

**DOCKETED**

<b>Docket Number:</b>	19-SPPE-03
<b>Project Title:</b>	Sequoia Data Center
<b>TN #:</b>	233282
<b>Document Title:</b>	Transcript of February 26, 2020 Committee Conference
<b>Description:</b>	N/A
<b>Filer:</b>	Cody Goldthrite
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Committee
<b>Submission Date:</b>	6/3/2020 9:05:45 AM
<b>Docketed Date:</b>	6/3/2020

CALIFORNIA ENERGY COMMISSION

In the Matter of: )  
 )  
Joint Committee Conference - )  
Walsh Backup Generating )  
Facility & Sequoia Backup )  
Generating Facility )  
\_\_\_\_\_ ) Docket No. 19-SPPE-02

COMMITTEE CONFERENCE AND ORDERS ON HEARINGS

SANTA CLARA CENTRAL PARK LIBRARY

MARGIE EDINGER COMMUNITY ROOM

2635 HOMESTEAD ROAD

SANTA CLARA, CALIFORNIA

WEDNESDAY, FEBRUARY 26, 2020

12:30 P.M.

Reported by:  
Bridgette Rast

APPEARANCES

COMMITTEE MEMBERS

Karen Douglas, Lead Commissioner

Patty Monahan, Associate Member

Kourtney Vaccaro, Advisor to Commissioner Douglas

Eli Harlan, Advisor to Commissioner Douglas

Ben De Alba, Advisor to Commissioner Monahan

Jana Romero, Advisor to Commissioner Monahan

HEARING OFFICERS

Susan Cochran, Hearing Officer

Galen Lemei, Hearing Officer

CEC STAFF

Leonidas Payne, Project Manager

Lisa DeCarlo, Staff Counsel

APPLICANTS

Scott Gallati

Joe Hubbard

Robert Sarvey

ALSO PRESENT

Karen Quist, Bay Area Air Quality Management District

Wendy Stow, Silicon Valley Power, Santa Clara  
Electric Utility

PUBLIC COMMENT

Frank Biehl, Santa Clara and San Benito Counties  
Building and Construction Trades Council

AGENDA

	<u>Page</u>
I. Welcome and Opening Remarks	4
Commissioner Douglas	
II. SPPE's Process	11
III. Public Advisor Presentation	16
IV. Overview of the Walsh Application	22
V. Environmental Review of Walsh Project	24
VI. Public Comment	33
VII. Overview of the Sequoia Application	36
VIII. Environmental Review of Sequoia Project	37
IX. Public Comment	48
X. Closing Remarks	49
Adjourn	50

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

10:43 A.M.

SANTA CLARA, CALIFORNIA

WEDNESDAY, FEBRUARY 26, 2020

COMMISSIONER DOUGLAS: I'd like to welcome you.

This is a Joint Committee Conference regarding the applications for small powered plant exemption for the Walsh Backup Generating Facility and the Sequoia Backup.

This is the Joint Committee Conference regarding the applications for a small powered plant exemption for the Walsh Backup Generating Facility and the Sequoia Backup Generating Facility. The Energy Commission has assigned a Committee of two commissioners to conduct each of these proceedings. I'm Karen Douglas, the presiding member of both Committees.

Patty Monahan who's here to my right is the associate member of both Committees. With that, I'll introduce some of the people here today. Kourtney Vaccaro is my advisor. And when he comes in the room, Eli Harland is also my advisor.

To my -- let's see, to my immediate right is our hearing officer, Susan Cochran. Is your advisor here?

HEARING OFFICER COCHRAN: She's on the -- on the WebEx.

1                   COMMISSIONER DOUGLAS: Okay. So, Commissioner  
2 Monahan's advisor, Jana Romero is listening by WebEx.

3                   And is Galen here? Galen Lemei, hearing  
4 officer for the Sequoia SPPE application. I should have  
5 said Susan Cochran is the hearing officer for the Walsh  
6 SPPE application.

7                   So with that, let me ask the parties to  
8 introduce themselves and their representatives. Starting  
9 with the applicants -- starting with the Sequoia  
10 applicant.

11                  MR. GALLATI: Scott Gallati, representing  
12 CyrusOne who is owner of the Sequoia project.

13                  MS. LONG: I'm Marcella Long. I'm an  
14 architect for the CyrusOne as well.

15                  COMMISSIONER DOUGLAS: Thank you. And now we  
16 ask for the applicant for the Walsh project to make  
17 introductions.

18                  MR. HUBBARD: Joe Hubbard, Senior Director,  
19 Design for Digital Realty.

20                  COMMISSIONER DOUGLAS: Super, thank you.

21                  MR. GALLATI: Scott Gallati, representing  
22 Walsh.

23                  COMMISSIONER DOUGLAS: All right, thank you.  
24 And Staff for the Walsh project.

1           MR. PAYNE: Hi, this is Leonidas Payne, I'm the  
2 Staff project manager on both Sequoia and Walsh but I've  
3 got different counsels depending on the project. So  
4 we'll start with Walsh because he's here.

5           MR. BABULA: This is Jared Babula, the Staff  
6 counsel for Walsh.

7           MS. DECARLO: Lisa DeCarlo, Energy Commission  
8 Staff counsel for Sequoia.

9           COMMISSIONER DOUGLAS: All right. Thank you  
10 very much.

11           And now I will ask the Interveners if they're  
12 present to introduce themselves. So let's start with the  
13 Walsh Interveners. Is Helping Hand Tools here?

14           HEARING OFFICER COCHRAN: Are they online?

15           COMMISSIONER DOUGLAS: Oh, okay. We're working  
16 on unmuting the lines. I can't see that.

17           HEARING OFFICER COCHRAN: Can you also display  
18 who's online for right now? Please.

19           MS. VACCARO: Everyone is --

20           COMMISSIONER DOUGLAS: Let me ask, is Helping  
21 Hand Tools represented on the call? Could you speak up  
22 if you're on the phone?

23           HEARING OFFICER COCHRAN: I am not seeing those  
24 names, Commissioner Douglas.

25           COMMISSIONER DOUGLAS: Are they unmuted?

1 HEARING OFFICER COCHRAN: Everybody is  
2 unmuted --

3 COMMISSIONER DOUGLAS: All right.

4 HEARING OFFICER COCHRAN: -- except those who  
5 muted themselves it looks like.

6 COMMISSIONER DOUGLAS: I'll keep asking for  
7 interveners and Robert -- California Unions for Reliable  
8 Energy also admitted for Walsh, are you on?

9 All right. And for Sequoia, Robert Sarvey has  
10 filed a petition to intervene, are you on?

11 MR. SARVEY: I'm on but I can barely hear you  
12 guys, you're just going in and out. The telephone is  
13 pretty much unusable right at the moment.

