

DOCKETED

Docket Number:	19-SPPE-03
Project Title:	Sequoia Data Center
TN #:	232187
Document Title:	Motion to Compel the Applicant to Perform a Cumulative Impact Analysis
Description:	Motion to compel applicant to provide a cumulative air quality analysis
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Organization:	Robert Sarvey
Submitter Role:	Intervenor
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State of California
State Energy Resources Conservation and Development Commission

In the matter of:
Sequoia Data Center

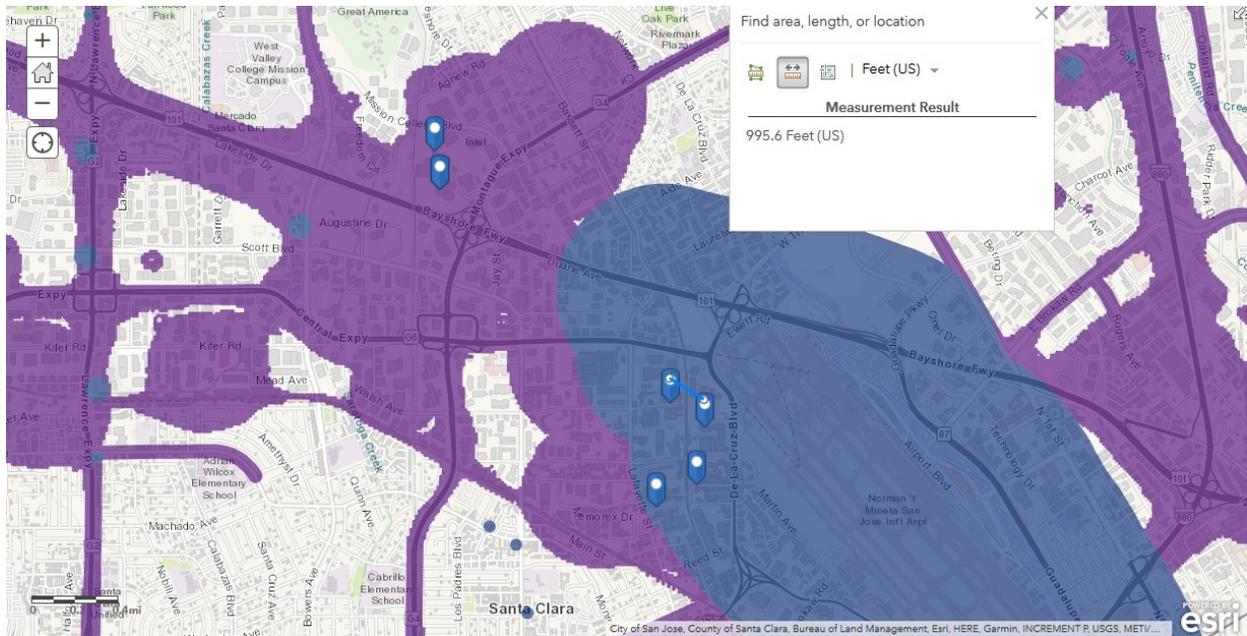
Docket 19-SPPE-03

Motion to compel the applicant to perform a cumulative impact analysis.

On September 31, 2019 CEC Staff filed data request Number 14. Data request number 14 requested the applicant to, *“Provide a cumulative impact modeling analysis, including SDC, existing data centers collocated on the SVP 60-kV loop and those sources identified above.”* The applicant has not provided the cumulative impact modeling analysis, including SDC, existing data centers collocated on the SVP 60-kV loop and those sources identified as requested by staff.

The energy commission is currently processing six other data centers including the McLaren Data Center it recently approved. The distance between the Walsh Avenue Data Center and the SDC is less than 1,000 feet.

Santa Clara Data Centers Under Commission Review and Distance between SDC and Walsh Avenue DC



CEC Staff has determined that the population around the project is an environmental justice community.¹ Staff's analysis states that in the project area, *"There are two census tracts where the pollution burden percentile is above 90 and there are 13 census tracts where individual pollution burden indicators are in the 90 or above percentile. **Table 5.21-5** presents the CalEnviroScreen percentiles for the indicators that make up the population characteristics in a six-mile radius of the project site. There is one census tract where the population characteristics burden percentile is above 90 and there are 11 census tracts where individual population characteristic indicators are in the 90 or above percentile."*²

BAAQMD has determined that the project area shaded in blue in the map above requires further study. BAAQMD Planning healthy Places handbook on page 12 describes the blue shaded project area in the map above. The handbook states,

The Air District has identified a number of areas within the Bay Area where additional analysis (i.e. further study) is recommended to assess the local concentrations of TACs and fine PM, and therefore the health risks from air pollution. These areas are characterized by "large and complex" industrial facilities such as oil refineries, large airports, and seaports, etc., and the Air District recommends using caution when considering sensitive land uses in these areas. More information on "large and complex" sources is below. Conducting "further study" would entail air quality modeling to more precisely determine fine PM concentrations and/or to estimate increased health risks from air toxics to determine if there is an unacceptable level of health risk, and to identify measures that can be implemented to reduce the health risks to acceptable levels.³

