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Project No: 19-08915

Cindy Jacinth, Senior Planner
595 Harbor Street
Morro Bay, California 93442
Via email: cjacinth@morrobayca.gov

**Subject: **Vistra Energy Battery Energy Storage System at 1290 Embarcadero Road
Environmental Impact Report Peer Review Memorandum #2****

Cindy:

Rincon Consultants conducted a peer review of the Extended Phase I Archaeological Testing Report prepared by Padre Associates, Inc. in July 2021 under contract to Vistra (the project applicant) for the proposed Battery Energy Storage System at 1290 Embarcadero Road.

This peer review considers whether the environmental analysis is adequate for the purposes of preparing an Environmental Impact Report (EIR) for the proposed project, based on the California Environmental Quality Act (CEQA) Guidelines Environmental Checklist Form (Appendix G). This peer review does not include validation or verification of all original data sources and calculations used to develop the reports prepared by the applicant. This peer review assumes report preparers have conducted a thorough quality assurance/quality control (QA/QC) review of the document and all original data sources are valid and all calculations are correct.

The applicant-prepared technical studies and reports were peer reviewed with respect to the following parameters:

- Adequate description of the proposed project and project site;
- Adequate description of the existing setting, including the location of known on-site resources and features, resources and features in the project vicinity, on-site and nearby sensitive receptors, and applicable state, regional, and local regulations;
- Appropriate assumptions where project- and site-specific information is unavailable;
- Appropriate analytical methodology, modeling assumptions, and significance thresholds for analyzing project impacts in conformance with CEQA requirements and current professional standards; and
- Results, determinations of significance, and adequacy of any mitigation measures.



Rincon's peer review comments and recommendations for the applicant-prepared technical studies and reports, as well as qualifications of the senior staff involved in this peer review, are attached.

Sincerely,

Rincon Consultants, Inc.

Chris Bersbach, MESM
Supervising Environmental Planner/Program Manager

Richard Daulton, MURP
Principal/Vice President

Attachments

- Attachment 1 Rincon Consultants Peer Review Comments and Recommendations
- Attachment 2 Qualifications of Peer Reviewers



Attachment 1: Rincon Consultants Peer Review Comments and Recommendations



Extended Phase I Archaeological Testing Report

In July 2021, Padre Associates, Inc. prepared an Extended Phase I Archaeological Testing Report for the Morro Bay Power Company, LLC Battery Energy Storage System (XPI Testing Report) which summarizes the results of a California Historical Resources Information System (CHRIS) records search within a 0.25-mile radius of the project site, literature review, and an XPI testing program undertaken to assess potential impacts of the project on cultural resources. The project boundary was defined as approximately 22 acres within Assessor's Parcel Number (APN) 066-331-046. The XPI Testing Report was prepared by individuals who meet the Secretary of the Interior's Professional Qualification Standards in their given field. The study was completed to determine whether subsurface archaeological materials associated with CA-SLO-16 and/or CA-SLO-2124 were present within the project site and, if so, provide recommendations to mitigate potential impacts.

The CHRIS records search identified seven previous cultural resource studies within the project site and 17 other studies within a 0.25-mile radius. The search also identified four previously recorded cultural resources within the 0.25-mile radius; one (CA-SLO-2124) was located within the project site. There is no indication that a search of the Native American Heritage Commission's Sacred Land File was conducted, or that Native American representatives were contacted regarding the proposed project.

The XPI testing program identified subsurface cultural materials associated with CA-SLO-16 and CA-SLO-2124 within the project boundary. The testing program was generally conducted consistent with standard archaeological practices (i.e., geoprobes generally spaced approximately 15 meters apart, excavated soils screened through 1/8-inch mesh to identify archaeological materials). There is, however, no indication that a Native American representative was on-site during the XPI testing program even though standard archaeological practice includes having a Native American representative on-site during archaeological excavations within or adjacent to a previously recorded site boundary. The XPI Testing Report ultimately concluded that construction of the proposed project has the potential to impact subsurface archaeological materials associated with CA-SLO-16 and CA-SLO-2124. Measures to mitigate potential impacts, including avoidance of subsurface archaeological materials through project design, if feasible, and archaeological excavation, were recommended.

Recommendations

Rincon recommends the following revisions and updates be made to provide additional clarity and accuracy:

Management Summary, Section 4.0 Records Search, and Section 6.0 Summary and Conclusions. The records search included a 0.25-mile search radius. Standard archaeological practice is to include a 0.50-mile search radius.

