

<b>DOCKETED</b>	
<b>Docket Number:</b>	97-AFC-02C
<b>Project Title:</b>	Sutter Power Plant Application for Certification
<b>TN #:</b>	250249
<b>Document Title:</b>	Application for Confidential Designation for Sutter Decarbonization Project Confidential Biological Resources Figure
<b>Description:</b>	N/A
<b>Filer:</b>	Amanda Cooley
<b>Organization:</b>	Ellison Schneider Harris & Donlan LLP
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	5/19/2023 5:20:45 PM
<b>Docketed Date:</b>	5/22/2023



May 19, 2023

Mr. Drew Bohan  
Executive Director  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

RE: **Sutter Energy Center (97-AFC-02C) Application for Confidential Designation for Sutter Decarbonization Project Confidential Biological Resources Figure**

Dear Mr. Bohan:

Pursuant to Sections 2505 *et seq.*, of Title 20 of the California Code of Regulations, CCFC Sutter Energy, LLC (the “Applicant”) hereby submits this *Application for Confidential Designation* for Figure BIO-3, submitted in support of the *Petition for Modification: Sutter Decarbonization Project*, which contains locational information of special status species.

Please contact us at (916) 447-2166 if 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 Applicant

**APPLICATION FOR CONFIDENTIAL DESIGNATION**  
**Sutter Energy Center (97-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*

CCFC Sutter Energy, LLC (the “Applicant”) seeks confidential designation for Figure BIO-3, submitted in support of the *Petition for Modification: Sutter Decarbonization Project*, The Information should be kept confidential in its entirety as it contains sensitive information regarding the location of certain special status species.

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 to protect the biological 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.*

California Energy Commission Staff and the California Department of Fish and Wildlife have previously directed that materials similar to the Information be submitted under confidential cover as the figures contain sensitive information regarding biological resources. The Information includes details regarding special status and common species occurrences and locations in the areas surveyed on behalf of the Sutter Energy Center’s *Petition for Modification: Sutter Decarbonization Project* obtained from the California Natural Diversity Database (“CNDDDB”), in addition to information obtained from surveys conducted on behalf of the Applicant. 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. The public interest in nondisclosure outweighs that of disclosure, as disclosure may enable the location of sensitive biological resources sites by entities conducting unauthorized collection or disturbance of such resources.

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. A

**APPLICATION FOR CONFIDENTIAL DESIGNATION**  
**Black Rock Geothermal Project (23-AFC-03)**

figure depicting general locations and other descriptive details contained within the Information can be provided upon request.

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; biological resources professionals and organizations with access to the CNDDDB; and regulatory agencies that have regulatory oversight or other responsibilities over either the Information or the Sutter Energy Center.

*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: May 19, 2023

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By:  /s/ \_\_\_\_\_

Samantha G. Neumyer  
Jeffery D. Harris

Attorneys for the Applicant