

DOCKETED	
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October 24, 2019

Mr. Scott A. Galati
DayZen, LLC
1720 Park Place Drive
Carmichael, CA 95608

**APPLICATION FOR CONFIDENTIAL DESIGNATION: CULTURAL
RESOURCES DATA, DOCKET NO. 19-SPPE-02**

Dear Mr. Galati:

The California Energy Commission (CEC) is in receipt of 651 Walsh Partners LLC's (Applicant) Applications for Confidentiality covering the following Cultural Resources Reports:

- 1) Cartier, Robert
1980 Archaeological Site Record for CA-SCL-430/H (P-43-433).
- 2) Kaijankoski, Philip, Jack Meyer, and Julia Costello
2012 Extended Phase 1 Archaeological Excavations for the US 101/De La Cruz Boulevard/Trimble Road Interchange Improvement Project, San Jose, Santa Clara County, California: 04-SCL-101, PM 40.5/41.5, EA 04-234-26470K.
- 3) Leventhal, Alan, Rosemary Cambra, and Andrew Galvan
1990 Archaeological Site Record for CA-SCL-702 (P-43-1080).
- 4) Nadolski, John A. and Michelle St. Clair
2002 Archaeological Investigations for the 650 Walsh Avenue, Santa Clara: Wireless Communications Site, CA2261D.
- 5) Holman & Associates
Results of a CEQA Archaeological Literature Search for 651 Walsh Ave, City and County of Santa Clara, California, July 13, 2018.

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The applications state that the reports should be kept confidential indefinitely to protect potential cultural resources and sites. According to your application, if the descriptions and locations of the sites are released to the public domain, there is potential for unauthorized collection or looting of the sites. The applications also state that the public interest will be served by nondisclosure by preventing looting of the cultural resources and sites described in the reports, because such looting would preclude scientific study of the sites to gain data about the cultural resources of the area.

A properly filed application for confidentiality 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 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 §§6254(r), 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code §6254(k).)

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

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 resource reports 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 publically disclosed.

Any subsequent submittals related to cultural resources 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 any questions concerning this matter, please contact Jared Babula at (916) 651-1462 or Jared.Babula@energy.ca.gov.

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

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motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, or raising, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506-2508.

Sincerely,

A handwritten signature in green ink, appearing to read "Drew Bohan", with a long horizontal stroke extending to the right.

Drew Bohan
Executive Director