

**DOCKETED**

<b>Docket Number:</b>	21-SPPE-01
<b>Project Title:</b>	CA3 (Vantage) Backup Generating Facility
<b>TN #:</b>	237951
<b>Document Title:</b>	Response Letter to Application for Confidential Designation
<b>Description:</b>	APPLICATION FOR CONFIDENTIAL DESIGNATION: PHASE I CULTURAL RESOURCES ASSESSMENT
<b>Filer:</b>	Ngoc Tran
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	5/24/2021 2:16:23 PM
<b>Docketed Date:</b>	5/24/2021



May 24, 2021

Scott Galati  
DayZen LLC  
1720 Park Place Drive  
Carmichael, California 95608

**APPLICATION FOR CONFIDENTIAL DESIGNATION:  
PHASE I CULTURAL RESOURCES ASSESSMENT  
CA Backup Generating Facility, DOCKET NO. 21-SPPE-1**

Dear Scott Galati:

The California Energy Commission (CEC) has received Vantage Data Centers, Inc.'s (applicant) Application for Confidentiality covering the following cultural resources report:

*Phase I Cultural Resources Assessment, CA3-2590 Walsh Avenue, City of Santa Clara, Santa Clara County, California, prepared by First Carbon Solutions, dated April 21, 2021.*

The application states that the report 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 looting of the sites. The application also states 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 sections 6254(r), 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code section 6254(k).)

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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. section 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 resources report 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 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).

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.

If you have any questions concerning this matter, please contact Justin Delacruz at (916) 931-5867 or [Justin.Delacruz@energy.ca.gov](mailto:Justin.Delacruz@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director