14 COMMISSIONER DOUGLAS: All right. So you can't  
15 hear well but you're on.

16 MR. SARVEY: I'm on but I can barely hear you  
17 guys. You're just breaking in and out.

18 COMMISSIONER DOUGLAS: All right. Well, we'll  
19 work on the audio issues.

20 And my advisor pointed out, Robert Sarvey is  
21 admitted, and CURE filed the petition to intervene.

22 CURE, are you on? They weren't on before.

23 HEARING OFFICER COCHRAN: Let's check again for  
24 Helping Hand Tools.

1           COMMISSIONER DOUGLAS: All right. Helping Hand  
2 Tools, are you on the phone?

3           All right. At this point, I'm going to ask if  
4 there are any federal government agencies on the phone  
5 but not in the room. Could you speak up and identify  
6 yourselves?

7           Are there any officials representing Native  
8 American tribes, or are there any local government  
9 officials from county or local jurisdictions not in the  
10 room?

11          All right. Still on the phone here, what about  
12 any state agencies?

13          Okay. So at this point -- so Mr. Sarvey, are  
14 you able to hear? Are things any better?

15          MR. SARVEY: Things are better now. Thank you.

16          COMMISSIONER DOUGLAS: Excellent, I'm glad to  
17 hear that.

18          All right. So we'll refocus to in the room  
19 now. Are there any representatives in the room from  
20 federal, state, local, or tribal government agencies? If  
21 you could just come forward to the microphone and  
22 introduce yourselves, that would be great.

23          MS. QUIST: My name is Karen Quist.

24          COMMISSIONER DOUGLAS: I think it's not turned  
25 on. There's a button on the front, on the top.

1 MS. QUIST: My name is Karen Quist and I'm with  
2 the Bay Area Air Quality Management District. I'm the  
3 program engineer for Sequoia.

4 COMMISSIONER DOUGLAS: Thank you.

5 MS. STOW: I'm Wendy Stow with Silicon Valley  
6 Powers in Santa Clara Electric Utility.

7 COMMISSIONER DOUGLAS: All right. Thank you.

8 Anyone else? All right.

9 Commissioner Monahan -- oh, would you like to  
10 say a few words? All right.

11 Okay, I will now turn the proceeding over to  
12 the Hearing Officer Susan Cochran, who will discuss the  
13 general background for small power plant exemptions and  
14 lead the discussion on the Walsh application.

15 After we have finished the Walsh application  
16 discussion, we will turn the proceeding over to Hearing  
17 Officer Galen Lemei to lead the discussion on the Sequoia  
18 application.

19 HEARING OFFICER COCHRAN: Thank you and  
20 welcome. Can everyone hear me?

21 Mr. Sarvey, can you hear me?

22 MR. SARVEY: Yes, I can.

23 HEARING OFFICER COCHRAN: Okay. You are  
24 currently unmuted. If I start getting noise from  
25 background, I'm going to mute you again, but I will

1 unmute you when it's time for our participation. Is that  
2 okay? Is that okay, Mr. Sarvey?

3 MR. SARVEY: I can't hear you again.

4 HEARING OFFICER COCHRAN: As close as I can to  
5 the mic. Can you hear me now?

6 MR. SARVEY: Barely.

7 HEARING OFFICER COCHRAN: Okay. Is this  
8 better, Mr. Sarvey?

9 MR. SARVEY: Yeah, that's a little better.

10 HEARING OFFICER COCHRAN: Okay. So currently  
11 you are unmuted, try and keep background noise to a  
12 minimum if possible, please, so that we can keep you  
13 unmuted.

14 So the Committee's issues save the date memo  
15 today's joint conference on January 8, 2020 in Walsh and  
16 on January 10, 2020 in Sequoia. Formal notice of today's  
17 Committee Conference was provided on February 14, 2020.

18 Because this is a conference on two separate  
19 applications, we will be conducting it a little  
20 differently from our normal Committee Conference process.

21 First as Commissioner Douglas indicated, I will  
22 brief you what a small power plant exemption, SPPE, is  
23 and outline some of the rules applicable to Energy  
24 Commission proceedings like these SPPE applications.  
25 After I complete that overview, the public advisor will

1 discuss opportunities for public participation in the  
2 application proceedings.

3           After the introductory information applicable to  
4 small power plants generally, we will then hear from the  
5 Applicant and Staff on the specifics of the two  
6 applications. We will first hear about the Walsh  
7 application. After that overview is complete, we will  
8 then hear about the Sequoia application. During these  
9 application specific discussions, the Committee and the  
10 parties will then discuss the schedule and other topics  
11 regarding the SPPE.

12           The Committees have also included the ability to  
13 have a closed session. We will decide whether that is  
14 necessary after we hear the presentations.

15           So let's talk about small power plant  
16 exemptions. The Energy Commission -- now left the  
17 clicker.

18           UNKNOWN SPEAKER: I'll do it for you.

19           HEARING OFFICER COCHRAN: I had the clicker in  
20 my hot little hand. No, I got it.

21           Where would you like me to point the clicker?  
22 Technical difficulties.

23           Perfect. Thank you.

24           The Energy Commission has the exclusive  
25 authority to consider and ultimately approve or deny

1 applications for the construction and operation of  
2 thermal power plants that will generate 50 megawatts or  
3 more of electricity. The law allows the Energy  
4 Commission to grant an exemption to this authority if a  
5 project will generate between 50 and 100 megawatts. This  
6 exemption is known as the small power plant exemption.

7           The Energy Commission consists of five members.  
8 Commissioner Douglas is the presiding member of the  
9 Committee and Commissioner Monahan, the associate member  
10 were appointed by remaining commissioners to conduct  
11 proceedings on these SPPE applications.

12           The granting of an SPPE is governed by the  
13 Warren-Alquist Act, the statute authorizing the Energy  
14 Commission and granting its jurisdiction. To grant an  
15 SPPE, the Energy Commission must make three distinct  
16 determinations. The proposed power plant has a  
17 generating capacity of up to 100 megawatts. No  
18 substantial adverse impact on the environment will result  
19 from the construction or operation of the power plant,  
20 and no substantial impact on energy resources will result  
21 from the construction or operation of the power plant.

22           In addition to the Warren-Alquist Act's  
23 requirements about environmental and energy resource  
24 impacts, the Energy Commission must also analyze

1 the -- an SPPE under the California Environmental Quality  
2 Act, CEQA. The Energy Commission is the lead agency for  
3 SPPEs. In reviewing an SPPE, the Energy Commission  
4 considers the whole of the action. For the Walsh and  
5 Sequoia applications, the whole of the action means not  
6 just the backup generators but also the data centers they  
7 support, and the other project features you'll hear about  
8 such as substations and landscaping.

9           It is important to note that the Energy  
10 Commission's decision to grant an SPPE does not approve  
11 the project. Instead, once granted, an exemption from  
12 the Energy Commission's power plant licensing process, a  
13 project proponent would then seek permits and licenses  
14 that are required from other local agencies, in these  
15 SPPE proceedings, the City of Santa Clara and the Bay  
16 Area Air Quality Management District. Those agencies  
17 will also conduct any other necessary environmental  
18 analysis as responsible agencies under CEQA.

