

DOCKETED

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December 13, 2021

Samantha G. Neumyer
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**APPLICATION FOR CONFIDENTIAL DESIGNATION
Appendices to Appendix 5.3B, Cultural Resources Technical Report
Hydrostor A-CAES Project, Docket No. 21-AFC-02**

Dear Samantha G. Neumyer:

The California Energy Commission (CEC) has received GEM A-CAES, LLC's application for confidential designation, dated December 3, 2021, covering the following cultural resources report documents:

Appendices A, C, D, and E to the Cultural Resources Technical Report containing resource maps, Department of Parks and Recreation resource forms, and previous resource studies

The application states that the report should be kept confidential indefinitely to protect potential cultural resources and sites. According to the application, if the descriptions and locations of the sites are released to the public domain, this may enable the looting of sensitive cultural resource sites by thieves, vandals, or persons conducting unauthorized collection of materials. The application also notes that 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.

A properly filed application for confidential designation 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 [California] 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 California Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code section 6254(k))

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

The applicant has made a reasonable claim that the protection of cultural resources location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. Therefore, the requested confidentiality of location information contained in the cultural resources report is granted in its entirety. Resource location data will be kept confidential for an indefinite period. Portions of the reports that do not provide location information or otherwise disclose information that would allow one to locate the archaeological resource may be disclosed.

Be advised that under California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's chief counsel. Under California Code of Regulations, title 20, section 2507, 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 criteria for disclosing or releasing documents previously designated confidential and procedures for acting upon petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506-2508.

You may seek a confidential designation for information that is substantially similar to information for which an application for confidential designation was granted by the executive director by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have any questions concerning this matter, please contact Jennifer Baldwin at jennifer.baldwin@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director