

DOCKETED	
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Project Title:	Enterprise Emergency Peaker Project - Compliance
TN #:	255072
Document Title:	Application for Confidential Designation for PTA Cultural Resources Appendix
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
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Docketed Date:	3/14/2024



March 14, 2024

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

RE: **Enterprise Emergency Peaker Project (01-EP-10C): Application for Confidential Designation for PTA Cultural Resources Appendix**

Dear Mr. Bohan:

Pursuant to Sections 2505 *et seq.*, of Title 20 of the California Code of Regulations, CalPeak Power-Enterprise, LLC (CalPeak) hereby submits this *Application for Confidential Designation* for an appendix relating to cultural resources submitted in support of the Petition for Post-Certification Amendment ("PTA") for the CalPeak Enterprise Emergency Peaker Project (01-EP-10C) 52-Megawatt Battery Energy Storage System Project.

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

Sincerely,

/s/

Samantha G. Neumyer
Lynn M. Haug
Ellison Schneider Harris & Donlan LLP

Attorneys for Applicant

APPLICATION FOR CONFIDENTIAL DESIGNATION
Enterprise Emergency Peaker Project (01-EP-10C)

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*

CalPeak Power-Enterprise, LLC (CalPeak) (the “Applicant”) seeks confidential designation for the following cultural resources information (the “Information”), submitted in support of its Petition for Post-Certification Amendment for the CalPeak Enterprise Emergency Peaker Project 52-Megawatt Battery Energy Storage System Project (“Project”).

PTA Appendix Number	Title	PTA Subject Area/ Description	# of Confidential Pages
E	Cultural Resources Technical Report, March 2024	Appendix A (to Appendix E) South Coastal Information Center Records Search Results Parts 1, 2, and 3	All pages

The Information should be kept confidential in its entirety as it contains sensitive information regarding the location of certain cultural resources.

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 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.*
 - (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.*

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 §§ 7927.000, 7927.005.) The Public Records Act (“PRA”) also provides a specific exemption from disclosure where “...on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Gov’t Code § 7922.000.)

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The Information is exempt from disclosure under these provisions as the appendix may contain 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. Further, the public interest served in nondisclosure, protection of cultural resources, outweighs that of disclosure. Disclosing the Information may enable location of sensitive cultural resources 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 portions of Appendix A to the PTA Appendix E, and it may be possible to aggregate or redact certain portions. Descriptive information depicting general locations and other details contained within the Information have been provided as part of the PTA, but at a less granular level of detail. This facilitates an understanding of the types and general locations of the cultural resources in the study area without disclosing specific site information.

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, cultural resources professionals that have access to the California Historical Resources Information System, and regulatory agencies that have regulatory oversight or other responsibilities over either the Information or 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, CalPeak Power-Enterprise LLC, a Limited Liability Company.

Dated: March 14, 2024

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By: /s/

Samantha G. Neumyer

Lynn M. Haug

Attorneys for Applicant