

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-SPPE-01
<b>Project Title:</b>	AVAIO Pittsburg Backup Generating Facility
<b>TN #:</b>	254763
<b>Document Title:</b>	AVAIO Request For Confidentiality - Figure 10 Biological Resources - PBGF
<b>Description:</b>	N/A
<b>Filer:</b>	Scott Galati
<b>Organization:</b>	DayZenLLC
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	3/1/2024 11:11:31 AM
<b>Docketed Date:</b>	3/1/2024



March 1, 2024

Mr. Drew Bohan  
Executive Director  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

*Subject:* Application for Confidential Designation  
**SPPE APPLICATION APPENDIX D, FIGURE 10,  
THE PITTSBURG DATA HUB  
CONTRA COSTA, CA**  
AVAIO Pittsburg Backup Generating Facility (24-SPPE-01)

Dear Mr. Bohan,

Pittsburg Data Hub, LLC, a wholly owned subsidiary of AVAIO (AVAIO), as owner of the Pittsburg Data Hub Project which includes the Pittsburg Backup Generating Facility, requests that the attached information be designated confidential pursuant to 20 California Code of Regulations (CCR) Section 2505. This information is being supplied to the California Energy Commission (CEC) in support of its Application for a Small Power Plant Exemption docketed on February 29, 2024.

In support of its Application for Confidential Designation, AVAIO provides the following information:

APPLICANT: Pittsburg Data Hub, LLC - AVAIO

ADDRESS: 107 Elm Street, Suite 501  
Stamford, CT 06902

*1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.*

**SPPE Application Appendix, C – Figure 10, BIOLOGICAL EVALUATION REPORT PITTSBURG DATA HUB PROJECT, Pittsburg, CA, Contra Costa County, CA dated February 2024.**

*1(b). Specify the part(s) of the record for which you request confidential designation.*

Figure 10 of the report identified above in 1(a) in its entirety:

*2. State and justify the length of time the Commission should keep the record confidential.*

The figure identified above should be kept confidential indefinitely to protect the potential locations of certain sensitive biological resources.

*3(a). State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.*

Title 20 CCR Section 1940 requires AVAIO to submit specific information as outlined in *Appendix B, Information Requirements for an Application for Certification (AFC) or Small Power Plant Exemption (SPPE)*. Section (g) (13) (A) of Appendix B requires the submittal of biological resources information collected from the California Natural Diversity Database (“CNDDDB”) in the form of mapping. Section (g) (13) (A) specifically requires the mapping be submitted “under confidential cover”. California Government Code Section 7922.000 also provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure. The figure described above has been prepared to satisfy Appendix B, Section (g) (13) (A).

*3(b). Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a*

*competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

The public interest in nondisclosure outweighs public disclosure, as disclosure may enable the location of sensitive biological resources sites by entities conducting unauthorized collection or disturbance of such resources.

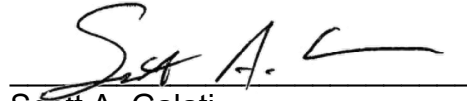
*4. State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

AVAIO believes the CEC staff will require the specific information contained in the figure to properly perform its analysis. Aggregation of the information would hinder a complete CEC analysis. However, AVAIO believes the CEC can incorporate a generalized summary of information contained in the figure to properly state the basis for its analysis without disclosing information specific enough to facilitate unauthorized collection or disturbance of sensitive biological resources.

*5. State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

AVAIO has not disclosed any of the subject information to anyone other than its employees, attorneys, and consultants working on the Pittsburgh Data Hub. Moreover, this information will not be disclosed to any other persons employed by or working for AVAIO except on a “need to know” basis. AVAIO is marking this information “Confidential” and is instituting a policy that segregates this information from other Pittsburgh Data Hub files and that access to it be restricted to a designated confidential information manager or managers within AVAIO or its attorneys/consultants.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct and complete to the best of my knowledge and I am authorized to make the application and certification on behalf of the applicant.

A handwritten signature in black ink, appearing to read "Scott A. Galati", written over a horizontal line.

Scott A. Galati  
Counsel to Pittsburg Data Hub, LLC and  
AVAIO