

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2023020228

Project Title: Bowers Backup Generating Facility (BBGF)

Lead Agency: California Energy Commission

Contact Person: Ann Crisp

Mailing Address: 715 P Street MS 16

Phone: 916-776-7975

City: Sacramento

Zip: 95814

County: Sacramento

Project Location: County: Santa Clara

City/Nearest Community: Santa Clara

Cross Streets: Bowers Avenue and Walsh Avenue

Zip Code: 95051

Longitude/Latitude (degrees, minutes and seconds): _____ ° _____ ' _____ " N / _____ ° _____ ' _____ " W Total Acres: 5.12

Assessor's Parcel No.: 216-28-063

Section: _____ Twp.: _____ Range: _____ Base: _____

Within 2 Miles: State Hwy #: US 101, El Camino Real (SR 82)

Waterways: Calabazas Creek, San Tomas Aquino Creek, Saratoga Creek

Airports: San Jose Mineta Int'l Airport (SJC)

Railways: Union Pacific, Caltrain Schools: See Attachment A

Document Type:

CEQA: ☐ NOP ☒ Draft EIR NEPA: ☐ NOI Other: ☐ Joint Document
☐ Early Cons ☐ Supplement/Subsequent EIR ☐ EA ☐ Final Document
☐ Neg Dec (Prior SCH No.) _____ ☐ Draft EIS ☐ Other: _____
☐ Mit Neg Dec Other: _____ ☐ FONSI _____

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☒ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☒ Use Permit ☐ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☒ Other: lot line adjustment

Development Type:

☐ Residential: Units _____ Acres _____ ☐ Transportation: Type _____
☐ Office: Sq.ft. _____ Acres _____ Employees _____ ☐ Mining: Mineral _____
☐ Commercial: Sq.ft. _____ Acres _____ Employees _____ ☐ Power: Type _____ MW _____
☐ Industrial: Sq.ft. _____ Acres _____ Employees _____ ☐ Waste Treatment: Type _____ MGD _____
☐ Educational: _____ ☐ Hazardous Waste: Type _____
☐ Recreational: _____ ☒ Other: diesel backup generating facility and data center
☐ Water Facilities: Type _____ MGD _____

Project Issues Discussed in Document:

☒ Aesthetic/Visual ☐ Fiscal ☒ Recreation/Parks ☒ Vegetation
☐ Agricultural Land ☐ Flood Plain/Flooding ☐ Schools/Universities ☒ Water Quality
☒ Air Quality ☐ Forest Land/Fire Hazard ☐ Septic Systems ☒ Water Supply/Groundwater
☒ Archeological/Historical ☒ Geologic/Seismic ☒ Sewer Capacity ☐ Wetland/Riparian
☒ Biological Resources ☐ Minerals ☒ Soil Erosion/Compaction/Grading ☐ Growth Inducement
☐ Coastal Zone ☒ Noise ☒ Solid Waste ☒ Land Use
☒ Drainage/Absorption ☒ Population/Housing Balance ☒ Toxic/Hazardous ☒ Cumulative Effects
☐ Economic/Jobs ☒ Public Services/Facilities ☒ Traffic/Circulation ☒ Other: GHG, Energy, Tribal Cultural

Present Land Use/Zoning/General Plan Designation:

developed office building/ML Light Industrial/High Intensity Office/R&D

Project Description: (please use a separate page if necessary)