19           Today's conference is one of several public  
20 events that will extend over the next several months. At  
21 these events, members of the public can provide comments  
22 on the -- on the two projects. This Committee will  
23 eventually hold evidentiary hearings on each of the  
24 applications. These evidentiary hearings are part of the  
25 adjudicative process the Energy Commission is required to

1 follow in considering SPPE applications. Similar to a  
2 trial, the Energy Commission resolves the issue of  
3 whether to grant an exemption by reviewing evidence  
4 submitted by the parties. In all SPPE proceedings, there  
5 are at least two parties, the applicant requesting the  
6 exemption and the Energy Commission Staff performing the  
7 initial environmental analysis.

8           The Energy Commission's regulations also allow  
9 members of the public to become parties to its  
10 proceedings. We refer to these folks as interveners.  
11 Intervenors have the right to present evidence, both  
12 documents and testimony, to question other parties'  
13 witnesses, and to challenge other parties' evidence. The  
14 deadline to request to become an intervener is March 6  
15 for the Sequoia application. The deadline for the Walsh  
16 application is March 30.

17           After the evidentiary hearing is complete, the  
18 Committee will prepare its proposed decision. The  
19 proposed decision will include the Committee's analysis  
20 of the project under both the Warren-Alquist Act and CEQA  
21 as I have just described. The proposed decision is then  
22 considered by the Energy Commission at a public hearing.  
23 The Energy Commission can adopt, modify, or reject the  
24 proposed decision.

1           As I mentioned, the Energy Commission's process  
2 for SPPE applications is an adjudicative one. The Energy  
3 Commission's regulations and state law require that we  
4 ensure a fair process for everyone who participates in  
5 the proceedings. One of the ways we do this is through  
6 the ex parte rule. What this means is that parties in a  
7 proceeding and interested persons outside of the  
8 Commission, that is the general public, are prohibited  
9 from communicating with presiding officers about anything  
10 that may be in controversy or in dispute unless there has  
11 been a notice or opportunity for all parties to  
12 participate in the communication.

13           So you may be asking yourself, what is a  
14 communication? Communications include voicemail  
15 messages, text messages, e-mails, letters, telephone  
16 calls, and in-person discussions. Essentially any form of  
17 communication.

18           And then you may be asking yourself who is a  
19 presiding member? In these proceedings, the presiding  
20 members are the commissioners. Both Commissioner Douglas  
21 and Commissioner Monahan, as well as the other members of  
22 the Energy Commission, the hearing officers for each of  
23 the proceedings. For me, I'm the hearing officer for  
24 Walsh. Mr. Lemei is the hearing officer for the Sequoia  
25 application. Ex parte communications are also prohibited

1 with individuals assisting the presiding officers, which  
2 in this proceeding includes anyone serving as an advisor  
3 to the commissioners and any attorney or other experts  
4 assisting the Committee or Commission in the proceeding.

5           At this point we will pause for the public  
6 advisor's presentation. The public advisor will now  
7 outline how her office can help members of the public  
8 participate in these proceedings.

9           MS. GALLARDO: Good afternoon, can you hear me?  
10 This is Noemi Gallardo, the public advisor at the  
11 California Energy Commission. We're just waiting for my  
12 presentation to pull up.

13           Thank you for your patience. So I'm here today  
14 for the purpose of helping inform the public about how to  
15 navigate SPPE proceedings and to be able to participate  
16 in them. And specifically for today it is the Walsh and  
17 Sequoia data centers.

18           This is important because the proceedings can  
19 seem like a long and winding path, but we are here to  
20 assure you that the Public Advisor's Office can guide you  
21 as needed throughout this path. So my presentation will  
22 go over a little bit about the public advisor, outreach  
23 we have conducted, parties involved, how to participate  
24 in the proceedings, how to obtain information, and

1 overall contact information to get a hold of the Public  
2 Advisor's Office.

3           So a little bit about the public advisor. This  
4 is a statutory ruling mandated role. It does require  
5 that the public advisor be a licensed attorney nominated  
6 by the Energy Commission and appointed by the Governor.  
7 The duties include helping the public understand the CEC  
8 process fees, assisting the public to participate in  
9 proceedings, recommending to the CEC, approaches to  
10 engage the public, ensuring timely notices to the public,  
11 identifying missing stakeholders and helping conduct  
12 outreach to them, and assisting with access to language  
13 services and reasonable accommodations. And I will point  
14 out that we did not receive any requests for language  
15 services or reasonable accommodations for this status  
16 conference.

17           And the main -- the main message to walk away  
18 with in terms of the Public Advisor's Office is that we  
19 are a bridge between the CEC and the public and you can  
20 always contact us. We are here to serve and guide. Our  
21 contact information is publicadvisor@energy.ca.gov or you  
22 can reach us at 916-654-4489.

23           So Susan covered information about the parties  
24 involved so I will just highlight that we do focus on  
25 interested parties and this is any person who the CEC

1 finds and acknowledges as having a real and direct  
2 interest in the proceeding. So we often will call them  
3 stakeholders.

4           And I wanted to just go over a little bit about  
5 the public outreach that was done for the Walsh and  
6 Sequoia small power plant exemptions. So we posted a  
7 status conference ad both in English and in Spanish in  
8 the San Jose Mercury News. We informed the public about  
9 the status conference through CEC LISTSERVs. We did  
10 follow up e-mails and calls to parties who we thought  
11 would be interested and within a 12-mile radius of the  
12 data centers.

13           So these parties included local and state  
14 elected representatives, Air District officials, chambers  
15 of commerce, local schools, places of worship, community-  
16 based organizations, environmental and social justice  
17 advocates, environmental health groups, asthma clinics,  
18 daycare centers, soccer clubs, and parks and recreation  
19 departments. The CEC's Cultural Resources Division also  
20 contacted California Native American tribes associated  
21 with the project area and the CEC's STEP Division  
22 contacted residents within 1,000 feet of the project  
23 site.

24           Now in regards to how to participate in SPPE  
25 proceedings. So one of the informal ways to do this is

1 to sign up for project listers so you can receive e-mail  
2 notifications. The Walsh Data Center has a particular  
3 LISTSERV and so does the Sequoia Data Center, which I've  
4 posted here. And we will be docketing these -- this  
5 presentation so you have access to that information if  
6 you look for it.

7           You can attend events just like any other  
8 events that the Energy Commission has. You can come in  
9 person, you can join remotely, and you can also share  
10 comments during the public comment period. You can also  
11 ask the public advisor to relate the comments for you.  
12 And you can submit written comments to the docket.

13           And I want to point out that for today, we do  
14 have blue comment cards that I am showing to the folks in  
15 person here that you can fill out if you'd like to make a  
16 comment today during the public comment period. And  
17 folks on the phone, I think we will have a chance  
18 for -- for you to comment as well if anyone joins us from  
19 the public.

20           I want to note that the comments made as a  
21 member of the public are considered by the committee and  
22 the Staff. The comments inform the record but  
23 the -- they are not considered evidence and they are not  
24 sufficient to support a CEC decision.

1           And as Susan also went over, there is a formal  
2 way to participate in these SPPE proceedings, and that is  
3 to become an intervener. So I will just focus here on  
4 the difference between an intervener versus a member of  
5 the public. An intervener can testify at hearings,  
6 present evidence and witnesses, object to other parties'  
7 evidence, and cross-examine other witnesses. And because  
8 a testimony is given under oath, it is afforded more  
9 weight than public comments when facts are being  
10 considered.

