

DOCKETED

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SUPPLEMENTAL RESPONSES TO CEC STAFF DATA REQUEST SET 1 (3-7)

CA3 Backup Generating Facility (21-SPPE-01)

SUBMITTED TO: CALIFORNIA ENERGY COMMISSION

SUBMITTED BY: **Vantage Data Centers**

August 26, 2021



INTRODUCTION

Attached are Vantage Data Centers (VDC) supplemental responses to California Energy Commission (CEC) Staff Data Request Set No. 1 (3-7) for the CA3 Backup Generation Facility (CA3BGF) Application for Small Power Plant Exemption (SPPE) (21-SPPE-01). Staff issued Data Request Set No. 1 on June 7, 2021 and VDC provided partial responses on June 15, 2021. These Supplemental Data Responses are limited to the area of Cultural Resources and incorporate the findings and conclusion of the Revised Cultural Resources Assessment (Revised CRA) docketed under repeated Request For Confidential treatment on August 18, 2021.

CULTURAL RESOURCES

BACKGROUND

CEC staff has received via confidential filing the Phase I Cultural Resources Assessment (CRA) prepared by First Carbon Solutions (FCS)(FCS 2021). The information and analysis contained in section 4.5 of the SPPE application relies on the CRA. The SPPE application states on page 4-44 that a records search was conducted on March 3, 2021 at the Northwest Information Center (NWIC) for the project site and a 0.5-mile radius surrounding it. In reviewing the records search results, results maps, and the correspondence with the Native American Heritage Commission and tribes, staff has determined that the project site location used for the records search is incorrect. The records search and 0.5-mile-radius buffer appears to be based on the properties at 651, 725, and 825 Mathew Street in Santa Clara. The project site is located at 2590 Walsh Avenue, approximately 1.6 miles northwest of the location used for the March 3, 2021, NWIC records search.

DATA REQUESTS

3. Based upon the results of the new records search, please update the environmental analysis and impacts of the project on cultural and tribal cultural resources in both Section 4.5 of the SPPE application and the confidential CRA and resubmit the information to CEC docket 21-SPPE-01.

RESPONSE TO DATA REQUEST 3

Revised Section 4.5 of the SPPE Application is presented in Attachment CUL DR-3.

BACKGROUND

The supporting documentation from the NWIC records search was not provided to CEC cultural resources staff with the initial submittal of the CRA. Independent analysis of the project cannot proceed without this vital information, as none of the background information provided by the previous studies is included in the SPPE Cultural Resources/Tribal Cultural Resources Section 4.5 or the CRA. The SPPE application states on page 4-45 that none of the structures located on or adjacent to the project site are more than 45 years old, are therefore ineligible for the California Register of Historical Resources, and should not be considered further as potential historical resources under the California Environmental

Quality Act (CEQA). Staff is aware of at least one adjacent parcel containing structures that are 45 years or older, the Uranium Substation at 2705 Bowers Avenue (Smart Permit 2021). The original alignment of tracks for the Southern Pacific Railroad Monterey Line is also adjacent to the project site, possibly dating to 1889 or earlier (TRC 2020, page 10; USGS 1889). The tracks are now in operation as part of the CalTrain system. CEC cultural staff applies a minimum one-parcel built environment study area as the Project Area of Analysis (PAA) for urban projects.

DATA REQUESTS

4. Please provide copies of the maps, reports, and resource records of the literature search that provide the background for the revised CRA for 2590 Walsh Avenue (see NWIC File No. 20-1637 for guidance). Please ensure that the results include the summary of the information requested by the applicant's consultant, and the search area radius indicated on maps as provided by the NWIC or prepared by the consultant using shape files provided by the NWIC.

RESPONSE TO DATA REQUEST 4

The Revised CRA includes reference to the correct maps, reports and resource records examined during the literatures search. Copies responsive to this request were provided to Staff via secure SharePoint link and a renewed Application For Confidential Designation was docketed on June 17, 2021.

5. Please provide a description of the PAA, including the project site, the observed adjacent parcels, and any linear routes and include a map depicting those areas analyzed for the project, including parcel numbers where applicable. Identify those parcels containing cultural resources that are 45 years or older.

RESPONSE TO DATA REQUEST 5

The description of the PAA has been revised and can be found in Section 1.1 and Exhibit 3 of the Revised CRA which was docketed under Repeated Request For Confidential treatment on August 18, 2021.

6. Please provide an evaluation of any parcels adjacent to the project site with structures, buildings or objects that are 45 years or older on California Department of Parks and Recreation 523 series forms for their eligibility for listing on the CRHR or as a local landmark.

