

<b>DOCKETED</b>	
<b>Docket Number:</b>	23-SPPE-01
<b>Project Title:</b>	STACK SVY03A Data Center Campus
<b>TN #:</b>	252685
<b>Document Title:</b>	Response Letter to Stack Infrastructure's Confidentiality Application on October 2, 2023
<b>Description:</b>	N/A
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<b>Organization:</b>	California Energy Commission
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<b>Docketed Date:</b>	10/23/2023



**CALIFORNIA  
ENERGY COMMISSION**



October 23, 2023

Scott A. Galati  
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Carmichael, California 80290  
Via Email [sgalati@dayzenllc.com](mailto:sgalati@dayzenllc.com)

**Application for Confidential Designation:  
Cultural Resource Assessment Report for the Eden Landing Data Center  
Project, Docket No. 23-SPPE-01**

Dear Scott A. Galati:

The California Energy Commission (CEC) has received STACK Infrastructure's (applicant) application for confidential designation, dated October 2, 2023 (TN 252458) covering the following cultural resources document:

Cultural Resource Assessment Report for the Eden Landing Data Center  
Project City of Hayward, Alameda County, California

The application states that the cultural document should be kept confidential indefinitely to protect potential cultural resources and sites. The application notes that Government Code section 7922 provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure. The application states the public interest in nondisclosure outweighs that of disclosure, as disclosure may enable the location of sensitive cultural resources sites by entities conducting unauthorized collection or disturbance of such resources.

In addition, the application states the cultural document should be held confidential because archaeological site locations are exempt from the California Public Records Act, as specified in Government Code section 7927, and under the legal authority of both the National Historic Preservation Act (PL 102-574, section 304(a)) and the Archaeological Resources Protection Act (PL 96-95, section 9(a)).

A properly filed application for confidential designation 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 [California] 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

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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 and cultural resource site locations on public lands must be protected to preserve them. (54 U.S.C. § 306131.)

The applicant has made a reasonable claim that the protection of cultural resources location information to prevent loss or damage to cultural resources and sites is in the public interest and expressly exempted from disclosure under the Public Records Act.

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

The Cultural Resource Assessment Report is designated confidential indefinitely.

Under 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 California Code of Regulations, title 20, section 2507, 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 criteria for disclosing or releasing documents previously designated confidential and procedures for acting upon petitions or motions are set in California Code of Regulations, title 20, sections 2506 to 2507.

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

Sincerely,



Drew Bohan  
Executive Director