11           And here I just posted ways that you can obtain  
12 more information about the SPPE proceedings and material  
13 associated with the Walsh and Sequoia in general.

14           And this final slide has all the information  
15 about how to contact the public advisor. Advisor is  
16 spelled incorrectly. We do know how to spell but we are  
17 human, make errors sometimes so please forgive that. And  
18 that concludes my presentation.

19           HEARING OFFICER COCHRAN: Thank you,  
20 Ms. Gallardo.

21           Now that the overview of SPPEs generally has  
22 occurred, and before we discuss the specifics -- thank  
23 you so much. And before we discuss the specifics of each  
24 project, easy for me to say, are there any public  
25 comments or questions on --

1           Before I get to public comment, I do want to  
2 clarify one thing, that currently the environmental  
3 review documents for both the Sequoia application and the  
4 Walsh applications are in process. So -- for -- because  
5 it is a CEQA process, your comments are important and do  
6 carry more weight -- well different weight, than they  
7 would in an adjudicative process. So it gets very  
8 complicated when we're dealing with both CEQA and our  
9 adjudicative process. But your comments are -- do matter  
10 to us and that's why we value public participation and we  
11 respect them and treat them with the weight and deference  
12 that we give them as required by law.

13           Any questions?

14           So again, now that the specifics of SPPE's  
15 generally have been covered, is there any public comment  
16 on the general SPPE process? Any questions?

17           Okay. So now we're going to turn to the Walsh  
18 Backup Generating Facility. And the first item is -- we  
19 will allow the applicant to present an overview of the  
20 Walsh application.

21           And as Ms. Gallardo indicated, this  
22 presentation, this PowerPoint presentation and her  
23 PowerPoint presentation will be docketed in each  
24 proceeding.

1           Mr. Gallati, I will remind you that if there is  
2 a PowerPoint presentation that you are providing, that  
3 you will need to docket that in the respective dockets.

4           Thank you.

5           MR. GALLATI: Just for the record, this has  
6 already been docketed. This hearing officer, this was  
7 docketed with the original status conference and so, it's  
8 got a transaction (indiscernible).

9           HEARING OFFICER COCHRAN: Okay. Thank you.

10          MR. GALLATI: Okay.

11          MR. HUBBARD: All right. So again introducing,  
12 Joe Hubbard, (indiscernible) Digital Realty and senior  
13 director of Design. Our Walsh building, proposed  
14 building, is a four-story building, 435,000 square feet  
15 total.

16          Okay. We good now? Okay.

17          So again, I'll back up. So our Walsh Avenue  
18 proposed project is a four-story data center project  
19 grossing 435,000 square feet. Attached to that, as part  
20 of the 435 is a three-story office portion. Our  
21 anticipated maximum critical power load is going to be 52  
22 megawatts, which equates to just under 99 megawatts of  
23 generation backup power required to support that in the  
24 event we lose utility power.

1           So looking at the site plan, orientation on  
2 Walsh Avenue is to the bottom of the plan, the front of  
3 our building where the office portion faces plan south.  
4 There is a onsite Silicon Valley substation to the east.  
5 And our generation which are 32, 3-megawatt engines  
6 double stacked around the plan north side of the exterior  
7 of the building.

8           Anything?

9           Status -- status for this project right now is  
10 we did receive project clearance Committee approval. We  
11 have plans. We're ready for permit for both the site  
12 development, the shell development, and the office  
13 portion.

14           We do have FAA approval as well for this  
15 project given our location, just west of the San Jose  
16 airport. So we do have that in hand, approval.

17           So, again, we're permitting. Because of this,  
18 we're still -- the City of Santa Clara is not proceeding  
19 with any design reviews as of yet, pending CEQA's  
20 completion and completion of this process where  
21 jurisdiction is back to them.

22           Any question?

23           HEARING OFFICER COCHRAN: I do have one  
24 question. I'm sorry. When you said the 52-megawatt

1 critical load, is that both the IT load and the ancillary  
2 support for the air conditioning, et cetera?

3 MR. HUBBARD: No, ma'am, that's strictly IT  
4 load.

5 HEARING OFFICER COCHRAN: Okay. Thank you.

6 And now I will turn to Staff. If you could  
7 discuss the status of the environmental review of the  
8 Walsh application.

9 MR. PAYNE: Sure thing. Leonidas Payne for  
10 Staff.

11 We don't have any specific presentation  
12 materials. The only thing I'm relying on here is the  
13 information we just docketed recently in our status  
14 report. I'll give you a key overview of where we are at  
15 with our documents.

16 So we -- make sure I have the dates right  
17 because I have three of these projects running through my  
18 head at any given time. We very recently published our  
19 initial study for Walsh. That happened on February 18<sup>th</sup>.  
20 The comment period we set for that for CEQA comments is  
21 March 23<sup>rd</sup> of this year. We set that a few days beyond  
22 what would normally be a 30 day just to make sure  
23 anything that happens with the State Clearinghouse. And  
24 this one might have fallen on a weekend as well, we tend  
25 to bump it a few days just to make sure anything like

1 that, we're covered for the 30 days. So the 23<sup>rd</sup> is the  
2 CEQA commenting deadline.

3           As far as the initial study itself, we did our  
4 standard analysis covering all of the technical areas  
5 that we cover according to Appendix G of CEQA. I won't  
6 list the 21. We also do an analysis of environmental  
7 justice because that's our own policy.

8           For this particular project, we only had one  
9 technical area in which we identified mitigation  
10 measures. That was biological resources. We got  
11 acceptance from the applicant that they were willing  
12 to -- to do that mitigation and also acceptance from the  
13 city, which we put in this in appendix in our document  
14 showing that they were willing to monitor and do any  
15 necessary follow up with that mitigation measure once  
16 this goes to local permitting.

17           So from our perspective, this one is ready to  
18 go for us to get public comments, do the evidentiary  
19 hearings, and eventually get to the decision point. So  
20 we're primarily just waiting to hear the -- we know the  
21 basic parameters of how that will go based on a earlier  
22 document we got from the Committee on how the proceeding  
23 milestones would be spaced 7 days here, 14 days here, et  
24 cetera. But we're waiting for the specific dates so that  
25 we can plan our attendance at those.

1           And we're available to answer any questions.

2           HEARING OFFICER COCHRAN: I now ask if our  
3 Interveners are on the phone yet. And that would be for  
4 the Walsh proceeding. That would be Helping Hand Tools  
5 and California Unions for Reliable Energy.

6           Do they have any comments they'd like to make  
7 at this time? Any other (indiscernible), I just want to  
8 make sure that they're not -- okay.

9           So in preparation for today's conference as  
10 Mr. Payne mentioned, we asked the parties to submit  
11 status reports and we got status reports from both the  
12 Applicant and Staff. Based on a review of those  
13 statements, I do have a couple of permitter questions and  
14 then we'll talk what everybody is always most excited  
15 about, which is schedule.

16           Current on Staff, you filed a revised notice of  
17 intent to adopt the Initial Study Proposed Mitigated  
18 Negative Declaration, which I am going to call the  
19 ISPMND. You filed a revised notice on February 20.

