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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Small Power Plant
Exemption
**NORTHTOWN BACKUP
GENERATING FACILITY**

DOCKET NO: 25-SPPE-02

**GIC SAN JOSE LLC'S RESPONSE
TO CENTER FOR BIOLOGICAL
DIVERSITY'S COMMENTS ON THE
NOTICE OF PREPARATION**

GIC San Jose LLC files these Responses to Center For Biological Diversity's (CBD) Comments on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) in the NorthTown Backup Generating Facility (NTBGF) Small Power Plant Exemption (SPPE) process¹, hereinafter referred to as "CBD Comments". GIC San Jose LLC has provided this response to assist California Energy Commission (CEC) Staff in addressing the comments by correcting the record and providing historical background developed in previous SPPE Application proceedings.

CBD Comments relate to topic areas of Air Quality, Greenhouse Gases, Cumulative Energy Impacts, Biological Resources, and Regional Water Supply. Each of the comments is addressed below.

¹ TN 272073

AIR QUALITY

GIS San Jose LLC agrees that the CEC is required by state law to thoroughly evaluate the air quality impacts associated with the generators proposed as the backup generating facility but disagrees with the manner that CBD asserts is the only correct way to properly evaluate impacts.

Operation for Demand Response Programs

CBD claims that the CEC must include specific mitigation measures in its DEIR relating to GIS San Jose LLC's commitment to operate its backup generators only during emergencies. CBD inaccurately asserts that data centers commonly run generators in order to participate in demand response programs. In support of its contention, CBD cites three 2015 studies that are irrelevant because the studies focused on data centers outside of California that are not subject to California law or policies.

CBD also cites a "personal communication with the Bay Area Air District (BAAD) on January 4, 2021 (compiling data regarding the use of data center's backup generators in the San Jose area)", that is relevant because it includes California data. However, CBD fails to acknowledge that the CEC adjudicated the same assertions raised by an Intervenor, the BAAD, and the California Air Resources Board (CARB) in several prior SPPE proceedings. The Commission held evidentiary hearings, examined exhibits (including the compilation by BAAD that CBD cites) and found that the information compiled by BAAD did not show that data centers frequently run their generators or participate in demand response programs.² In fact, the air permits issued by the BAAD and its rules prohibit operation of the NTBGF for demand responses programs.³ CBD additionally cites to "PG&E's Demand Response Programs for Business" as proof that the project can and may participate in such a demand response program, but fails to cite that the very terms of the program prohibit the use of diesel fuel-fired generators from participation in the program.⁴

Lastly, CBD relies on the Microsoft SJ02 Notice of Determination, which identified that its backup generators could be used for a specified number of hours for local demand

² See Final Decision in the Great Oaks South Backup Generating Facility (20-SPPE-01), TN 24902 at pages 31 through 40.

³ BAAD Permits include a prohibition of operating diesel-fired emergency generators during non-emergencies except for testing and maintenance for up to 50 hours.

⁴chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.pge.com/tariffs/assets/pdf/tariffbook/ELEC_SC HEDS_E-BIP.pdf

response programs. The SJ02 generators operate on natural gas, which for some demand response programs is not a prohibited fuel. The mitigation measure suggested by CBD is not required because CEQA allows an agency to rely on an Applicant complying with existing law. The NTBGF will operate its diesel generators in accordance with District rules and state law which limit operation of the generators for testing and maintenance to 50 hours per generator, and during emergencies as defined by District Rules.

Battery Energy Storage System to Replace Generators

CBD asserts that the Commission should force GIC San Jose LLC to utilize battery energy storage systems (BESS) “in lieu” of generators. As the Commission is aware, GIC San Jose LLC did evaluate the use of BESS in lieu of generators in Section 8 of the SPPE Application. The analysis concluded that such a system could not meet the Project Objectives. CBD supports the use of BESS to replace generators by citing to a Google Project in Belgium. CBD incorrectly implies that the Google project has eliminated the need for diesel fired backup generation at the site⁵. CBD also identifies a planned project by the US Navy that is not under construction. It is likely such a project is not commercially viable due to the lack of sufficient backup generating capacity to achieve 99.999 percent reliability, the minimum standard required for most data center users.

CBD also claims that Google is installing a Form Energy iron-air battery in Minnesota at its proposed Pine Island data center site to supply up to 100 hours of power to its data center. That conclusion is misleading. We could find no evidence that Google is in fact installing the BESS. Instead, it appears that Google has entered into an agreement with the local utility to purchase electricity from an array of power generation sources supplied to the grid including the BESS. Even if a BESS is proposed on the Pine Island site, it is important to note that site is 480 acres and may be able to accommodate some of the electrical infrastructure proposed by the utility, including the BESS.⁶ The Pine

⁵ “The installation is still very much a proof of concept, replacing one or two diesel generators, which just nibbles away a tiny fraction of the number of diesel generators at St. Ghislain.”
<https://www.datacenterdynamics.com/en/news/google-picks-fluence-for-275mw-grid-supporting-battery-system-in-belgium/>

⁶ <https://newsroom.xcelenergy.com/news/xcel-energy-to-power-new-google-data-center-in-minnesota>;
<https://www.cnbc.com/2026/02/24/google-to-build-data-center-in-minnesota-with-solar-wind-and-battery-storage.html>

Island Project was the subject of a lawsuit and now is under a temporary restraining order.⁷

CBD cites a paper entitled, ***Diesel Generators at Data Centers, Casomar and Bangsund, March 2026***⁸ for much of its support of using BESS for backup generation. However, that paper admits that BESS systems could cover “short term grid disturbances” lasting from a few minutes and up to 5 hours. Section 8 of the SPPE Application evaluates the use of BESS in place of emergency generators and concluded.

