

<b>DOCKETED</b>	
<b>Docket Number:</b>	23-OPT-02
<b>Project Title:</b>	Darden Clean Energy Project
<b>TN #:</b>	255750
<b>Document Title:</b>	CEC Response Letter re Application for Confidential Designation dated 02-29-2024
<b>Description:</b>	N/A
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<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	4/17/2024 12:46:46 PM
<b>Docketed Date:</b>	4/17/2024



April 17, 2024

**Via Email**

Breana Campbell-King  
IP Darden I, LLC  
c/o Intersect Power, LLC  
9450 South West Gemini Drive, PMB #68743  
Beaverton, Oregon 97008-7105  
[bcampbell@rinconconsultants.com](mailto:bcampbell@rinconconsultants.com)

**Application for Confidential Designation: Darden Clean Energy Project  
Docket No. 23-OPT-02**

Dear Breana Campbell-King:

On February 28, 2024, the California Energy Commission (CEC) received the IP Darden I, LLC and c/o Intersect Power, LLC's (applicant) application for confidentiality (TN 254734) for the following document in its entirety:

- Darden Clean Energy Project Cultural Resources Technical Report, Fresno County, California (Updated January 2024)

The report includes Appendix I-3 and I-4, which were updated to address data requests received from the CEC and addressed in Data Response Set I (TN 254670), submitted to the docket on February 23, 2024.

A properly filed application for confidentiality shall be granted under 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."

**Discussion**

The applicant states the report should be kept confidential indefinitely to protect cultural resources and sites. The applicant argues that if the descriptions of the locations of the sites are released to the public domain, there is potential for looting and destruction of the site. The applicant states the due to the report's specific identification of areas of potential cultural and historical significance, the report is protected under Government Code Sections 7927.300 and 7927.705. Further, the applicant asserts that the protection provided is analogous to that given to Native American sacred places under Section 7927.00 of the Government Code.

The California Public Records Act provides for the nondisclosure of archaeological site information and records of Native American places, features, and objects and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native

American Heritage Commission, another state agency, or a local agency. (Gov. Code, §§ 7927.000, 7927.005.)

The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations on public lands must be protected to preserve them. (54 U.S.C. § 306131.)

The 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.

### **Executive Director's Determination**

Protection of cultural and archeological resource location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. The applicant has made a reasonable claim that the documents identified above, containing information on cultural and archeological resources, records, reports, and maps can be maintained as confidential indefinitely. As such, the applicant's request for confidential designation of the documents listed above is granted.

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 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 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 through 2508.

Any related subsequent submittals 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).

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director