

**DOCKETED**

<b>Docket Number:</b>	21-SPPE-02
<b>Project Title:</b>	STACK Trade Zone Park
<b>TN #:</b>	246771
<b>Document Title:</b>	CEC Response Letter to STACK Infrastructure's Repeated Application for Confidential Designation
<b>Description:</b>	N/A
<b>Filer:</b>	Patty Paul
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	10/24/2022 4:00:14 PM
<b>Docketed Date:</b>	10/24/2022



October 24, 2022

**Via Email**

Scott Galati  
STACK Infrastructure  
1720 Park Place Drive  
Carmichael, California 95608  
[sgalati@dayzenllc.com](mailto:sgalati@dayzenllc.com)

**Repeated Application for Confidential Designation:  
Revised Cultural Resource Assessment for the 1849 Fortune Drive and  
2400 Ringwood Avenue Project  
Trade Zone Technology Park  
Docket No.: 21-SPPE-02; TN246073**

Dear Scott Galati:

The California Energy Commission (CEC) has received STACK Infrastructure Inc.'s (STACK or applicant) repeated application for confidential designation, dated and docketed September 14, 2022 (TN 246073), covering the following updated cultural resources report documents:

*Cultural Resources Assessment in Support of the 1849 Fortune Drive and 2400 Ringwood Avenue Project, City of San Jose, Santa Clara County, CA, by PaleoWest, dated September 8, 2022*

The application states that the Cultural Resources Assessment is a revision of a Cultural Resources Assessment previously submitted, and for which an application for confidentiality was granted on March 15, 2022. In addition, the application states the revised Cultural Resources Assessment is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain the same. This statement is certified under penalty of perjury by applicant's counsel.

On March 15, 2022, the CEC docketed a letter approving the application for confidentiality of portions of the document entitled "Archaeological Resources Assessment in Support of the 1849 Fortune Drive and 2400 Ringwood Avenue (Project), City of San Jose, Santa Clara County, California." The CEC's letter contained the following statement of the scope of the application for confidentiality:

The application states that the Archaeological Assessment should be kept confidential indefinitely to protect potential cultural and historical resources and sites. According to the application, if the descriptions and locations of the sites are released to the public, the looting of sensitive cultural resources could occur and ultimately would preclude a scientific study of the sites.

After evaluation, the Executive Director determined the following:

For the reason stated above, the applicant has made a reasonable claim that the protection of Native American cultural resources location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. (Gov. Code, sections 6254(r), 6254.10, 6254(k); 16 U.S.C. section 470hh.) Thus, the CEC agrees to keep the location information contained in the Archaeological Assessment confidential for an indefinite period. Those portions of the Archaeological Assessment that do not provide location information or otherwise disclose information that would allow one to locate the archaeological resource will not be kept as confidential, and the CEC may disclose them.

Pursuant to California Code of Regulations, title 20, section 2505(a)(4), applicant has established the basis to maintain the confidentiality of Native American cultural resources location information contained in the Revised Cultural Resources Assessment, as the information is substantially similar to previously designated confidential information, and the facts and circumstances supporting the previous determination remain unchanged.

## **Conclusion**

Be advised that under the California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's chief counsel. Under the California Code of Regulations, title 20, section 2507, the executive director may disclose, or release records previously designated as confidential in certain circumstances. The procedures for acting on a petition and criteria for disclosing or releasing records previously designated as confidential are set in the California Code of Regulations, title 20, sections 2506 to 2507.

You may seek a confidential designation for information that is substantially similar to information for which an application for confidential designation was granted by the executive director by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

Scott Galati  
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If you have any procedural questions regarding this application for confidential designation, please contact Kari Anderson, senior attorney, at [kari.anderson@energy.ca.gov](mailto:kari.anderson@energy.ca.gov).

Sincerely,

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

Drew Bohan  
Executive Director