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RESPONSE TO CEC STAFF DATA REQUEST SET 4

CA3 Backup Generating Facility (21-SPPE-01)

SUBMITTED TO: CALIFORNIA ENERGY COMMISSION SUBMITTED BY: Vantage Data Centers

October 28, 2021



INTRODUCTION

Attached are Vantage Data Centers (VDC) responses to California Energy Commission (CEC) Staff Data Request Set No. 4 (1-5) for the CA3 Backup Generation Facility (CA3BGF) Application for Small Power Plant Exemption (SPPE) (21-SPPE-01). Staff issued Data Request Set No. 4 on October 6, 2021.

The Data Responses are grouped by individual discipline or topic area. Within each discipline area, the responses are presented in the same order as Staff presented them and are keyed to the Data Request numbers (1-5). Additional tables, figures, or documents submitted in response to a data request (e.g., supporting data, stand-alone documents such as plans, folding graphics, etc.) are found in Attachments at the end of the document and labeled with the Data Request Number for ease of reference.

For context, the text of the Background and Data Request precede each Data Response.

BIOLOGICAL RESOURCES

BACKGROUND: Landscape Plan, Tree Inventory and Tree Removal

Staff needs clarifying information regarding the project's potential impacts from loss of protected trees as well as clarifications on the proposed landscape plan to complete its CEQA analysis. The site configuration included on the Revised Landscape Plan (TN 238970) does not match the site configuration on the Revised General Arrangement and Site Layout (TN 238970) or the Existing Tree Inventory/Removal Plan (TN 239148) which have been updated to include the modified general arrangement based on comments from the City of Santa Clara Project Clearance Committee. Staff requires that a corrected full Landscape Drawing Set be submitted with the modification to the site layout reflected in all drawings.

The applicant changed the tree numbering on the L1.1 Existing Tree Inventory / Removal Plan (TN 239148) from the original tree numbering in the SPPE Application Appendix C. Tree Inventory Report including Exhibit 2 - 2590 Walsh Avenue Inventory Matrix, which has all the health data on each tree listed by a tree identification number given by the arborist. Biological resources staff needs this numbering to be consistent to be able to discuss the proposed protected tree removal as tree health is a factor of protection for trees listed in City of Santa Clara General Policy 5.10.1-P4. In addition, it is unclear how many trees the applicant has proposed to plant as the quantities are not listed on the Landscape Plan. Staff needs the corrected full Landscape Drawing Set to include this information.

General Plan Policy 5.3.1-P10 calls for new development to provide street trees and conflict with this part of the policy would be a significant impact. Staff is unable to determine if any of the trees proposed on the Landscape Plan would qualify as street trees. Staff requires clarifying information on the contents of the preliminary Landscape Drawing Set as there is some missing and/or inaccurate information. Please provide the following additional information:

DATA REQUESTS

1. Please provide a corrected full Landscape Drawing Set that matches the current site plan with the reconfigured generator yard.

RESPONSE TO DATA REQUEST 1

Please note that as a result of the PCC process, the City of Santa Clara requested that in order to provide access to the roof on the western side of the building by ladder, the administration portion of the building to be modified from a triangular shape to a strip that would allow the fire access road to be closer to the building. In addition the City of Santa Clara Fire Department requested minor modifications to the roadway entrance in the northeast corner of the site to accommodate fire truck turning radius and requested additional room be provided along the rear of the building. Therefore the administration building has been redesigned to be a strip along the western boundary of the building g and the rear of the building has been redesigned to remove 8 feet. These changes slightly modified the square footage of the building and the landscape plan and shifted the on-site substation and switchyard slightly northward.

VDC docketed a Revised Project description on October 28, 2021 (TN240159) and the Revised PCC Drawing Set docketed on October 28, 2021 (TN240157, TN240158, and TN240160) to reflect these changes.

The Full Landscape set complete with tree identification and numbering consistent with the arborist report contains the drawings responsive to this data request. Please see Sheets L1.0 through L 4.0 (TN240157).

2. Please confirm that the tree numbering on the Existing Tree inventory/Removal Plan matches the original tree numbering in the arborist report in the SPPE application. If it does not, please make the necessary conforming changes and docket it.

RESPONSE TO DATA REQUEST 2

See Response to Data Request 2 above.

3. Clearly indicate which trees on the proposed Landscape Plan are proposed to be planted as street trees.

RESPONSE TO DATA REQUEST 3

See Response to Data Request 2 above.

4. Please update the Plant List box to list the quantities for each tree species proposed to be planted and included on the Landscape Plan.

RESPONSE TO DATA REQUEST 4

See Response to Data Request 2 above.