- Rincon recommends the XPI Testing Report be revised/updated to explain why a 0.25-mile search radius is appropriate.

Management Summary, Section 4.2.1 Previously Recorded Cultural Resources, and Section 6.0 Summary and Conclusions. One previously recorded cultural resource (CA-SLO-2214) is located within the Project site and three additional previously recorded cultural resources (CA-SLO-16, CA-SLO-29, and CA-SLO-239) are located within 0.25 mile of the Project site. The CCIC records search letter included as Appendix D, however, indicates three resources (CA-SLO-16, CA-SLO-239, and CA-SLO-2124) are within the Project



site and seven resources are within 0.25 mile of the Project site. Appendix D includes Archaeological Site Records for CA-SLO-16, CA-SLO-239, and CA-SLO-2124; however, no record for CA-SLO-29 is included.

This discrepancy is most likely a result of Padre using the CCIC records search from the Cultural Resources and Tribal Cultural Resources Constraints Analysis Letter Report prepared by Padre in November 2019, although though the project boundary has changed.

- Rincon recommends the XPI Testing Report be revised/updated to correct or explain the discrepancy.

Section 1.1 Project Location and Description. The existing Morro Bay Power Plant (MBPP) was operated from the 1950s until it was decommissioned in 2014. Therefore, buildings or structures associated with the MBPP maybe 45 years old or older. There is no demolition of existing buildings or structures mentioned in the project description. Rincon, therefore, assumes no buildings or structures will require evaluation as part of the EIR analysis.

Section 3.4.4 American Period (A.D. 1850-present). In 1941, a U.S. Navy Amphibious Training Base (ATB) was constructed in the same location as the MBPP. The ATB eventually encompassed 250 acres and included support buildings, 62 Quonset huts used for barracks, shops and utility buildings, two 100,000-gallon water storage tanks, a gas chamber, a magazine storage area, and various other buildings. Although Figure 3-1 indicates that very few buildings/structures associated with the ATB were located within the current project boundary, there is no discussion about the demolition and/or removal of the buildings/structures. Additionally, there is no discussion regarding the potential for remnants of buildings/structures associated with the ATB to still be present within the current project boundary.

- Rincon recommends that the XPI Testing Report be revised/updated to address the potential to encounter remnants of buildings/structures associated with the ATB during proposed project construction and recommend appropriate mitigation measures if necessary.

Figure 5-2. The figure depicts the CA-SLO-16 and CA-SLO-2124 site boundaries. The figure, however, also depicts one geoprobe (5-2b) with moderate cultural materials over 100 feet south of the CA-SLO-16 site boundary and three geoprobes (2-8, 2-9, and 2-12) with dense cultural materials over 150 feet south of the CA-SLO-2124 site boundary.

- Rincon recommends that Figure 5-2 be revised/updated to depict the current CA-SLO-16 site boundary as determined by the XPI testing program.
- Rincon recommends that an updated Department of Parks and Recreation (DPR) form, that summarizes the results of the XPI testing program and illustrates the current CA-SLO-16 site boundary as determined by the XPI testing program, be completed and appended/attached to the XPI Testing Report. The updated DPR form should also be submitted to the CCIC.
- Rincon also recommends that Figure 5-2 be revised/updated to depict the current CA-SLO-2124 site boundary as determined by the XPI testing program.
- Rincon also recommends that an updated DPR, that incorporates the results of the XPI testing program and illustrates the current CA-SLO-2124 site boundary as determined by the XPI testing program, be completed and appended/attached to the XPI Testing Report. The updated DPR form should also be submitted to the CCIC.



Section 6.1 Impact Analysis. Nine new poles approximately 100 feet tall with “deep supporting structures” are proposed. However, the new poles are located outside the XPI testing program area and potential impacts to cultural resources from installation of the poles were not analyzed.

- Rincon recommends the XPI Testing Report be revised/updated to include an assessment of potential impacts resulting from the installation of the new poles. If additional survey or excavation is necessary, Rincon recommends the additional study be conducted prior to preparation of the EIR.