20           Does that effect the review dates that you  
21 submit of March 23?

22           MR. BABULA: I'm not clear what -- this is  
23 Jared Babula. I'm not clear what revised notice you're  
24 referring to.

1           HEARING OFFICER COCHRAN:  There's a -- there's  
2 a revised notice in the docket that supersedes the  
3 original postdate of the notice of intent to adopt.  And  
4 it makes some reference to changes before publication or  
5 mailing, which is why I brought it up.  Because I  
6 didn't -- I wanted to make sure it wasn't going to affect  
7 the comment period.

8           MR. PAYNE:  I -- I think I remember what that  
9 is now, and it was to make sure that we got information  
10 associated with this meeting included in some of our  
11 documents.  So there was no change to comment periods.  
12 We -- the timing of these, it's such that we didn't know  
13 if we should be talking about public commenting  
14 opportunities in the future or in the past.

15           So I think that that's what we -- we caught  
16 that and wanted to make sure it wasn't -- that it was  
17 clear for the record.

18           HEARING OFFICER COCHRAN:  We appreciate that.  
19 I just wanted to make sure that it wasn't going to impact  
20 your comment period.

21           MR. HUBBARD:  Uh-uh.

22           HEARING OFFICER COCHRAN:  Thank you.

23           MR. HUBBARD:  Thanks for reminding me about  
24 that fun part of doing this right at the last second.

25           HEARING OFFICER COCHRAN:  That's okay.

1           And then, Staff, I would also request that once  
2 you've received the notice of completion and  
3 environmental review document transmittal from the  
4 Clearinghouse, if you will docket that. Because it has a  
5 nice -- it shows exactly when it was received and how  
6 long we had the comment period for and to whom they sent  
7 the notice with State Clearinghouse.

8           MR. PAYNE: Yes, of course.

9           HEARING OFFICER COCHRAN: Thank you so much.

10          So now let's talk about schedule.

11          The committee filed a scheduling order for the  
12 Walsh application on January 20, 2022 (sic). And this  
13 slide shows two-thirds of that schedule. You'll see that  
14 it talks about the fact that there have already been  
15 filings, and as Mr. Payne described it, we set  
16 milestones. In other words, seven days after this, five  
17 days after this.

18          In its status report, the Applicant stated that  
19 it agreed with the recently published ISPNMD and  
20 requested that the Committee hold a joint prehearing  
21 conference and evidentiary hearing. I'd like to hear  
22 from the parties on the pros and cons of having both of  
23 those events on a single day.

24          MR. GALLATI: I'll go first. I'll go first  
25 since I'm the one requesting it.

1           The comments that people file, and we have an  
2 Intervener that is active in filing comments, they very  
3 much look like the testimony. In fact, the last  
4 proceeding, there was some concern whether something was  
5 a comment or testimony. The purpose of a prehearing  
6 conference is to identify issues that we have and to  
7 identify how long of a hearing we need and what resources  
8 we need.

9           My experience is that these facilities, the  
10 issues are very narrow. They are not broad. They don't  
11 take multiple days of evidentiary hearing. And, in fact,  
12 I suspect that Staff would support being able to not have  
13 a hearing. We could probably go, unless somebody files  
14 something that's in disagreement with the ISPMND, we're  
15 in complete agreement with each other. We can stipulate  
16 and get the hearing done very, very quickly without any  
17 live testimony. So I think the only live testimony that  
18 we're going to have is going to be because an intervener  
19 requests it.

20           Certainly the Commission has been through this  
21 process twice now on the kinds of issues that are being  
22 raised, and we think that we can streamline that process  
23 very, very quickly relying on how the Committee has  
24 decide -- how the Commission has decided in prior

1 projects, on methodology and things like that that  
2 generally take a long time.

3           So because of that, I don't believe that we  
4 need to plan for the evidentiary hearing in the same way  
5 that you would in a complex project, and therefore we'd  
6 ask for the prehearing conference to be scheduled and  
7 then that will help set the order that we just go  
8 directly into evidentiary hearing.

9           We've done this on some very complicated cases  
10 in power plant world. And where we're at now is  
11 we're -- you'll see this project and the next project be  
12 saying the same thing is that they're both ready for the  
13 city to issue the permits. That's all that needs to  
14 happen. They've done everything they can up to the --  
15 the permit issuance, which means they need the Energy  
16 Commission document. Sooner they can get the Energy  
17 Commission document, the sooner they can begin  
18 construction.

19           So we ask for places where we don't believe  
20 that there's any rights lost and we've done it in the  
21 past, and we think that it makes sense to do that here.

22           HEARING OFFICER COCHRAN: Staff?

23           MR. BABULA: This is Jared Babula.

24           Staff agrees with what (indiscernible) said  
25 that two things can be combined. It's important to

1 remember and realize that in developing the initial study  
2 for the Walsh project, Staff has the experience now of  
3 the McLaren project, Laurelwood, and working with  
4 Sequoia. And so we took the lessons from those other  
5 projects and looked at how the decisions were crafted and  
6 what information the Committee needs and ensured that we  
7 had a robust discussion in our initial study that takes  
8 in all the prior history and knowledge.

9           And so we feel that the Walsh initial study is  
10 very detailed and hits all the critical concerns that the  
11 Committee has had in the prior cases, and that we're in a  
12 much stronger position to have the evidentiary hearings  
13 be much simpler because all the issues have been  
14 addressed, all the key governmental agencies have been  
15 contacted. We have -- we worked with the FAA on the  
16 airport stuff. We worked with Silicon Power to get the  
17 liability updated information there. So I think all that  
18 prework, it has helped, and will help in streamlining the  
19 rest of this process.

20           HEARING OFFICER COCHRAN: Okay. Thank you.

21           Again, I would ask if Interveners are on the  
22 line -- Raj, maybe if we can unmute everyone to make sure  
23 that -- sometimes have called in late.

1           We're going to unmute everyone to see if any --  
2 if either Helping Hand Tools or California Unions for  
3 Reliable Energy have joined us.

4           And while we are unmuting everyone, can we make  
5 sure that people are still able to hear what we're  
6 broadcasting? A transcript of this hearing will be  
7 available later, but it's always nice to make sure that  
8 you can hear it concurrently, especially because we do,  
9 as I said, have an open CEQA comment period.

10           Again, looking for -- I'm going to try to turn  
11 this on again. Bear with me.

12           CURE and/or Helping Hand Tools, if you are on  
13 the line, please let us know if you'd like to comment on  
14 the discussion we just had about scheduling in this  
15 proceeding, specifically a joint public hearing and  
16 evidentiary hearing. Prehearing conference, I'm sorry,  
17 evidentiary hearing.

18           CURE and/or Helping Hand Tools.

19           Can everyone hear me online? Can anyone hear  
20 me online?

21           UNKNOWN SPEAKER: Yes, I can hear you  
22 (indiscernible).

23           UNKNOWN SPEAKER: We can hear you.

24           MS. COCHRAN: Okay. Thank you. Okay. Let's  
25 mute everyone again so we don't get the feedback.

1           I did not hear anything from CURE or Helping  
2 Hand Tools on this. Again, we're still fairly early in  
3 the public review process for the ISPMND for the Walsh  
4 application. So at this point I think the best I can say  
5 is that the Committee may be issuing an updated  
6 scheduling order or providing notice of future events,  
7 such as the prehearing conference and evidentiary hearing  
8 maybe a little later after we've seen whatever comments  
9 may be coming in on the ISPMND.

