

DOCKETED	
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Project Title:	CA3 Backup Generating Facility-Vantage
TN #:	240644
Document Title:	Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA)
Description:	Letter
Filer:	Marichka Haws
Organization:	Tamien Nation
Submitter Role:	Public Agency
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TAMIEN NATION
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August 6, 2021

Thomas Gates. PhD
Energy Commission Tribal Liaison
(916) 237-2544
Sent Via Email: gabriel.roark@energy.ca.gov

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subds. (b),(d) and (e) Vantage Data Center project, 2590 Walsh Avenue, Santa Clara

Dear Ms. Gates,

This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project. Tamien Nation requested formal notice and information for all projects within your agency's geographical jurisdiction and received notification on July 7, 2021, regarding the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a):

☐ Alternatives to the project

☒ Recommended mitigation measures

☒ Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a):

☐ Type of environmental review necessary

☐ Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources

☒ Significance of the project's impacts on tribal cultural resources

☒ Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
- (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- (4) Protecting the resource.

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation’s lead contacts:

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Please refer to identification number TN-20210707-01-01 in any correspondence concerning this project. Thank you for providing us with this notice and the opportunity to comment.

Sincerely,



Quirina Geary
Chairwoman

cc: Native American Heritage Commission