DOCKETED	
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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

Intervenor Sarvey's Response to Staff and Applicant on Committee Questions

AQ-1: Is Staff's analysis in the Initial Study/Proposed Mitigated Negative Declaration (IS/PMND) of impacts from criteria pollutant emissions consistent with the BAAQMD CEQA Guidelines? Explain. If not, is the analysis nonetheless CEQA compliant? Explain.

No it is not compliant with the BAAQMD guidelines or CEQA as it does not examine emergency operations.

Staff's Cumulative TAC analysis is unreliable and inaccurate and does not comply with the methodology set forth in Section 5.3 of the BAAQMD.

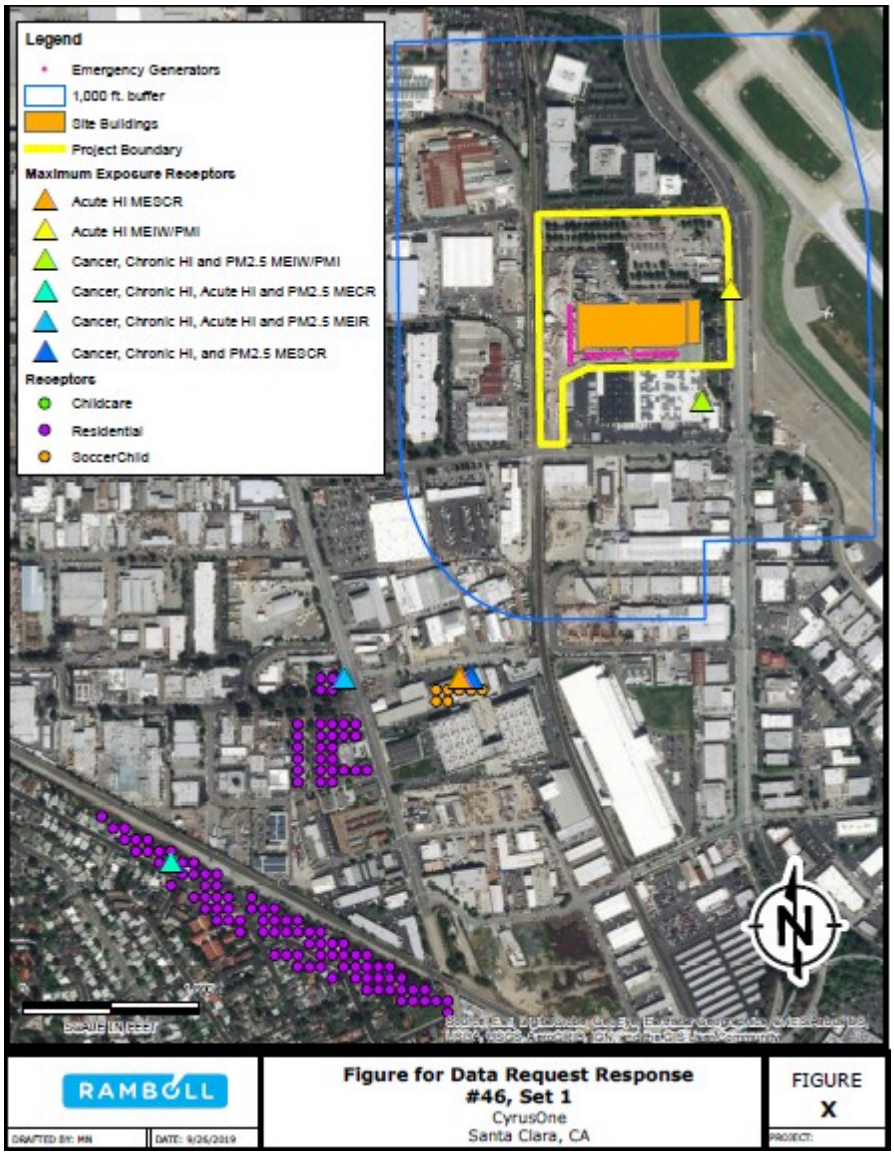
Staffs assessment provided in its response to committee questions[1] is very short on details and it is impossible to determine if they have included all reasonably foreseeable future sources as the analysis doesn't identify what facilites were included in the analysis. Staff analysis also ignores the sources which are not permitted by the BAAQMD. As far as I can tell from the limited detail presented by staff, staff's analysis also fails to include sources that are missing from the BAAQMD's stationary source tool like the 2805 Lafayette Street Data Center and the 2200 De La Cruz Avenue Data Center.