RESPONSE TO DATA REQUEST 6

VDC docketed the Historic Built Environment Assessment dated August 2, 2021 by South Environmental on August 11, 2021. The Historic Environment Assessment is also included as Appendix E to the Revised CRA. The findings and results were incorporated in Section 3.3 of the Revised CRA.

7. Please update Section 2.2 of the CRA to include a history of the project site following subsection 2.2.4.

RESPONSE TO DATA REQUEST 7

The Revised CRA includes the updates necessary to incorporate the information responsive to Data Requests 3 through 7.

ATTACHMENT CUL DR-3
Revised Section 4.5 of SPPE Application

4.5 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

This section describes the existing cultural resources setting and potential effects from project implementation on the project site and its surrounding area. Descriptions and analysis in this section are based on information provided by the California Native American Heritage Commission (NAHC), Northwest Information Center (NWIC), National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), California Historic Landmarks list, California Points of Historical Interest list, and California Built Environment Resource Directory (BERD) for Santa Clara County. A Phase I Cultural Resources Assessment (CRA) has been prepared by First Carbon Solutions. The information contained in this section relies on the CRA, which will be docketed separately with a Request For Confidential Designation. Non-confidential pedestrian survey photos and correspondence with the NAHC and Tribal representatives are included in Appendix C.

4.5.1 CEQA Checklist

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>Cultural Resources and Tribal Cultural Resources</u>				
Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
4) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.5.2 Environmental Setting

4.5.2.1 Northwest Information Center

A records search was conducted on March 3, 2021, at the NWIC, located at Sonoma State University at Rohnert Park, for the project site and a 0.5-mile radius surrounding it. The purpose of this search was to access existing cultural resource survey reports, archaeological site records, historic aerial photographs, and historic maps and evaluate

whether any previously documented prehistoric or historic archaeological sites, architectural resources, cultural landscapes, or other resources exist within or near the project site.

Results from the NWIC indicate that five historic resources and one historic/prehistoric resource are located within a 0.5-mile radius of the project, none of which are located within the project site itself. The closest archaeological resource (P-43-000433) is located approximately 0.5 miles from the project site. In addition, Fifty-four area-specific survey reports are on file with the NWIC for the 0.5-mile search radius, none of which address the project site, suggesting the project has not been previously surveyed for cultural resources.

4.5.2.2 Pedestrian Survey

On March 18, 2021, FCS Senior Archaeologist Dr. Dana DePietro and FCS Historian Ti Ngo conducted a pedestrian survey for unrecorded cultural resources at the proposed project site. The project site is completely developed and hardscaped, consisting of a large office warehouse building that borders Walsh Ave. to the north, the City of Santa Clara Uranium Substation to the west, and is completely surrounded by parking lots, associated infrastructure, and landscaping elements. None of these structures or elements on the project site are over 45 years in age, and thus, are ineligible for inclusion on the CRHR and do not warrant further consideration as potential historic resources under CEQA.

The survey began in the northeast corner of the roughly pentagonal development site and moved west, using north-south transects spaced at approximately 5-meter intervals across the site whenever possible. Given the fully developed nature of the site, visibility of native soils was almost non-existent, however soils in landscaping elements and on the edges of the property were closely inspected, and while highly disturbed, provided some information on soil profiles across the site. Visible soils were largely composed of dark brown (7.5YR 2.5/2) loam with moderate clay content, interspersed with small (2-3 cm) stones primarily composed of quartz and schist.

Survey conditions were documented using digital photographs and field notes. During the survey, Dr. DePietro and Mr. Ngo examined all areas of the exposed ground surface for prehistoric artifacts (e.g., fire-affected rock, milling tools, flaked stone tools, tool-making debris, ceramics), soil discoloration and depressions that might indicate the presence of a cultural midden, faunal and human osteological remains, and features indicative of the former presence of structures or buildings (e.g., postholes, standing exterior walls, foundations) or historic debris (e.g., glass, metal, ceramics).

All areas of the project site were inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. No historic or prehistoric artifacts, cultural

resources, or raw materials commonly used in the manufacture of tools (e.g., obsidian, Franciscan chert, etc.) were found within the project site.

4.5.2.3 Native American Heritage Commission

On February 23, 2021, FCS sent a request to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the project site. A response was received on March 9, 2021 indicating that the Sacred Lands File search failed to locate the presence of Native American cultural resources in the immediate project site. The NAHC included a list of ten tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential TCRs that may be affected by implementation of the proposed project are addressed, FCS sent letters all ten tribal representatives on March 10, 2021. No responses have been received to date.