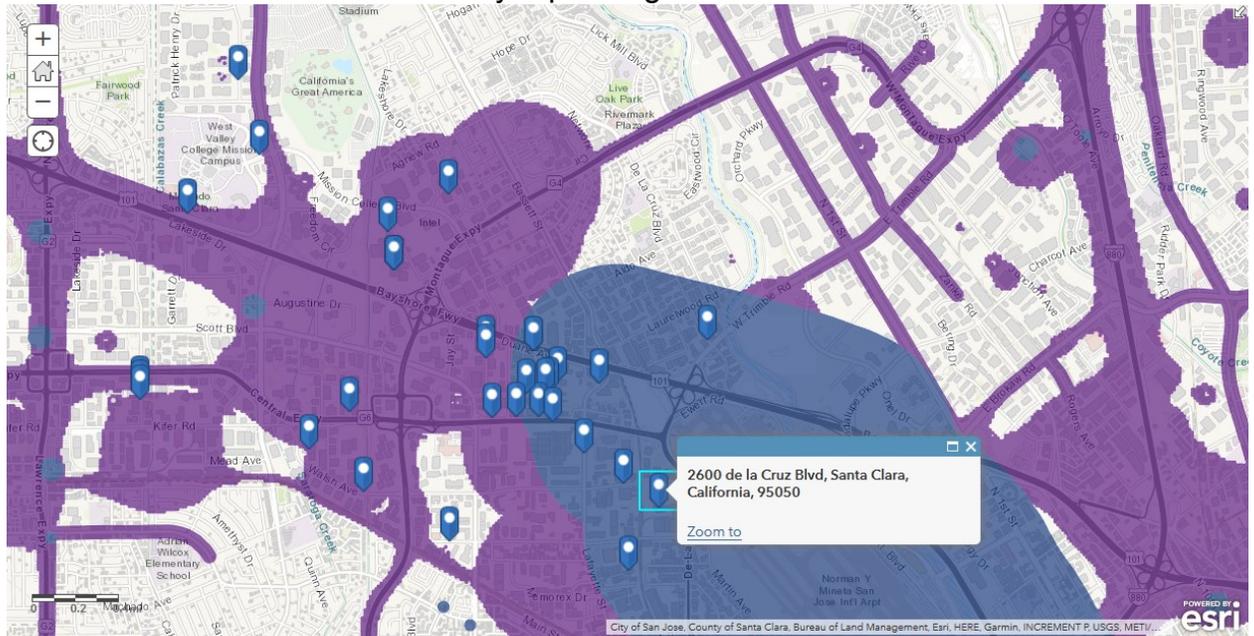
The project area is already home to 39 data centers, a metropolitan airport and many congested highways and streets. The map below depicts most of the currently operating data centers locations.

¹ IS/MND Page 263 of 322

² IS/MND Page 263 of 322

³ BAAQMD Planning Healthy Places Guidebook Page 12 https://www.baaqmd.gov/~media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en

Data Centers Currently Operating in Santa Clara



CEQA provides that a proposed project may have a significant effect on the environment when the possible effects on the environment are individually limited but “cumulatively considerable.” (Pub. Resources Code, §21083(b); Cal. Code Regs., tit. 14, §15065.) “Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (Cal. Code Regs., tit. 14, §15065, emphasis added.) In addition to analyzing the direct impacts of a project, CEQA requires a determination of whether or not a project will result in a significant cumulative impact. The analysis must include other past, present and probable future projects causing related cumulative impacts regardless of whether such projects are within the control of the lead agency. (Cal. Code Regs., tit. 14, §15130, subs. (a)(1) & (b)(1).)

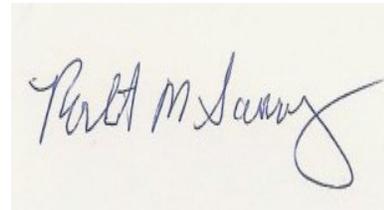
California courts have repeatedly emphasized that the rationale for the cumulative impact analysis is to provide the decisionmaker a broad perspective on the overall impact of a project. (See *Bozung v. Local Agency Formation Com.* (1975) 13

Cal.3d 263; *Citizens Association v. County of Inyo* (1985) 172 Cal.App.3d 151.) In *Bozung*, the State Supreme Court termed the CEQA cumulative impact requirement a “vital provision” which “directs reference to projects, existent and planned, in the region so that the cumulative impact of all projects in the region can be assessed.” (*Bozung v. Local Agency Formation Com.*, supra, 13 Cal.3d 263, 283, emphasis added.)

As noted by the courts, “a cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker’s perspective concerning the environmental consequences of a project, the necessity for mitigation measures, and the appropriateness of project approval.” (*Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431)

Intervenor Sarvey hereby moves that the committee for the SDC compel the applicant to provide the air quality cumulative impact analysis requested by CEC Staff in data request #14 for this environmental justice community surrounded by backup diesel generators, heavily congested roadways, heavy industry, and the San Jose Airport.

Respectively Submitted,

A handwritten signature in blue ink, appearing to read "Robert M. Sarvey", is written on a light-colored rectangular background.

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