Staff's analysis did find out exactly what I detailed in my response to staff and applicant's opposition to performing a cumulative analysis requested in data request 14 in this proceeding.[2] As I stated in my response to Staffs opposition to performing a cumulative analysis[3], "*The evidence in the McLaren and Sequoia data center proceedings show the two projects impact the same sensitive receptors and general*

[1] TN 233095 Staff Response to Committee Questions
[2] TN 232341 Sarvey Pages 3-5
[3] TN 232341

areas." Staff's cumulative analysis performed in response to the Committees questions found out the exact same thing. Footnote 8 on page 6 of Staff's response to Committee questions verifies my previous assessment as, "Staff found the nearest soccer child receptor location modeled by the McLaren applicant to the Sequoia MESCR location (only about 14 meters [46 feet] away).[4] The youth soccer field Off The Wall Soccer is depicted below in the orange triangle.[5] The maximum cancer, chronic and PM 2.5 impact from McLaren all occur at the youth soccer field as depicted in the blue tringle in the map below. Staff's estimated cancer impact at that location is reported as .0081[6] in Staffs response to the committee questions but Staff analysis in the McLaren Data Center reports a cancer impact 10 times higher at .08.[7] Staff's estimated cancer risk from Sequoia at the soccer facility in its response to committee questions is reported as .00031. Staff's estimated cancer risk to the youths at the soccer facility in the IS/MND is reported as .1 which is thousands of times higher than staff reported in the response to committee questions. With these kinds of results not much faith should be given to staffs HRA analysis in either document. I would say staff's analysis is not consistent with the BAAQMD guidelines or CEQA guidelines for a cumulative analysis.

[4] TN 233095 CEC Staff Responses to Committee Questions Footnote 8 Page 8of 39
(CEC Staff also found a receptor location modeled by the Walsh applicant to be identical to the Sequoia MEIW location. TN 233095 Footnote 2 Page 9 of 39)
[5] TN229938-2 C1 Santa Clara, LLC's Response to CEC Staff Data Request - Set 1 - SBGF Appendices Page 135 of 138
[6] TN 233095 CEC Staff Responses to Committee Questions Page11 of 39
[7] MCLaren Data Center Project Initial Study and Proposed Mitigated Negative Declaration TN 223911 Page 5.3-24