Construct a four-story 244,068 square foot data center building, including utility substation, emergency backup generating facilities, surface parking and landscaping, and utility pipeline connections on a currently developed 5.12-acre site. The Bowers Data Center (BDC) would be supplied electricity by Silicon Valley Power (SVP) through a new 72 mega volt-ampere electrical substation to be constructed immediately adjacent to the site as part of the data center. To provide greater than 99.999 percent reliability, the BDC would be supported by uninterruptible power supplied to the project during a utility outage via 32.3-megawatt (MW) Tier 4 diesel-fired emergency backup generators (the Bower Backup Generating Facility or BBGF). The maximum capacity of the BBGF would be limited to 72 MW. Project elements would also include switchgear and distribution cabling to interconnect the generator yard to the data center. The BBGF, the BDC, and related utility infrastructure, together constitute the "project" under the California Environmental Quality Act (CEQA). The CEC has the exclusive authority to certify all thermal power plants (50 MW and greater) and related facilities proposed for construction in California. Applicants proposing to construct thermal power plants between 50 and 100 MW may obtain an exemption from the CEC's jurisdiction and proceed with local permitting rather than requiring CEC certification. Public Resources Code section 25519(c) designates the CEC as lead agency, in accordance with CEQA, for all facilities seeking an exemption. The CEC will not be approving the construction of the BBGF, only determining whether the project can be exempted from the CEC's jurisdiction.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".
If you have already sent your document to the agency please denote that with an "S".

☒ Air Resources Board	☒ Office of Historic Preservation
☐ Boating & Waterways, Department of	☐ Office of Public School Construction
☐ California Emergency Management Agency	☒ Parks & Recreation, Department of
☐ California Highway Patrol	☐ Pesticide Regulation, Department of
☒ Caltrans District # 4	☒ Public Utilities Commission
☐ Caltrans Division of Aeronautics	☒ Regional WQCB # 2
☐ Caltrans Planning	☒ Resources Agency
☐ Central Valley Flood Protection Board	☐ Resources Recycling and Recovery, Department of
☐ Coachella Valley Mtns. Conservancy	☒ S.F. Bay Conservation & Development Comm.
☐ Coastal Commission	☐ San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
☐ Colorado River Board	☐ San Joaquin River Conservancy
☐ Conservation, Department of	☐ Santa Monica Mtns. Conservancy
☐ Corrections, Department of	☐ State Lands Commission
☐ Delta Protection Commission	☐ SWRCB: Clean Water Grants
☐ Education, Department of	☒ SWRCB: Water Quality
☒ Energy Commission	☐ SWRCB: Water Rights
☒ Fish & Game Region # 3	☐ Tahoe Regional Planning Agency
☐ Food & Agriculture, Department of	☒ Toxic Substances Control, Department of
☐ Forestry and Fire Protection, Department of	☒ Water Resources, Department of
☐ General Services, Department of	☐ Other: _____
☐ Health Services, Department of	☐ Other: _____
☐ Housing & Community Development	
☒ Native American Heritage Commission	

Local Public Review Period (to be filled in by lead agency)

Starting Date _____ Ending Date _____

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone: _____
Phone: _____	

Signature of Lead Agency Representative:  Date: August 9, 2023

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

Attachment A to NOC

Schools within 2 miles of Bowers Backup Generating Facility project site:

Public Schools

JUAN CABRILLO MIDDLE, FAIRWOOD ELEMENTARY. BRIARWOOD ELEMENTARY, BRACHER ELEMENTARY, SCOTT LANE ELEMENTARY, MONTAGUE ELEMENTARY, ADRIAN WILCOX HIGH, NEW VALLEY CONTINUATION HIGH, CENTRAL PARK ELEMENTARY, MISSION EARLY COLLEGE HIGH, BOWERS ELEMENTARY, MILLIKIN ELEMENTARY, POMEROY ELEMENTARY, SANTA CLARA HIGH, PONDEROSA ELEMENTARY

Private Schools

ST LAWRENCE ELEMENTARY/MIDDLE SCHOOL, NEIGHBORHOOD CHRISTIAN CENTER, NORTH VALLEY BAPTIST SCHOOL, SANTA CLARA CHRISTIAN SCHOOL, KINDERCARE LEARNING CENTER

Summary Form for Electronic Document Submittal**Form F**

Lead agencies may include 15 hardcopies of this document when submitting electronic copies of Environmental Impact Reports, Negative Declarations, Mitigated Negative Declarations, or Notices of Preparation to the State Clearinghouse (SCH). The SCH also accepts other summaries, such as EIR Executive Summaries prepared pursuant to CEQA Guidelines Section 15123. Please include one copy of the Notice of Completion Form (NOC) with your submission and attach the summary to each electronic copy of the document.