4.5.3 Environmental Impact Discussion

4.5.3.1 Would the project cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?

Construction

Results from the NWIC indicate that five historic resources and one historic/prehistoric resource are located within a 0.5-mile radius of the project, none of which are located within the project site itself. None of these build environment historic resources will be impacted by construction, and no additional resources were encountered during the pedestrian field survey. As described previously, all structures located on or adjacent to the project site are less than 50 years old, are ineligible for the CRHR, and should not be considered potential historic resources under CEQA. While unlikely, subsurface construction activities always have the potential to damage or destroy previously undiscovered historic resources such as wood, stone, foundations, and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramic, and other refuse, if encountered. This would represent a potentially significant impact related to historic resources. Implementation of Project Design Measure PD CUL-1 would ensure that, in the event a previously undiscovered historic resource is encountered during subsurface activities, all construction within a 100-foot radius of the find shall cease until a qualified archaeologist determines whether the resource requires further study. Therefore, impacts would be less than significant with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated into the Project Design)**

Operation

Impacts related to a substantial adverse change in historic resources are limited to construction impacts because no subsurface activity would occur during operation that

could uncover previously undiscovered historic resources. Therefore, no impacts would occur at operation. **(No Impact)**

4.5.3.2 Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Construction

Results from the NWIC indicate that five historic resources and one historic/prehistoric resource are located within a 0.5-mile radius of the project, none of which are located within the project site itself. The closest archaeological resource (P-43-000433) is located approximately 0.5 miles from the project site. Although no known archeological resources have been recorded within the project boundary, the proximity to P-43-000433 coupled with the inability to observe or evaluate native soils increases the potential that undiscovered archeological resources could be uncovered during subsurface construction activity and excavation. Such resources could consist of but are not limited to stone, bone, wood, or shell artifacts or features, including hearths and structural elements. This represents a potentially significant impact related to archeological resources. However, implementation of Project Design Measure PD CUL-1 would ensure that in the event a previously undiscovered archeological resource is encountered during subsurface activities all construction within a 100-foot radius of the find shall cease until a qualified Archaeologist determines whether the resource requires further study. Therefore, impacts would be less than significant with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated into the Project Design)**

Operation

Impacts related to a substantial adverse change in the significance of an archeological resource are limited to construction impacts. No respective direct or indirect operational impacts related to archeological resources would occur. **(No Impact)**

4.5.3.3 Would the project disturb any human remains, including those interred outside of formal cemeteries?

Construction

No human remains or cemeteries are known to exist within or near the project site. However, there is always the possibility that subsurface construction activities associated with the proposed project, such as trenching and grading, could potentially damage or destroy previously undiscovered human remains. This represents a potentially significant impact related to human remains. Project Design Measure PD CUL-3 would require that work is halted, and the County Coroner is called to make a determination as to the nature of the remains and to confirm the next steps regarding contacting the NAHC and appropriate tribal representatives. In addition, in the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5(d)—Effects on

Human Remains, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and Section 5097.98 must be followed. Therefore, with implementation of PD CUL-2 and compliance with aforementioned CEQA Guidelines, direct and indirect impacts related to disturbance of human remains would be less than significant. **(Less than Significant Impact with Mitigation Incorporated into the Project Design)**

Operation

Impacts related to a project's potential to disturb human remains are limited to construction impacts as no subsurface activity or excavation would occur during operation. Therefore, no respective direct or indirect operational impacts related to human remains would occur. **(No Impact)**

4.5.3.4 Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Construction

No listed or potentially eligible TCRs have been identified within the project site. Specifically, a review of the CRHR, the NAHC Sacred Lands File, a records search conducted at the NWIC, and a pedestrian survey of the project site failed to identify any listed TCRs that could be adversely affected by construction of the proposed project. As such, there are no known eligible or potentially eligible TCRs that could be adversely affected by the proposed project. Therefore, impacts related to previously listed TCRs would be less than significant. **(Less Than Significant Impact)**

Operation

Impacts related to a project's potential to cause a substantial adverse change in the significance of a State listed or eligible TCR are limited to construction impacts. No respective operational impacts would occur. **(No Impact)**