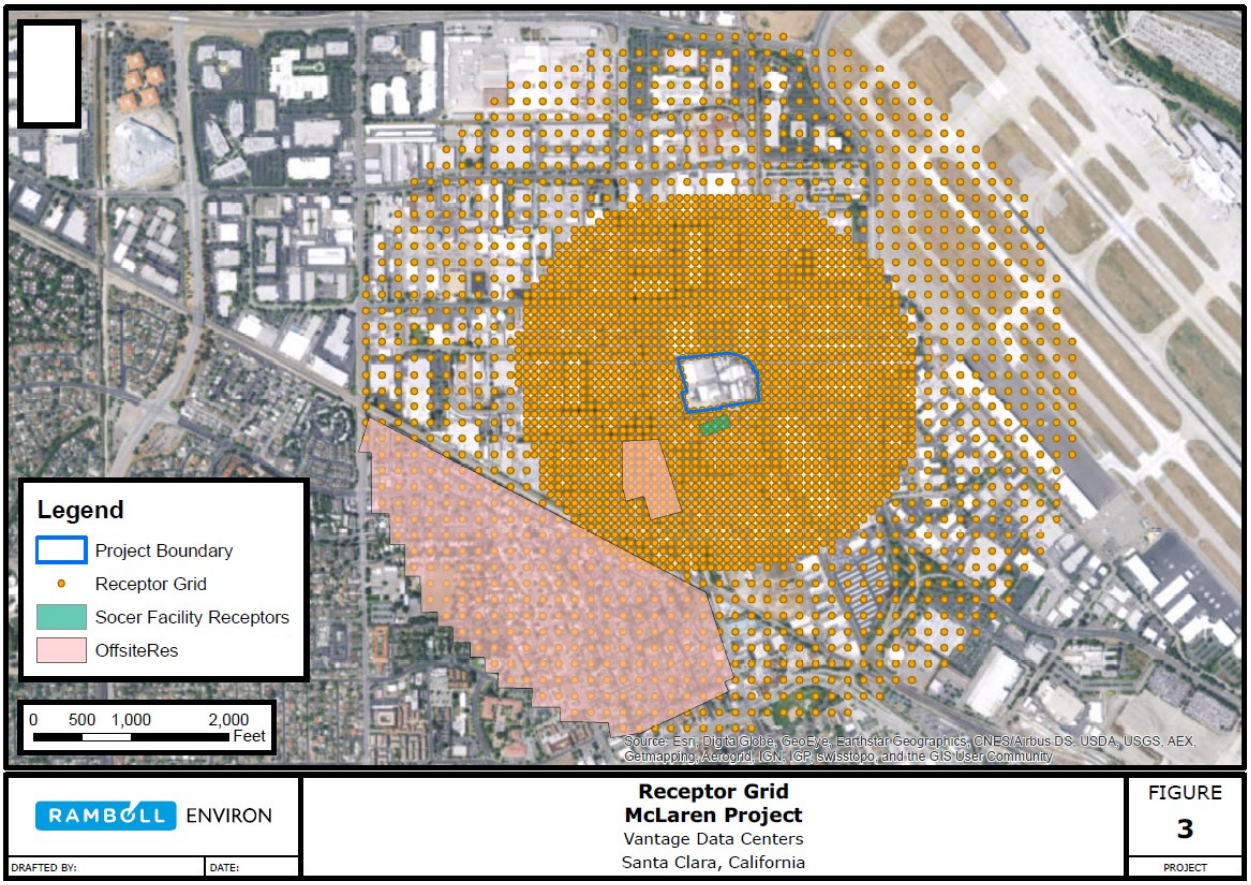


The large white building to the right of the youth soccer field is the Santa Clara Data Center with its 32 diesel generators totaling 72 MW which was approved by the CEC in 2012.[8] Because of the Santa Clara Data Centers high NO_2 and TAC impacts BAAQMD restricted operations of the project to 700 hours combined for all generators including emergency operation. BAAQMD also limited the times when the generators could be tested, "The owner/operator shall further limit the hours of operation from 12am to 8am to 300 hours, from 8am to 4pm to 200 hours of operation, and from 4pm

[8] https://ww2.energy.ca.gov/sitingcases/santaclara/

to up to 12am to 200 hours citing a Cumulative Increase District Regulation Rule 51"[9] The CEC analysis of cancer, acute, chronic and PM 2.5 impacts does not recognize the Santa Clara Data Center which is located next to the maximum impact of the McLaren and Sequoia projects.

The same youth soccer field depicted above from the Sequoia data center proceeding is located across the street from the McLaren Data Center as depicted in the green rectangle in the map below from the McLaren Data Center proceeding below.



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[9] Santa Clara Data Center **Appendix D BAAQMD Authority to Construct for Permit Application No. 17020, Plant No. 18801 (July 15, 2010)** Page 272 of 376 https://ww2.energy.ca.gov/sitingcases/santaclara/documents/applicant/SPPE_Application/02_Application_Appendices_A-H.pdf

[10] TN 222041-11 Application for Small Power Plant Exemption for McLaren Backup Generating Facility - Appendix E Page 54 of 142

 Does the analysis of TACs included in Appendix F of the SPPE application[19] apply the methodology set forth in Section 5.3 of the BAAQMD's CEQA Guidelines for assessing cumulative impacts of TACs? Explain.

The BAAQMD asked for more detail in the projects TAC analysis so I assume that it does not comply with the BAAQMD CEQA Guidelines.

If the analysis of TACs included in Appendix F does not apply the methodology set forth in Section 5.3 of the BAAQMD's CEQA Guidelines for assessing cumulative impacts of TACs, is the analysis nonetheless CEQA compliant and consistent with the BAAQMD methodology? Explain.

No, it is not CEQA or BAAQMD compliant since it fails to include some reasonably foreseeable projects, projects not listed on the BAAQMD stationary source map, and emissions from projects that do not require a permit from BAAQMD.

What is the CEC's legal obligation to evaluate potential impacts of GHG emissions from the Project, including operations of the Data Center, beyond calendar year 2020? What thresholds of significance must or may be applied?

The CEQA Guidelines acknowledge lead agency discretion in establishing the timeframe for the analysis of project impacts that is appropriate for the proposed project. (CEQA Guidelines, § 15064.4, subd. (b).) CEQA does not prescribe a particular horizon year or years. Lead agencies, however, must consider a project's direct and indirect significant impacts on the environment, "giving due consideration to both the short-term and long-term effects." (CEQA Guidelines, § 15126.2, subd. (a).) The Legislature also declared that state policy requires "governmental agencies at all levels to consider . . . long-term benefits and costs, in addition to short-term benefits and costs[.]" (Pub. Resources Code, § 21001, subd. (d).) Thus, a lead agency should be careful to select an appropriate timeframe for the analysis to adequately addresses all potentially significant short-term and long-term effects.