SCH #: 2023020228Project Title: Bowers Backup Generating Facility (BBGF)Lead Agency: California Energy CommissionContact Name: Ann CrispEmail: Ann.Crisp@energy.ca.govPhone Number: 916-776-7975Project Location: Santa Clara*City*Santa Clara*County*

Project Description (Proposed actions, location, and/or consequences).

See Attachment A

Identify the project's significant or potentially significant effects and briefly describe any proposed mitigation measures that would reduce or avoid that effect.

See Attachment A

If applicable, describe any of the project's areas of controversy known to the Lead Agency, including issues raised by agencies and the public.

See Attachment A

Provide a list of the responsible or trustee agencies for the project.

Responsible Agencies

City of Santa Clara

Bay Area Air Quality Management District

Trustee Agencies

California Department of Fish and Wildlife

Summary Form Attachment A

Project Description (Proposed actions, location, and/or consequences)

Construct a four-story 244,068 square foot data center building, including utility substation, emergency backup generating facilities, surface parking and landscaping, and utility pipeline connections on a currently developed 5.12-acre site. The Bowers Data Center (BDC) would be supplied electricity by Silicon Valley Power (SVP) through a new 72 mega volt-ampere electrical substation to be constructed immediately adjacent to the site as part of the data center. To provide greater than 99.999 percent reliability, the BDC would be supported by uninterruptible power supplied to the project during a utility outage via 32 3-megawatt (MW) Tier 4 diesel-fired emergency backup generators (the Bower Backup Generating Facility or BBGF). The maximum capacity of the BBGF would be limited to 72 MW. Project elements would also include switchgear and distribution cabling to interconnect the generator yard to the data center. The BBGF, the BDC, and related utility infrastructure, together constitute the "project" under the California Environmental Quality Act (CEQA). The CEC has the exclusive authority to certify all thermal power plants (50 MW and greater) and related facilities proposed for construction in California. Applicants proposing to construct thermal power plants between 50 and 100 MW may obtain an exemption from the CEC's jurisdiction and proceed with local permitting rather than requiring CEC certification. Public Resources Code section 25519(c) designates the CEC as lead agency, in accordance with CEQA, for all facilities seeking an exemption. The CEC will not be approving the construction of the BBGF, only determining whether the project can be exempted from the CEC's jurisdiction.

Identify the projects significant or potentially significant effects and briefly describe any proposed mitigation measures that would reduce or avoid that effect.

Less Than Significant Impact

Project impacts in the environmental topic areas of Aesthetics, Energy and Energy Resources, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Utilities and Service Systems, and Environmental Justice are less than significant.

Less Than Significant with Mitigation Incorporated

Air Quality. The project's construction emissions would be lower than the applicable significance thresholds for all criteria pollutants established by the Bay Area Air Quality Management District (BAAQMD). For other construction emissions without a numerical threshold of significance, specifically non-exhaust PM10 and PM2.5 emissions from fugitive dust from construction equipment, staff proposes mitigation measure **AQ-1**, requiring best management practices which would bring the project in line with BAAQMD

standards, so that impacts to the general population and sensitive populations would be reduced to less than significant.

Biological Resources. The project would not adversely affect any species identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), with mitigation incorporated. Staff proposes mitigation measures **BIO-1**, which requires pre-construction surveys for nesting birds and the implementation of nest buffers, and **BIO-2**, which requires conducting bat clearance surveys prior to the demolition of the existing buildings or removal of trees. If bats are detected during surveys, **BIO-2** requires the development of a Bat Mitigation and Monitoring Plan, which details exclusion methods, roost removal procedures, and compensatory mitigation methods for permanent impacts for roost removal.

The implementation of mitigation measures **BIO-1** and **BIO-2** would ensure all impacts to bird and bat species are reduced to less than significant.