10           With that, before moving on to the Sequoia  
11 application, are there any public comments on the Walsh  
12 application?

13           Ms. Gallardo.

14           MS. GALLARDO: Hello. Can you hear me? Yes,  
15 we do have a comment from Frank Biehl of the Santa Clara  
16 and San Benito Counties Building and Construction Trades  
17 Council.

18           Frank, you can come up.

19           MR. BIEHL: Thank you for the opportunity to  
20 provide comment today. I'm Frank Biehl, I'm representing  
21 the Santa Clara and San Benito Counties Building and  
22 Construction Trades Council. We have 24 affiliated trade  
23 unions representing over 30,000 union members in Santa  
24 Clara and San Benito County.

1           We speak in favor of the proposal that is  
2 put before you today, in favor of the date  
3 exemption that is being requested.

4           Thank you.

5           HEARING OFFICER COCHRAN: Thank you.

6           Was that the only blue card? Okay.

7           Now that we have discussed the Walsh  
8 application, I am now going to turn over the  
9 proceeding to Hearing Officer Galen Lemei for the  
10 Sequoia application.

11           I'm sorry. Is there anyone online?

12           Sorry. Thank you.

13           So I was mistaken. I forgot that we had  
14 said that we were not going to start the Sequoia  
15 until 2:00. So it's now 1:15, so we're going to  
16 take a 45-minute break after we see if there's  
17 any public comment on the Walsh application.

18           Again, we're going to unmute everyone.

19           So I'm going to turn my mic off and see if there  
20 is any public comment on the Walsh application.

21           Anyone at all on the Walsh application on  
22 the phone?

23           Okay, seeing none, we are now at a break  
24 until 2:00 when we will start the Sequoia Backup  
25 Generating Facility presentation.

1 Thank you.

2 (Off the record at 1:20 p.m.)

3 (On the record at 2:04 p.m.)

4 HEARING OFFICER LEMEI: We are reconvening. I  
5 am Hearing Officer Lemei. It sounds unduly formal, but  
6 here we are.

7 So we are reconvening with our discussion of  
8 the Sequoia project, having already covered the Walsh  
9 project, as well as general matters pertaining to both  
10 proceedings.

11 I want to do a quick check and make sure that  
12 everyone is here. I see Applicant and Applicant's  
13 counsel. Do you want to introduce yourselves?

14 MS. LONG: Marcella Long, the project architect  
15 for project Sequoia. I'm representing CyrusOne.

16 HEARING OFFICER LEMEI: And I see Applicant and  
17 Applicant's counsel. Would either of you like  
18 to -- or sorry, Staff. Staff. Staff. Staff and Staff's  
19 counsel.

20 MR. PAYNE: Leonidas Payne again,  
21 representing Staff for Sequoia.

22 MS. DECARLO: Lisa DeCarlo, Energy Commission  
23 Staff counsel.

24 HEARING OFFICER LEMEI: Excellent.

25 Interveners. Mr. Sarvey, are you on the

1 line? Mr. Sarvey, if you are on the line --

2 MR. SARVEY: (Indiscernible.)

3 HEARING OFFICER LEMEI: Sorry?

4 MR. SARVEY: Hello?

5 HEARING OFFICER LEMEI: Mr. Sarvey, I hear you.

6 Can you hear me?

7 MR. SARVEY: Hello?

8 HEARING OFFICER LEMEI: Yes, hello.

9 MR. SARVEY: Yes, I can.

10 HEARING OFFICER LEMEI: Excellent. All right.

11 MR. SARVEY: I can hear you.

12 HEARING OFFICER LEMEI: Perfect. So we are --

13 we are back. We have both members of the Committee

14 present, Commissioner Karen Douglas and Commissioner

15 Patty Monahan. And I will proceed with the discussion of

16 the Sequoia project.

17 So Applicant.

18 MS. LONG: So I'm Marcella Long. The Sequoia

19 project is an 85-foot tall, four story, 703,000 square-

20 foot data center. It's centrally located on a site on

21 2600 De La Cruz, adjacent to the airport, San Jose

22 airport. And at full buildout it will house a total of

23 11 data halls with a critical load of 67.5 megawatts, and

24 that's critical IT load only.

25 The building is designed in steel structure,

1 precast and curtain wall. It has shading devices, and  
2 those are the images that you guys can see there. So if  
3 you just keep moving down, there's a bird's eye view of  
4 the building on the site. And then one more down you can  
5 see a site plan. Or we might have to zoom out.

6           There's -- right now we have received approval  
7 from the planning committee. We're currently in end of  
8 plan check waiting for the CEC to be released so that we  
9 can get a permit issued. And we've also received  
10 approval from the FAA on that end as well.

11           HEARING OFFICER LEMEI: Does anybody have any  
12 questions?

13           Hearing none.

14           Any questions from any members of -- okay, no  
15 questions from us.

16           Staff, could you please comment on the  
17 environmental review on Sequoia from your perspective?

18           MR. PAYNE: Will do. Leonidas Payne for Staff.

19           And (indiscernible) a separate presentation I'm  
20 referring to information that we included on our status  
21 report that we docketed prior to this meeting.

22           The key information that I wanted to get out  
23 there is that our publication date for our initial study.  
24 For Sequoia it was January 23<sup>rd</sup> of 2020. And our CEQA  
25 comment period is set to run out on February 28, 2020,

1 which is this Friday. So that's important for folks in  
2 the public to know that this is the last week for  
3 submitting comments.

4           Similar to what we did on Walsh, we bumped that  
5 out a little bit to make sure that anything associated  
6 with the State Clearinghouse notification of agencies,  
7 everyone got their 30 days. And I would also note that  
8 we also bumped it out to make sure that it was after this  
9 particular event so that the public could provide comment  
10 today.

11           The document itself was an initial study which  
12 covered the 21 technical areas that we cover and all that  
13 all derived from CEQA Appendix G. We also cover  
14 environmental justice as part of our analysis, it's  
15 agency policy.

16           There were two areas in this particular project  
17 where we identified mitigation measures. Those were in  
18 biological resources and geology soils. The geology  
19 soils one in particular involved paleontological  
20 resources. Those mitigation measures were agreed to by  
21 the Applicant and we got a letter from the city accepting  
22 responsibility for those once that -- this goes to them  
23 if it is exempted.

24           So that's basically the story on the analysis.  
25 We're, at this point, just waiting for the specifics

1 about the dates for the remainder of the proceeding  
2 events so we can prepare. And we'd be happy to answer  
3 any questions that you have.

4 HEARING OFFICER LEMEI: Thank you -- thank you,  
5 Staff. Thank you -- thank you, Staff. I feel like the  
6 microphone is not picking me up.