4.5.3.5 Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

Construction

On February 23, 2021, FCS sent a request to the Native American Heritage Commission (NAHC) in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the Master Plan area. A response was received on March 9, 2021, indicating that the Sacred Lands File search failed to locate the presence of Native American cultural resources in the immediate project area. The NAHC included a list of 10 tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential Tribal Cultural Resources (TCRs) that may be affected by implementation of the proposed project are addressed, FCS sent letters to all 10 tribal representatives on March 10, 2021. No responses have been received to date. Additionally, the lead agency has not identified any Tribal Cultural Resources significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1 that may be adversely impacted by the project. Therefore, impacts related to previously listed TCRs would be less than significant. **(Less Than Significant Impact)**

Operation

Impacts related to a project's potential to cause a substantial adverse change in the significance of a State listed or eligible TCR are limited to construction impacts. No respective operational impacts would occur. **(No Impact)**

4.5.4 Mitigation Measures

No mitigation measures are necessary to ensure less than significant archaeological, historical or tribal cultural impacts because the applicant has incorporated the following Project Design Measures into the project.

PD CUL-1: The project proposes to implement the following measures to ensure the project's impacts to archaeological resources are less than significant:

- A Secretary of the Interior-qualified archaeologist and a Native American cultural resources monitor shall be on site to monitor grading of native soil once all pavement is removed from the project site. The project applicant shall submit the name and qualifications of the selected archaeologist and Native American Monitor to the Director of Planning and Inspection prior to the issuance of a grading permit.

Preference in selecting Native American monitors shall be given to Native Americans with:

- Traditional ties to the area being monitored.
 - Knowledge of local historic and prehistoric Native American village sites.
 - Knowledge and understanding of Health and Safety Code, Section 7050.5 and Public Resources Code, Section 5097.9 et seq.
 - Ability to effectively communicate the requirements of Health and Safety Code, Section 7050.5 and Public Resources Code, Section 5097.9 et seq.
 - Ability to work with law enforcement officials and the Native American Heritage Commission to ensure the return of all associated grave goods taken from a Native American grave during excavation.
 - Ability to travel to project sites within traditional tribal territory.
 - Knowledge and understanding of Title 14, California Code of Regulations, Section 15064.5.
 - Ability to advocate for the preservation in place of Native American cultural features through knowledge and understanding CEQA mitigation provisions.
 - Ability to read a topographical map and be able to locate site and reburial locations for future inclusions in the Native American Heritage Commission's Sacred Lands Inventory.
 - Knowledge and understanding of archaeological practices, including the phases of archaeological investigation.
- After removal of pavement and prior to grading, the archaeologist shall conduct a pedestrian survey over the exposed soils to determine if any surface archaeological manifestations are present. The archaeologist will monitor full-time all grading and ground disturbing activities in native soils associated with construction of the proposed project. If the archaeologist and Native American monitor believe that a reduction in monitoring activities is prudent, then a letter report detailing the rationale for making such a reduction and summarizing the monitoring results shall be provided to the Director of Planning and Inspection. Department of Recreation 523 forms shall be submitted along with the report for any cultural resources encountered over 50 years old.
 - In the event that prehistoric or historic resources are encountered during on-site construction activities, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning and Inspection shall be notified, and a Secretary of the Interior-qualified archaeologist shall examine the find and record the site, including field notes, measurements, and photography for a Department of Parks

and Recreation 523 Primary Record form. The archaeologist shall make a recommendation regarding eligibility for the California Register of Historical Resources, data recovery, curation, or other appropriate mitigation. Ground disturbance within the 50-foot radius can resume once these steps are taken and the Director of Planning and Inspection has concurred with the recommendations. Within 30 days of the completion of construction or cultural resources monitoring, whichever comes first, a report of findings documenting any cultural resource finds, recommendations, data recovery efforts, and other pertinent information gleaned during cultural resources monitoring shall then be submitted to the Director of Planning and Inspection. Once finalized, this report shall be submitted to the Northwest Information Center at Sonoma State University.

- Prior to and for the duration of ground disturbance, the project owner shall provide Worker Environmental Awareness Program training to all existing and any new employees. This training should include: a discussion of applicable laws and penalties under the laws; samples or visual aids of artifacts that could be encountered in the project vicinity, including what those artifacts may look like partially buried, or wholly buried and freshly exposed; and instructions to halt work in the vicinity of any potential cultural resources discovery, and notify the city-approved archaeologist and Native American cultural resources monitor.

PD CUL-2: The project proposes to implement the following measure to ensure the project's impacts to human remains are less than significant:

In the event that human remains are discovered during on-site construction activities, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission. All actions taken under this mitigation measure shall comply with Health and Human Safety Code § 7050.5(b).

4.5.5 Governmental Agencies

The City of Santa Clara will ensure the project applicant complies with all archaeological or historic resource related regulations as part of its permitting review and compliance process.