Section 6.2 Recommendations. Recommendation 1 allows ground disturbances within “the uppermost five to ten feet of culturally sterile hydraulic fill sands and modern dune sands.” However, Recommendation 2 states that if Recommendation 1 is feasible, ground disturbances “below a depth of five feet should be monitored... to assure that significant adverse impacts do not occur to any as-yet undiscovered prehistoric resources.”

- Rincon recommends the XPI Testing Report be revised/updated to specify the significant adverse impacts to as-yet undiscovered prehistoric resources since Recommendation 1 indicated the uppermost five to 10 feet consists of “culturally sterile hydraulic fill sands and modern dune sands” and there should be no potential to discovery prehistoric resources within “culturally sterile” or “modern” soils.

Section 6.2 Recommendations. Recommendation 3 includes “limited Phase III Data Recovery Excavations to mitigate impacts... by recovering a valid sample of the volume of the cultural deposit to be impacted.” There is no discussion in this recommendation or elsewhere in the XPI Testing Report that specifies the estimated volume of CA-SLO-2124 deposits within the project boundary, or estimated impacts to CA-SLO-2124 from proposed project construction. As a result, there can be no estimate as to the volume of CA-SLO-2124 deposits that would be considered a “valid sample.” Additionally, there is no discussion in this recommendation as to the field method(s) that would be appropriate to recover CA-SLO-2124 materials that are buried over 10 feet below the surface.

- Rincon recommends the XPI Testing Report be revised/updated to specify an approximate area and volume of CA-SLO-2124 deposits within the project boundary, an approximate area and volume of impacts to CA-SLO-2124, and appropriate field methods for data recovery of materials that are buried over 10 feet below the surface.

Section 6.2 Recommendations. Recommendation 4 includes combined Phase II Testing and Evaluation/Phase III Data Recovery Excavation in Area 5 (i.e., CA-SLO-16). There is no discussion in this recommendation as to the area and volume of CA-SLO-16 deposits within the project boundary, the potential area and volume of impacts to the CA-SLO-16 deposits, or field methods (i.e., the number and type of excavations).

- Rincon recommends the XPI Testing Report be revised/updated to specify an approximate area and volume of CA-SLO-16 deposits within the project boundary, an approximate area and volume of impacts to CA-SLO-16, and field methods.

Section 6.2 Recommendations. There is no recommendation regarding tailgate training or a worker environmental awareness procedure (WEAP) to educate construction workers on cultural resources and tribal cultural resources concerns.



- Rincon recommends the XPI Testing Report be revised/updated to include a measure requiring a tailgate training or WEAP be conducted by a qualified archaeologist and Native American representative.

Section 6.2 Recommendations. There is no recommendation regarding the discovery of human remains or the process to be followed in the event human remains are discovered even though human remains were recovered at CA-SLO-16 in 2000 and at CA-SLO-239 in 1961.

- Rincon recommends the XPI Testing Report be revised/updated to include a measure detailing the process to be followed in the event human remains are discovered during proposed project construction.

Section 6.2 Recommendations. None of the four recommendations refer to consistency with City of Morro Bay Land Use Plan policies identified in Section 2.2.1.

- Rincon recommends the XPI Testing Report be revised/updated to identify consistency with specific City of Morro Bay Land Use Plan policies for each of the four recommendations.

The XPI Testing Report does not include a discussion about a NAHC SLF search or outreach with Native representatives regarding the proposed project. Therefore, the information regarding tribal cultural resources that is currently available is limited.

- Rincon recommends the XPI Testing Report be revised/updated to include a NAHC SLF search and outreach with Native American representatives regarding the proposed project and recommended mitigation measures. Alternatively, the lead agency can provide information regarding AB52 and/or SB18 consultation that will be summarized in the Tribal Cultural Resources section of the EIR.



Attachment 2: Qualifications of Peer Reviewers

Richard Daulton, MURP, Principal

Education: MURP, Urban and Regional Planning, University of California, Irvine
BA, Economics, University of California, San Diego

Chris Bersbach, MESM, Senior Environmental Planner/Program Manager

Education: MESM, Bren School of Environmental Science and Management, University of California, Santa Barbara
BA, Psychology, Brandeis University

Ken Victorino, Supervising Archaeologist

Education: MA, Anthropology, California State University, Fullerton
BA, Anthropology, California State University, Fullerton
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Chris Duran, Principal Archaeologist

Education: MA, Anthropology, Northern Arizona University
BS, Anthropology-Cultural Resources Management, California State Polytechnic University, Pomona
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