

DOCKETED	
Docket Number:	25-OPT-01
Project Title:	Viracocha Hill Battery Energy Storage System Project
TN #:	264837
Document Title:	CEC response to Viracocha's Application(s) for Confidential Designation
Description:	TNs 264235, 264236, and 264238
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July 16, 2025

Via Email

Antonio Arturo Sieira Mucientes
Manager
Reclaimed Wind LLC
600 W Broadway, Suite 700
San Diego, CA 92101

**Applications for Confidential Designation
Viracocha Hill HESS Project c/o Reclaimed Wind, LLC
Docket No. 25-OPT-01**

Dear Antonio Arturo Sieira Mucientes:

The California Energy Commission (CEC) has received Reclaimed Wind, LLC's (applicant) Applications for Confidentiality (TN# 264235, TN# 264236, TN# 264238) dated June 6, 2025, respectively, covering the following documents:

- Opt-In Application Appendix Number 1A – Property Owners List, Executive Summary
- Opt-In Application Appendix Number 3A – Modification Request Report
- Opt-In Application Appendix Number 5.8A – Confidential Paleontological Locality Records

The applicant states that the documents contained in Appendix 1A and 5.8A should be kept confidential indefinitely, in their entirety, to protect personal information contained therein. The applicant asserts, as to Appendix 1A, confidentiality under Government Code Section 7922.000 asserting that the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. Applicant states that it may be possible to aggregate and redact the data.

The applicant asserts, as to Appendixes 3A and 5.8, confidentiality under Government Code Sections 7922.000 asserting that the public interest served by nondisclosure clearly outweighs the public interest served by disclosure; that information contained in the appendix has been designated as confidential information internally and is considered to constitute critical energy/electricity infrastructure. The applicant further asserts confidentiality under Government Code Sections 6254(e) and 6254(k) and argues that protection provided is analogous to that given to paleontological places under Section 6254(r) of the Government Code. The applicant asserts that if the descriptions of the locations of the sites are released to the public domain, there is potential for looting and destruction of that site. Lastly, the applicant states that the appendix contains trade secrets related to commercially valuable information related to the interconnection of the Viracocha Hill BESS Project. The Public Records Act exempts "trade secrets" from public disclosure, including "any formula, plan, ...

production data, or compilation of information..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service...and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” (Govt. Code § 7924.510(f).)

Confidentiality Claims

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.”

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 California Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code § 7927.705.)

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 (the “catchall exemption”) provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure.

The catchall exemption is codified in Government Code section 7922.000. It states:

An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that 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.

To justify nondisclosure under the catchall exemption, the agency must demonstrate “that 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. Code § 7922.000; see also Voice of San Diego v. Sup.Ct. (2021) 66 Cal.App.5th 669, 683–684 ([where agency relies on the catchall provision, it bears burden of proof to show clear overbalance in favor of nondisclosure]).)

As to Appendix Number 1A, this document lists the assessor’s parcel numbers, names and addresses of property owners in the vicinity of the project. The applicant is concerned with the disclosure of such information in a consolidated, easy-to-obtain fashion. Therefore, the applicant is submitting the information pursuant to an application for confidential designation out of an abundance of caution to protect property owner information for the parcels surrounding the project site.

Each county hosts a webpage or public directory in which one can obtain information about a property located within the county including the assessor's parcel number, property tax information, a satellite image of the site, and the physical address of the property.

Under California Civil Code section 1798.24 an agency shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains. California Civil Code section 1798.3 defines the term "personal information" to mean any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, the individual's name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.

Executive Director's Determination

The applicant has made a reasonable claim that individual names associated with the addresses should be maintained as confidential indefinitely. As such, and consistent with the information that is accessible through the County Assessor's Office, the applicant's request for confidential designation for the individual names is granted. All other information contained in the record including the assessor's parcel numbers, identification of company or public agency property owners, and addresses will remain public. Please submit Appendix Number 1A with individual names redacted to the proceeding's docket within 14 days of receipt of this letter.

The applicant has made a reasonable showing that the cultural resource information contained in Appendix 3A and 5.8A should be maintained as confidential indefinitely.

You may request that the CEC determine the confidentiality of records for which the executive director denied confidential designation. You have 14 days to request that the CEC determine the confidentiality of the record. If you make such a request, the CEC will conduct a proceeding under the provisions in California Code of Regulations, title 20, section 2508.

Be advised that anyone 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).

Antonio Arturo Sieira Mucientes
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If you have questions, please email confidentialityapplication@energy.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'Drew Bohan', written in a cursive style.

Drew Bohan
Executive Director