Cultural and Tribal Cultural Resources. The project would not impact any known resources that could meet CEQA's criteria for historical resources, unique archaeological resources, or tribal cultural resources. However, previous cultural resources studies in the project area indicate that buried archaeological or ethnographic resources could be encountered during ground disturbing activities at the site. The CEC staff recommends nine mitigation measures, **CUL-1** through **CUL-9**, to address the inadvertent discovery of previously unknown cultural resources, including human remains. **CUL-1** requires that a qualified archaeologist prepare a Cultural Resources Identification, Monitoring, and Treatment Plan in consultation with the Tamien Nation and a qualified Native American monitor, to ensure that potential impacts to any as-yet unidentified cultural resources are reduced to a less-than-significant level. **CUL-2** requires qualified specialists and Native American monitors to prepare a workforce environmental awareness program, or WEAP, to instruct construction workers of the obligation to protect and preserve buried archaeological and Native American resources that could be encountered during construction. It includes instructions regarding the need to halt work in the vicinity of potential archaeological and Native American resources that could be encountered. Mitigation measure **CUL-3** requires that a preliminary field investigation be conducted by a qualified archaeologist and Native American monitor to determine if cultural deposits are present once pavement is removed and soils are accessible for inspection. **CUL-4** requires that all ground disturbing activities be completed under the observation of a qualified archaeologist and Native American monitor and provides for the cultural resources monitors to have the authority to temporarily halt construction activities within a 50-foot radius of finds. **CUL-5** specifies the procedures for documenting and evaluating cultural resources finds made during the preliminary field investigation, grading, or other construction activities. Further, **CUL-5** requires that a qualified archaeologist make recommendations to the Santa Clara Director of Community Development regarding data recovery, curation, or other appropriate mitigation.

Mitigation Measure **CUL-6** specifies procedures for the event that human remains are discovered. **CUL-7** affords for the installation of security fencing onsite, to avoid destruction or theft of cultural resources, at the discretion of the City of Santa Clara's Director of Community Development and requires the qualified archaeologist and Native American monitor to advise the Director of Community Development on security measures to be taken to ensure the safety of any cultural resources. **CUL-8** requires that the project owner or its representative prepare a closing cultural resources report summarizing the results of the field investigations, data recovery activities and results, and compliance with the Cultural Resources Identification, Monitoring, and Treatment Plan once all analyses and studies required have been completed. **CUL-9** requires that all archaeological cultural resources recovered and not identified as tribal cultural resources be transferred to a long-term curation facility, and all Native American/tribal cultural resources and artifacts be reburied onsite, if feasible and if requested by the Native American representative. Combined, mitigation measures **CUL-1** through **CUL-9** would reduce impacts on buried historical resources to a less-than-significant level.

Geology and Soils. Significant paleontological resources that represent important examples of the major periods of California prehistory are known to be present in the project area. The extent of proposed ground disturbance has the potential to damage unknown, buried paleontological resources in the project footprint. Paleontological resources may be buried beneath the ground surface in Pleistocene age sediments. If significant paleontological resources were to be exposed or destroyed, it would be a significant impact. Staff proposes mitigation measure **GEO-1**, which would require worker training to recognize paleontological resources. Staff concludes that with implementation of **GEO-1**, impacts to buried paleontological resources would be reduced to a less-than-significant level. Thus, the project therefore is unlikely to eliminate important examples of paleontological resources that are part of the prehistory of California.

Greenhouse Gas Emissions. With the incorporation of project features and staff's proposed mitigation measures **GHG-1** and **GHG-2**, direct and indirect GHG emissions generated by the project would be reduced to less than significant and would be consistent with the applicable plans and policies adopted to reduce GHG emissions. Mitigation Measure **GHG-1** requires renewable diesel for 100 percent of total energy use by the emergency backup generators, and only use of ultra-low sulfur diesel as a secondary fuel, and **GHG-2** requires participation in Silicon Valley Power's (SVP) Large Customer Renewable Energy (LCRE) Program or other renewable energy program that accomplishes the same objective as SVP's LCRE Program for 100 percent carbon-free electricity, or purchase renewable energy credits or similar instruments that accomplish the same goals of 100 percent carbon-free electricity. With project features and implementation of **GHG-1** and **GHG-2**, the project would comply with all regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. The potential for the project to conflict with an applicable plan, policy, or regulation for GHG emissions reductions would be reduced to less than significant.

