLC (the "Applicant") seeks confidential designation for the following:

Title	Date	Description	# of Pages
Appendix 5.3B, Cultural Existing Conditions Report	October 2021	Appendix 5.3B is the technical appendix supporting the cultural resources section of the Application for Certification of the Pecho Advanced Compressed Air Energy Storage Facility Project ("Project").	1,585

Please note that for the purposes of uploading the document to the CEC's e-filing system, Appendix 5.3B was divided into nine 30MB or smaller sized files.

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

Appendix 5.3B should be kept confidential in its entirety as it contains sensitive and confidential information regarding cultural resources, including tribal cultural resources and archaeological resources.

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

This 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.

The Public Records Act exempts from disclosure (1) information 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 §§ 6254(r), 6254.10.) These provisions apply to the material because Appendix 5.3B contains 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.

(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.

Section 6255 provides that an agency may withhold information from 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 cultural resources sites 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.

The Applicant considered whether it would be possible to aggregate or mask the information contained within Appendix 5.3B. However, the information does not consist of the types of data or programmatic reporting that generally lends itself to the types of masking and aggregation the Applicant believes is contemplated by Section 2505(a)(E), thus making aggregation or masking infeasible in this circumstance. Any information from Appendix 5.3B that can be publicly disclosed is provided in the Cultural Resources section of the AFC.

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 Applicant has not disclosed any of the subject information to anyone other than its employees, attorneys and consultants working on 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: November 23, 2021	ELLISON SCHNEIDER HARRIS & DONLAN LLP

By: _	/S/				
		G. Net Harris	ımyer		
Atto	rneys	for the	Appli	icant	