7 So just noting, briefly -- I guess before I  
8 move to that, I'll -- so I'll just pause for a moment and  
9 check in with the Intervener in this case, Mr. Sarvey. I  
10 have not -- I'm not aware of any status reports from you.  
11 Did you have any comments on the proceeding from your  
12 perspective at this time?

13 MR. SARVEY: Well, I'm having a really hard  
14 time with the phone connection, it's cutting in and out  
15 but as far as proceeding goes, I do have a motion to  
16 compel the Applicant to respond to steps Data Request 12  
17 through 14. That's the only thing I have going right now  
18 in terms of status.

19 I'm working on filing my comments on ISMND, and  
20 anticipate they'll be ready by Friday.

21 HEARING OFFICER LEMEI: Very much appreciate  
22 that.

23 So moving on, then, to the issues discussion.  
24 There are two matters pending before the -- before the  
25 Committee at this time. The first is, we do have a

1 petition to intervene from the California Unions for  
2 Reliable Energy. The deadline to respond -- the petition  
3 to intervene put the Commission's regulations in the  
4 absence of an order from the Committee varying from that  
5 is February 28<sup>th</sup>, also this Friday. To date, there have  
6 no comments on the record in response to that petition to  
7 intervene.

8 I will just ask. Is -- is CURE participating  
9 in this proceeding remotely? I'm not hearing an  
10 affirmative response, so. So I'll repeat the question.  
11 Is CURE participating in this proceeding remotely?

12 All right. Not hearing from CURE, but know  
13 that your petition to intervene is before us.

14 Second, we do have the motion that Mr. Sarvey  
15 referenced. Unless the timeframe is modified by the  
16 Committee, then responses to that would be due -- will be  
17 due on -- by March 6<sup>th</sup>.

18 I will note that we do have a response from  
19 Applicant in the record of the proceeding. Up to this  
20 point, we do not have a response from Staff.

21 So that takes us to scheduling. So thank you  
22 for advancing those slides.

23 The Committee filed a scheduling order for the  
24 Sequoia application on January 29<sup>th</sup>. That is, or at least  
25 relevant portions thereof, are currently on the screen.

1           As in Walsh, Applicant's status report for this  
2 proceeding proposed having the joint prehearing  
3 conference and evidentiary hearings together. I guess,  
4 just as a -- I'll just allow you the opportunity if you  
5 have anything to add to the discussion that already took  
6 place in Walsh. Interested in hearing from the Applicant  
7 and from Staff, and from the Intervener in this case  
8 about that.

9           MR. GALLATI: I don't -- I don't have anything  
10 else to add. But once we're done with the schedule,  
11 could we go back to the motion?

12           HEARING OFFICER LEMEI: Yes, we can.

13           MS. DECARLO: Staff does -- Staff does not  
14 have -- this is Lisa DeCarlo for Energy Commission's  
15 Staff counsel.

16           We don't have any objection to combining the  
17 prehearing conference and the evidentiary hearing as long  
18 as the proposed schedule goes somewhat according to the  
19 proposal where there is a sufficient amount of time  
20 between the filing of the prehearing conference statement  
21 and the hearing date so that Staff has a good awareness  
22 of what subject areas parties want to actually dive into  
23 evidentiary hearing is about.

24           HEARING OFFICER LEMEI: So Staff is more  
25 concerned about the prehearing conference statements than

1 the prehearing conference itself?

2 MS. DECARLO: The identification of what areas,  
3 yeah, are likely to be subject to evidentiary hearing.

4 Historically, I think that committees have been  
5 pretty open if a party has identified an area for a deep  
6 dive in evidentiary hearings. We've been pretty willing  
7 to entertain that. So my assumption is that whatever is  
8 identified in prehearing conference statement, unless  
9 there's a valid reason for objecting, would likely entail  
10 an evidentiary hearing.

11 HEARING OFFICER LEMEI: All right. Thank you  
12 for that.

13 Mr. Sarvey, do you have anything on the  
14 schedule that you would like to add at this time?

15 MR. SARVEY: Of the Commission.

16 HEARING OFFICER LEMEI: Mr. Sarvey, I'm --

17 MR. SARVEY: I will be relegating with  
18 comment --

19 HEARING OFFICER LEMEI: Mr. Sarvey, I'm so  
20 sorry.

21 MR. SARVEY: So.

22 HEARING OFFICER LEMEI: Mr. Sarvey, we just got  
23 you unmuted. I am so sorry. Can you please start over?

24 MR. SARVEY: You bet. Sure. I don't have an  
25 objection to having a prehearing conference on the same

1 day but in the past, I've submitted testimony as being  
2 accepted as expert testimony. But recently the  
3 Commission has relegated me to comment. So I anticipate  
4 that it's going to be a pretty heavily contested  
5 evidentiary hearing. I'm probably going to go back to my  
6 own method of dragging expert witnesses, Applicants,  
7 Staff, since my testimony is not considered expert. So I  
8 anticipate it's going to be very vigorous.

9           So I will -- either way, you can do it either  
10 way you want to do it.

11           HEARING OFFICER LEMEI: Thank you for that,  
12 Mr. Sarvey, we do appreciate hearing your perspective on  
13 that.

14           So I'll just say that the Committee is working  
15 to work out the details and establish dates for the  
16 prehearing conference and evidentiary hearing, and once  
17 those dates are established, then the -- the prehearing  
18 conference statements flow from that. At this time,  
19 we're working to adhere to the schedule as -- as  
20 proposed. We hope to get -- get a notice or dates  
21 posted, or an updated schedule soon.

22           Mr. Gallati, you wanted to go back and say a  
23 few words about the pending motion.

24           MR. GALLATI: Yes.

25           HEARING OFFICER LEMEI: I'm sorry. The pending

1 motion to compel filed by Mr. Sarvey.

2 MR. GALLATI: Correct. Mr. Lemei, one of the  
3 things that you said was that you had not yet received a  
4 response from Staff. Don't believe the Committee needs a  
5 response from Staff. If Staff wants to, there's no  
6 motion compelling Staff to do anything.

7 There's a motion compelling us to prepare a  
8 cumulative impact analysis. I've already responded to  
9 that. I'm ready to submit on the writings, and we'd love  
10 to have a ruling on that without having an opportunity  
11 for another hearing. Or, I'm prepared to argue it today  
12 would the Committee entertain that.

13 As you know, the Committee regulations, unless  
14 the presiding member makes an exception, doesn't allow a  
15 moving party to reply to a reply.

16 So all the documents are in front of you right  
17 now and obviously Mr. Sarvey knows his motion, he made  
18 it. We would like a quick ruling from you. We worry  
19 that when the rulings get moved to after you hear  
20 evidentiary hearings, it delays the evidentiary process.  
21 It delays the potential decision, so we'd ask you to  
22 either consider that, either today, or I'm happy to  
23 submit from the writings. Don't believe we need a  
24 hearing to argue it.

25 HEARING OFFICER LEMEI: Just a clarifying

1 question. I understand your position that Staff doesn't  
2 have an obligation, from your perspective, to respond to  
3 that motion, is it your under -- you're not suggesting  
4 that Staff, that it wouldn't be appropriate for Staff to  
5 respond if they wish to.