CULTURAL RESOURCES

BACKGROUND

Per CEC staff Data Request 3 of Set 1, dated June 7, 2021, the applicant provided staff with a revised cultural resources assessment report for the proposed project (Ngo and DePietro, 2021). The report was submitted with a request for confidentiality which was granted by the CEC's Executive Director. The revised cultural resources assessment, however, contains several unclear statements and missing citations. The revised cultural resources assessment also left a previous cultural resources study off the records search map or neglected to label it. Staff marked up a PDF of the revised cultural resources assessment with questions and comments for the applicant and has provided that document under separate cover.

DATA REQUEST

5. Please address the comments and questions that staff embedded in the revised Cultural Resources Assessment.

RESPONSE TO DATA REQUEST 5

First Carbon addressed the comments that staff embedded in the revised Cultural Resources Assessment by creating a Second Revised Cultural Resources Assessment which was docketed on October 28, 2021 pursuant to a Repeated Request for Confidential Designation and Staff notified by email that it was docketed. Additionally, Section 4.5 of the SPPE Application has been revised to reflect the modifications to the CRA and historical assessment and is included here as Attachment CUL DR-5.

ATTACHMENT CUL DR-5

Revised SPPE Section 4.5

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 and was Revised to be responsive to CEC Data Requests Set 1 (Revised CRA). The information contained in this section relies on the Revised CRA, which was 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
Cultural Resources and Tribal Cultural <u>Resources</u>				
Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?				
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?		\boxtimes		
3) Disturb any human remains, including those interred outside of formal cemeteries?		\boxtimes		
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), or 				
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.				

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.

The results of the records search indicate that no cultural resources have been recorded within the project site or the 0.50-mile search radius. 6 area-specific survey reports on file with the NWIC address the project site, however these are limited to the northern and southern boundaries and do not address the majority of the site, indicating that it has largely not been previously evaluated. An 11 additional survey reports are on file with the NWIC within a 0.5-mile radius, almost all of which are linear surveys for roadways.

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 Historic Resource Assessment

Pursuant to CEC cultural resource assessment standards, the PAA for urban projects includes the subject parcel as well as the built environment of each adjacent parcel. All parcels adjacent to the project site were therefore included in the PAA to capture all potential effects to built environment resources. The project study area includes six parcels, four of which contain buildings constructed less than 45 years ago and do not appear to warrant eligibility consideration. Two parcels contain built environment resources constructed more than 45 years ago: the SVP Uranium Substation on APN 216-28-062 (built 1976) and the Peninsula Commute Service Line (P-43-000928) segment within APN 216-28-121 (built circa 1864).

These resources were evaluated for historical significance along with an assessment of potential impacts by Principal Architectural Historian Samantha Murray, MA who meets the Secretary of the Interior's Standards for architectural history and history. The resources were recorded on the appropriate set of DPR Series 523 Forms in consideration of CRHR and City HRI designation criteria and integrity requirements.

Ms. Murray's evaluation concluded both resources are ineligible under all designation criteria. The Uranium Substation has no significant historical or architectural associations, and the Peninsula Commute Service Line (P-43-000928) segment suffers from a lack of physical integrity such that the track can no longer convey its important associations in California's railroad history.

No historical resources were identified within the project site or project study area as a result of this study.

4.5.2.4 Native American Heritage Commission

On May 5, 2021, FCS sent an updated request to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the project area. A response was received on May 21, 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 12 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 updated letters to all 12 tribal representatives on May 21, 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

The results of the records search indicate that no cultural resources have been recorded within the project site or the 0.50-mile search radius. 6 area-specific survey reports on file with the NWIC address the project site, however these are limited to the northern and southern boundaries and do not address the majority of the site, indicating that it has largely not been previously evaluated.

The project study area includes six parcels, four of which contain buildings constructed less than 45 years ago and do not appear to warrant eligibility consideration. Two parcels outside the site boundary but within the PAA contain built environment resources constructed more than 45 years ago: the SVP Uranium Substation on APN 216-28-062 (built 1976) and the Peninsula Commute Service Line (P-43-000928) segment within APN 216-28-121 (built circa 1864). However, a Historic Resources Assessment concluded that the Uranium Substation has no significant historical or architectural associations, and the Peninsula Commute Service Line (P-43-000928) segment suffers from a lack of physical integrity such that the track can no longer convey its important associations in California's railroad history.

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

There are no recorded eligible resources within or adjacent to the project site, and the project site has been previously disturbed by construction of the office/light industrial complex situated onsite. The fact that very little of the project site and 0.5-mile radius surrounding it have previously been surveyed and visibility of native soils was almost nonexistent, however, increases the possibility that unknown subsurface archaeological

resources may be encountered during project construction. 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**)

<u>Operation</u>

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-3 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 May 5, 2021, FCS sent an updated request to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the project area. A response was received on May 21, 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 12 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 updated letters to all 12 tribal representatives on May 21, 2021. One response was received asking for Native American monitor during construction and the recommendation was been incorporated into PD CUL-1.

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 cityapproved 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

As described in Section 4.5.3.5 no responses to notification from any Tribal Government have been received. 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.