Once the standalone batteries are completely discharged, the only way they can be recharged without onsite generation is if the utility electrical system is back up and running. Since it is not possible to predict the duration of an electricity outage, batteries are not a viable option for emergency electrical power. Therefore, because battery storage cannot provide the duration that may be necessary during an emergency, this technology option was rejected as technically and commercially infeasible and unable to meet the Project Objectives.

In addition, in order to provide 24-hour emergency backup electrical capacity, approximately 10 ISO containers representing approximately ten times the amount of real estate would be required. The Project Site would not accommodate the number of batteries necessary.

This limitation is acknowledged by Casomar and Bangsund paper,

We expect that data center developers would propose to maintain some diesel or gas generators if battery capacity provides shorter runtimes than the 12-hour fuel storage minimum defined by The Uptime Institute—or the 24–96 hours of fuel many operators actually store.

Therefore, for the reasons outlined in Section 8 of the SPPE Application, a BESS is not a viable replacement for emergency generators for the NTDC. CBD has cited no evidence to contradict the BESS analysis provided by GIC San Jose LLC in its SPPE Application. Justification for rejecting BESS as a substitute for generators has been independently evaluated by the CEC in prior data center CEQA documents where the

⁷ <https://www.mprnews.org/story/2026/05/26/pine-island-hyperscale-data-center-construction-halted-by-judge>

⁸ Casomar, C., & Bangsund, J. (2026). *Diesel Generators at Data Centers*. Better Data Center Project. <https://betterdatacenterproject.com/wp-content/uploads/2026/03/Diesel-Generators-at-Data-Centers-Status-Impacts-and-Protective-Practices.pdf>

CEC consistently reached the same conclusion that BESS cannot substitute for emergency generators and meet the stringent requirements of data center users.⁹

Emergency Operations

CBD asserts that the Commission must evaluate the impacts of all of the forty-two existing data centers in San Jose continuously and simultaneously operating for a prolonged period during an emergency. The Commission has previously adjudicated the issue of how to evaluate emergency operations and correctly concluded that CEQA does not require speculative analyses of unforeseeable events¹⁰. First, the scenario that CBD outlines has never occurred in the Bay Area. CBD provides no evidence that it could or would occur. The only evidence in the record relating to outage frequency has been provided by PG&E and was provided to the CEC in GIC San Jose LLC's Supplemental Response to Data Request PROJ DESCRIP-5. PG&E provided historical outages on facilities that would serve the NTDC and its review of those historical outages concluded:

Based on this information, the Project would not have experienced a utility power interruption over the last 10 years because one of the two substation sources of power have been available during this time. If this pattern were to hold true for first 10 years of the Project's operation, it is not expected that the backup generating facilities would be required to run due to a utility power outage. Therefore, emergency operation of the emergency generator facilities is anticipated to be infrequent and is not foreseeable.¹¹

Additionally, the CEC Staff has consistently concluded that the emission plumes from generator testing and maintenance are very small and extremely unlikely to intermix with the emission plumes of other projects. This is also demonstrated by the cumulative health risk analysis provided to the Commission in the SPPE Application which included the proposed Microsoft SJ04 Project (immediately adjacent to the NTBGF) and is well below the BAAD's significance thresholds. A summary is included as Attachment A to this document.

⁹ Final Decisions for: TN 244835 Microsoft SJC02 (19-SPPE-04), Appendix A, pages 5-11 through 5-15. TN240902 Great Oaks South Backup Generating Facility (20-SPPE-01), Appendix A pages 5-11 through 5-13.

¹⁰ Final Decisions for: TN 234408 Walsh Data Center (19-SPPE-02); TN 244835 Microsoft SJC02 (19-SPPE-04); TN240902 Great Oaks South Backup Generating Facility (20-SPPE-01)

¹¹ GIC San Jose LLC Supplemental Responses to DR Set 1 – NTBGF, TN 269594

GREENHOUSE GAS EMISSIONS

GIC San Jose LLC agrees that the CEC must thoroughly evaluate the potential significant greenhouse gas emissions (GHG) for the NTBGF and the NTDC. That is why the SPPE Application includes quantification of all GHG emissions from every aspect of construction and operation of the project. CBD asserts correctly that the NTDC would use refrigerants. The specific refrigerants are identified at page 78 of the SPPE and the GHG emissions from the leakage of those refrigerants are quantified at pages 85 and 187 of the SPPE at approximately 11 metric tons of CO₂e. CEC Staff is well aware that existing law phases out refrigerants with high potential GHG emissions and therefore existing law ensures that the NTDC would be required to use the lower GHG emission refrigerants that are not prohibited for use at the time of the purchase of the cooling equipment. No mitigation measure is required because the leakage of 11 metric tons of CO₂e is below any established CEQA significance threshold and the choice of refrigerant is already regulated by state law.