6 MR. GALLATI: No. If they wish to. But I  
7 think the Committee could also -- then in that case, I'll  
8 ask for an order shortening time so that I can get a  
9 ruling on that rather than waiting for Staff to respond  
10 to something that may be helpful but I don't think it's  
11 necessary for the Committee to rule.

12 HEARING OFFICER LEMEI: I will turn to Staff  
13 and ask if you have any comments on the motion for  
14 Mr. Gallati's position on the motion.

15 MS. DECARLO: We agree --

16 HEARING OFFICER LEMEI: I'm sorry. Hold up.  
17 Hold up.

18 To clarify, we're asking the procedural  
19 question, not asking you to respond to the merits of the  
20 motion but regarding the question of do you intend to  
21 respond? Do you object to an order shortening time? On  
22 the -- those are the questions.

23 MS. DECARLO: We would certainly be available  
24 to respond if the Committee would like Staff's input or  
25 opinion on the necessity of the original information

1 requested and the substance of Staff's completed analysis  
2 as projected in the, or as included in our initial study.  
3 We are certainly available to provide that information.

4           We agree with Mr. Gallati that the motion, that  
5 Sarvey's petition to be denied on procedural grounds, and  
6 additionally, we would proffer that it should be denied  
7 on substantive grounds because the information initially  
8 requested is not fundamentally necessary for -- for the  
9 analysis. We can certainly provide that in more detail  
10 in a response if the Committee would like.

11           With regard to the motion to shorten time, if  
12 that's a motion shortening time for Staff to provide  
13 their response, I would have concerns about that.

14           HEARING OFFICER LEMEI: So my -- I believe the  
15 Committee would appreciate Staff's response as you  
16 describe.

17           And in terms of then the question of the  
18 timeframe for that response, I understand your -- if I'm  
19 understanding you, you would object to Mr. Gallati's  
20 request that the Committee shorten time for Staff's  
21 response.

22           MS. DECARLO: Sorry, I'm just looking at the  
23 calendar just to find out how much time we have.

24           Because initially Staff's response would be  
25 getting into a lot of the substance of the Air Quality

1 Analysis, and I do think we want to make sure that we do  
2 a thorough and clear job of explaining that. And it --  
3 just from a short calculation, we have what, that would  
4 be nine days, including two weekend days. That might be  
5 too short of a time. Anything less than that to provide  
6 something that has gone through full review at the Energy  
7 Commission before being published.

8 HEARING OFFICER LEMEI: Okay. So you are not  
9 objecting to the time that would be established by  
10 regulation in the absence of an order of the Committee,  
11 which is March 6<sup>th</sup>.

12 MS. DECARLO: Correct.

13 HEARING OFFICER LEMEI: Okay. Mr. Sarvey, do  
14 you have any comments on the procedural questions that we  
15 are discussing with respect to your motion?

16 MR. SARVEY: No. I don't have any comments at  
17 all. Prepared -- prepared move at any time.

18 HEARING OFFICER LEMEI: Thank you, Mr. Sarvey.  
19 My apologies. Mr. Gallati.

20 MR. GALLATI: I'm just going to withdraw my  
21 request for order shortening time after hearing Staff's  
22 explanation that they would be providing a substantive  
23 response and not simply a procedural response that the  
24 motion was the wrong way to go about this.

25 HEARING OFFICER LEMEI: Understood. Okay. So

1 we -- I think that we have covered the procedural aspects  
2 of Mr. Sarvey's motion. At this time, the Committee is  
3 not ordering a departure from the timeframe established  
4 by the regulations for the parties to respond. In this  
5 case, Staff is the only party with an outstanding -- at  
6 this time, Staff is the only party that has not responded  
7 to the motion.

8 All right. I think that covers what we needed  
9 to cover from the Committee's perspective.

10 At this time we'd like to move to public  
11 comment on the Sequoia application for a small power  
12 plant exemption starting with people in the room.

13 MS. GALLARDO: Yes, this is Noemi Gallardo,  
14 public advisor for the Energy Commission. I would like  
15 to introduce Frank Biehl of the Santa Clara and San  
16 Benito Counties Building and Construction Trades Council.

17 MR. BIEHL: Thank you. Speaking once again  
18 today on a different issue but saying the same thing,  
19 basically.

20 I'm Frank Biehl, representative of Santa Clara  
21 and San Benito Counties Building and Construction Trades  
22 Council. We represent 24 different affiliated Trade  
23 Unions with over 30,000 members in Santa Clara and San  
24 Benito County.

25 We are supportive of this particular project

1 that is in favor -- before you today, and we hope that  
2 you grant an exemption that they're requesting.

3 Thank you.

4 HEARING OFFICER LEMEI: Thank you, Mr. Biehl.

5 No other comments from parties in the room?

6 Seeing none.

7 Move to those participating remotely.

8 We are -- we should be unmuted.

9 Is there anyone participating by WebEx or via  
10 telephone that would like to make a comment at this time?

11 Hearing none.

12 Okay. No. I thought I heard somebody.

13 Okay. Hearing none, I think we can close the phone  
14 lines.

15 So the next item on the agenda is if the  
16 Commission wishes to adjourn to closed session.

17 The Committee is not -- the Committee is not  
18 adjourning to closed session at this time. So I will  
19 turn it over to Commissioner Douglas to make closing  
20 comments.

21 COMMISSIONER DOUGLAS: All right. Thank you,  
22 everybody.

23 I just wanted to say a couple things in  
24 closing. First off, I'd like to thank the library for  
25 hosting these meetings and the City of Santa Clara. It's

1 great to be here. We wanted to hold a proceeding in the  
2 local area and we combined the two cases and, you know, I  
3 think it was valuable to do that and we appreciate the  
4 support, particularly from the library in being able to  
5 do this.

6           So thank the parties. We'll look forward to  
7 your response to motion, Staff, you know, and we have  
8 taken everything that we've heard under submission and  
9 we'll move expeditiously and finalize the schedule. So I  
10 think that's all I wanted to say.

11           Commissioner Monahan?

12           COMMISSIONER MONAHAN: Yeah, just thanks to  
13 everybody for participating. Actually, we used the  
14 location to be able to go and visit the sites, which was  
15 very helpful from my perspective. So look forward to the  
16 next steps in this process and to moving as expeditiously  
17 as possible to make the decision.

18           HEARING OFFICER LEMEI: All right. Thank you  
19 all so much for being here and for helping to make this a  
20 successful joint conference.

21           The joint conference is adjourned.

22           (Thereupon, the Joint Conference  
23           was adjourned 2:30 p.m.)

24   -- o O o --

25

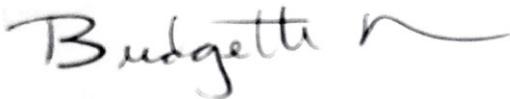
**REPORTER' S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a notary public and certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF,

I have hereunto set my hand this 2nd day of  
June, 2020.



---

Bridgette Rast  
Certified Electronic Reporter  
AAERT No. CER-971

**TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of June, 2020.



---

Myra Severtson  
Certified Transcriber  
AAERT No. CET\*\*D-852