Hazards and Hazardous Materials. During demolition activities, there is the potential that lead-based paint could be present and released. Staff proposes mitigation measure **HAZ-1** which would require the testing and removal of lead-based paint contaminated materials prior to demolition activities. Additionally, ground disturbing activities associated with the removal of underground utilities, and construction of the project would have the potential to encounter remnant or unidentified contaminated soil or groundwater. Staff proposes mitigation measure **HAZ-2** which would require a Site Management Plan to establish proper procedures to be taken when contaminated soil or groundwater is found and a Health and Safety Plan to protect and educate workers in the event contaminated soil or groundwater is encountered. Staff proposes mitigation measure **HAZ-3** which would specify testing of soil and groundwater for contamination per plans and protocols established in the Site Management Plan. Staff concludes that with implementation of **HAZ-1**, **HAZ-2**, and **HAZ-3**, impacts to the public or the environment due to lead-based paint or contaminated soil or groundwater would be reduced to a less than significant level.

Transportation. Project-generated vehicle miles traveled (VMT) per employee would exceed the City's industrial threshold of 14.14 VMT per employee. Staff proposes **TRANS-1**, which would require the project owner to implement Transportation Demand Management (TDM) measures, to reduce the project VMT to a less than significant level. Staff concludes that with implementation of **TRANS-1**, project generated VMT would be reduced to a level below the City's industrial VMT threshold, therefore, impacts to VMT would be reduced to a less than significant level.

If applicable, describe any of the project's areas of controversy known to the Lead Agency, including issues raised by agencies and the public.

The CEC issued a Notice of Preparation on February 9, 2023, seeking input from responsible and trustee agencies and the public regarding the scope and context of environmental areas in the EIR. The comment period began on February 9, 2023, and ended on March 10, 2023. In total, two comment letters from agencies and one comment letter from the public were received. Issues of concern reflected in these letters and emails include, but are not limited to, the following:

- Air Quality and Greenhouse Gas Emissions (GHG):
 - Concerns from public about cumulative impact of adjacent backup generating facilities
 - Because the project is in an area that is disproportionately impacted by air pollution and identified as a disadvantaged community according to the Air District's Community Air Risk Evaluation (CARE) program and State of California Senate Bill 535, the air district is concerned about the potential for any increase in air pollution exposure that could result from the project. The EIR should fully evaluate potential significant impacts and implement all feasible measures to minimize air quality impacts to the greatest extent possible

- The EIR should estimate and evaluate the potential health risk to existing and sensitive populations near the Project area from toxic air contaminants (TAC) and fine particulate matter (PM_{2.5}) as a result of the Project's construction and operation.
- The GHG impact analysis should include a discussion of how the Project will implement land use and design elements to achieve the State's 2045 climate target.
- The EIR should include various scenarios of backup power generation operations beyond routine testing and maintenance.
- The EIR should evaluate all feasible measures, both onsite and offsite, to reduce air quality impacts to a less-than-significant level.
- The project should implement green infrastructure and fossil fuel alternatives in the development and operation of the Project, such as solar photovoltaic (PV) panels, electric heat pump water heaters, and solar PV back-up generators with battery storage capacity, and commit to pursue carbon-free electricity service if on-site renewables do not meet the full electricity demand.
- The EIR should evaluate the Project's consistency with the Air District's 2017 Clean Air Plan (2017 CAP).
- Since certain aspects of the Project will require a permit (Authority to Construct/Permit to Operate) from the Air District the EIR should discuss any applicable permit requirements.
- Tribal Cultural Resources:
 - Ensure that the CEC complies with Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (includes tribal consultation requirements) in its review of the proposed project. Additional comments and concerns include recommended actions to adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources.