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LAURELWOOD DATA CENTER (19-SPPE-01)
APPLICANT’S OBJECTIONS TO TESTIMONY FILED BY ROBERT SARVEY

EXHIBIT NO.	TITLE	PAGE/ LINE	CROSS REFERENCE	QUOTE	BASIS FOR OBJECTION
GENERAL OBJECTIONS – INTERVENOR OPENING TESTIMONY					
300	Opening Testimony	<i>Passim</i>	<i>Passim</i>	<p>Opening Testimony contains legal argument.</p> <p>For example, the entire first section, “THE PROJECT DOES NOT QUALIFY FOR A SMALL POWERPLANT EXEMPTION,” is legal argument. (pp. 1-2)</p> <p>Similarly, the section on “Cumulative Impacts” is almost entirely legal argument. (pp. 3-4)</p> <p>The “Conclusion” is legal argument. (pp. 17-18.)</p>	Testimony is limited to factual matters
300	Opening Testimony	<i>Passim</i>	<i>Passim</i>	For example, “Intermittent renewables such as wind and solar will not provide the baseload power	Speculation. Assumes facts not in evidence to support the speculation.
300	Opening Testimony	<i>Passim</i>	<i>Passim</i>	<p>Most of the section on Energy Resources (pp. 9-14), relies on third-party reports, like newspaper articles and trade magazine publications.</p> <p>See for, example, the third-party reports cited in footnotes 26, 27, 28, 35, 36, 37, 38, 39, 40, and 41.</p>	<p>Hearsay.</p> <p>California Evidence Code § 1200(a): “Hearsay evidence” is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated.”</p>

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SPECIFIC OBJECTIONS – INTERVENOR OPENING TESTIMONY					
300	Opening Testimony	p. 12, FN 33	Cites Ex. 302	33 BAAQMD recommends in its 2013 comments on the Santa Clara CAP that “Data centers to require existing rather than just new data centers to complete a feasibility study to achieve a power use effectiveness rating of 1.2 or lower. BAAQMD recommendation does not include limiting the 1.2 PUE to just data centers with a rack rating of 15 kilowatts or more http://www.baaqmd.gov/~media	Not relevant—BAAQMD comments on/ recommendations to the City’s land use plans has no relevance to this specific project where those comments are not adopted/ incorporated into the local land use plan.
300	Opening Testimony	p. 12, lines 12-15, including FN 34.	Cites Ex. 302	BAAQMD recommends in its 2013 comments on the Santa Clara CAP that <i>“Data centers should require existing rather than just new data centers to complete a feasibility study to achieve a power use effectiveness rating of 1.2 or lower.”</i> ³⁴	Not relevant—BAAQMD comments on/ recommendations to the City’s land use plans has no relevance to this specific project where those comments are not adopted/ incorporated into the local land use plan.
300	Opening Testimony	p. 15, first paragraph, including FN 43	Cites Ex. 302	BAAQMD commented on the Santa Clara Climate Action plan in 2013. BAAQMD commented that Santa Clara needed to expand Measure 2.3 to state that, <i>“Data centers to require existing rather than just new data centers to complete a feasibility study to achieve a power use effectiveness rating of 1.2 or lower. Staff recommends that this measure also encourage and incentivize data centers to</i>	Not relevant—BAAQMD comments on/ recommendations to the City’s land use plans has no relevance to this specific project where those comments are not adopted/ incorporated into the local land use plan.

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				<i>utilize alternatives to diesel powered back-up generators to reduce GHG emissions and other pollutants from the testing and use of these generators.”⁴³</i>	
GENERAL OBJECTIONS – INTERVENOR REBUTTAL TESTIMONY					
303	Rebuttal Testimony	<i>Passim</i>	<i>Passim</i>	<p>Rebuttal Testimony contains legal argument.</p> <p>For Example, The Entire First Section, “The Project Does Not Qualify For A Small Powerplant Exemption,” is legal argument. (pp. 1-3)</p> <p>Similarly, the sections on cumulative impacts are almost entirely legal argument. (pp. 5-7)</p> <p>The section headings are argument. (<i>passim.</i>)</p>	Testimony is limited to factual matters
303	Rebuttal Testimony	<i>Passim</i>	<i>Passim</i>	<p>The testimony contains numerous calculations on supposed air quality impacts, but does not include either the supporting calculations or the sources of the underlying data.</p> <p>See, for example, p. 4, paragraph 1; page 6, paragraph 2; page. 9, the table and associated text for the table; page 14,</p>	Speculation. Assumes facts not in evidence to support he speculation.

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EXHIBIT NO.	TITLE	PAGE/ LINE	CROSS REFERENCE	QUOTE	BASIS FOR OBJECTION
				paragraph 1; and page 19, first full paragraph.	
303	Rebuttal Testimony	<i>Passim</i>	<i>Passim</i>	See for, example, the third-party reports cited in footnotes 5, 8, 9, 14, 20, 21, 22, 23, 24, 35, 36, 37, and 51.	Hearsay. California Evidence Code § 1200(a): “Hearsay evidence” is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated.”
SPECIFIC OBJECTIONS – INTERVENOR EXHIBITS: Exhibits 301, 302, 304, and 305					
301	BAAQMD Comments on McLaren Data Center	Entire Document	Cited in Ex. 303, and as Appendix 3 to the Opening Testimony.	Entire Document	Not relevant—BAAQMD comments on/ recommendations for a completely different project has no relevance to this project. If BAAQMD wanted to make recommendations for this project, it could have done so but didn’t.
302	BAAQMD Comments on Santa Clara Climate Action Plan	Entire Document	Cited in Ex. 300	Entire Document.	Not relevant—BAAQMD comments on/ recommendations to the City’s land use plans has no relevance to this specific project.
304	BAAQMD Planning Healthy Places	Entire Document	---	Entire Document	Hearsay, Not Referenced in Pre-filed Testimony

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305	1995 EPA Memo	Entire Document	--	Entire Document	Hearsay, Not Referenced in Pre-filed Testimony