CBD asserts that the quantification of GHG emissions should include emergency operation. See discussion above referencing CEC prior conclusions that CEQA does not require such speculative analyses.

Lastly, the issue of enforceability of GIC San Jose LLC's commitment identified in Project Design Measure **PDM GHG-1** is moot because the CEC routinely requires, and GIC San Jose LLC will accept, the commitment as an enforceable mitigation measure. CBD should be supporting GIC San Jose LLC's voluntary commitment.

ENERGY IMPACTS

CBD asserts that the NTDC would require PG&E to pursue fossil fuel electricity generation to serve the project. CBD bases its entire argument on written materials that are irrelevant to the specific effects of the NTDC. None of materials cited provide any evidence that in California fossil-fueled, grid-connected power plants are being proposed to serve data centers. CBD's assertion is contrary to the fact that even though the CEC has approved fourteen SPPE Applications with similar load characteristics as the NTDC since 2018, no applications for fossil-fueled power plants have been filed with the CEC since 2016. If CBD's contention were correct these data center projects would have already caused the permitting of new fossil-fueled power plants. The reality is that the loading order and CPUC requirement for the utilities to purchase renewable energy and battery energy storage for new load is working. It is far more likely that in California the new data center demand is causing an increase in the development of non-fossil

fueled power plants at such a rate that the overall carbon intensity factors¹² of the utilities are decreasing. For PG&E, the carbon intensity factor in 2018 was 206 pounds per MWh and has dropped to 16 pounds per MWh in 2024.¹³ This was due to major expansion of utility-scale solar wind procurements. The only conclusion that can be derived from this data is that the large demand of data centers may be causing PG&E to purchase more renewable energy.

Notwithstanding that large load customers most likely create demand and procurement of new renewable energy projects, GIC San Jose LLC has proposed PDM GHG-1 as a mitigation measure. This measure ensures the NTDC will use and/or promote the development of renewable energy generation. Therefore, even if fossil-fuel generation assets are constructed in the future in California as CBD predicts, the NTDC will neither be the cause nor a contributor.

WILDLIFE AND BIOLOGICAL RESOURCES

GIC San Jose LLC Qualified biologists prepared a project-specific biological resources report (dated June 2025) to support the SPPE Application for the NTGBF. The analysis was based on a background review of the site along with site visits by a botanist and wildlife ecologist to document existing conditions and the site's potential to support special-status species and sensitive habitats. The ecologists also mapped the limits of sensitive habitats along the adjacent Guadalupe River during the site visits.

Project impacts on special-status species, including the monarch butterfly, Crotch's bumble bee, northwestern pond turtle, white-tailed kite, and burrowing owl, were analyzed in the biological resources report. Mitigation measures are included to reduce project impacts on the burrowing owl and due to bird collisions with buildings to less-than-significant levels under CEQA.

Impacts on the riparian habitat and other natural sensitive communities within the Guadalupe River riparian corridor were identified and analyzed. No direct impacts to the Guadalupe River riparian corridor will occur from the project, and no improvements are proposed within the City's designated setback along the river. Indirect impacts on riparian habitats due to lighting and noise were analyzed, and mitigation measures are included to reduce indirect project impacts due to lighting to less-than-significant levels.

¹² Carbon intensity factor is a measure of pounds of greenhouse gas emissions (CO₂e) versus megawatt hour (MWh) of electricity served by a utility. The lower the carbon intensity factor, the less fossil fueled generation assets used to serve the load.

¹³ https://www.pgecorp.com/sustainability/corporate-sustainability/corporate_sustainability_report_2025/planet/our_climate_goals.html

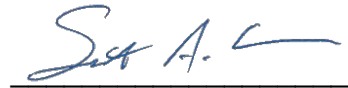
WATER RESOURCES

CBD simultaneously credits GIC San Jose LLC's election to use only recycled water for cooling but then criticizes the amount. This conflates the use of recycled water, which would otherwise be discharged as waste if not consumed, with the use of potable water which is a scarce resource. This correlation ignores the fact that the use of recycled water has rightly been encouraged by longstanding California water policy because it reduces waste and reserves precious potable water for other uses. GIC San Jose LLC has submitted a Water Supply Assessment that demonstrates that the recycled water provider can serve the NTDC. This is sufficient for CEQA purposes.

GIC San Jose LLC has provided this response to assist Staff in preparing a legally defensible and accurate Environmental Impact Report by correcting the record and providing historical background developed in previous SPPE Application proceedings.

Dated: September 24, 2026

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Scott A. Galati", is written over a horizontal line.

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