CEQA Guidelines § 15064.4 (b) requires that, "*In determining the significance of a project's greenhouse gas emissions, the lead agency should focus its analysis on the reasonably foreseeable incremental contribution of the project's emissions to the effects of climate change. The agency's analysis should consider a timeframe that is appropriate for*

the project. CEQA requires agencies to consider a project's direct and indirect significant impacts on the environment, 'giving due consideration to both the short-term and long-term effects.'"

Staff's supplemental analysis in its response to committee questions does not use the BAAQMD's land use threshold of significance of 1,100 metric tons of CO2e per year. Because the emissions from this project will occur after the 2020 timeframe staff and applicant both state that the BAQQMD land use threshold does not apply. Staff and applicant do not propose any significance thresholds for GHG emissions.

A lead agency has the discretion to select and develop appropriate thresholds of significance to analyze a project's environmental impacts, or rely on thresholds developed by other agencies that it deems applies to the project. The CEQA Guidelines define a "threshold of significance" as "an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant." (CEQA Guidelines, § 15064.7, subd. (a).) The selection and development of thresholds requires a lead agency to "make a policy decision in distinguishing between substantial and insubstantial adverse environmental impacts based, in part, on the setting." (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 625.") The lead agency has the discretion to select the appropriate significance threshold, which may differ among projects depending on the project design, location, and other circumstances.

 Were any of the methodologies or thresholds identified in CEQA Guidelines sections 15064.4 or 15183.5, or the BAAQMD CEQA Guidance used? If so, identify where, using reference to docketed documents specifying titles, transaction numbers (TN) and specific page numbers. If not, explain why and the legal significance, if any, of not including the methodologies or thresholds identified in CEQA Guidelines sections 15064.4 or 15183.5, or the BAAQMD CEQA Guidance.

Neither the CEQA statute nor the CEQA Guidelines prescribe thresholds of significance or particular methodologies for performing an impact analysis. This is left to lead agency judgment and discretion, based upon factual data and guidance from regulatory agencies and other sources where available and applicable.

CEC Staff did not use the BAAQMD threshold or any threshold established by CEQA or any state agency. The applicant and CEC Staff are both relying on Silicon Valley Power meeting their GHG reduction targets in their electric portfolio to determine the significance of the projects GHG Emissions. Staff and applicant are speculating that Silicon Valley Power will lower the carbon content of the electricity they deliver to comply with State GHG reduction targets. Both Staff and applicant rely on SVP's 2018 Integrated Resource Plan to determine the consistency of the project with State GHG reduction plans.

The lead agency has the discretion to develop its own thresholds of significance and methodologies to evaluate the significance of GHG emissions. The CEC initially embarked on a process in the 2009 IPER but never finalized those thresholds or methodologies in a public reviewed final CEQA document. The Energy Commission has several options in adopting a threshold of significance for GHG emissions. First the Energy Commission could utilize BAAQMD's threshold of 1,100 metric tons of CO2e/yr.

The Energy Commission can use the only statewide GHG significant emission threshold for industrial uses which was proposed by CARB in 2009. The Air Resources Board Staff established a numerical threshold of 7,000 metric tons of CO2e/yr as significant for industrial projects which includes indirect emissions from electricity use .[11]

The Energy Commission could adopt a 25,000 metric tons of CO2e/yr threshold as it coincides with the mandatory GHG reporting requirement.

 Explain whether and how the goal identified in the City of Santa Clara's 2020 Climate Action Plan, for data centers to achieve a power usage effectiveness below 1.2, is applicable to and whether it is feasible for the Project?

Santa Clara's CAP is not relevant to the analysis in this proceeding. The project is not eligible to use the Santa Clara CAP to evaluate full-build emissions to determine its significance under CEQA, because the CAP is based on 2020 GHG reduction goals and this project will not be completed before 2021.

[11] Exhibit 306 Page 7 of 15

 If the GHG emissions impacts from Project operation are found to be significant, what, if any, mitigation measures could be adopted to bring the GHG emissions below the threshold of significance?

It's pretty clear from the evidence in the proceeding that GHG emissions from this project are significant. The Silicon Valley Integrated Resource Plan the document staff and applicant rely on states, *"SVP finds that the generic emissions rate of 0.428 Mt CO2e/MWh for spot market purchases per the CEC guidelines to be too high. If this rate is applied, SVP's portfolio emissions will exceed the GHG target."*[12]

The Sant Clara General Plan, the other document staff heavily relies on in its analysis, EIR found that SVP will not meet its 2035 or 2050 GHG emission reduction targets. As stated in the EIR , "Implementation of the proposed 2010-2035 General Plan will result in GHG emissions in 2035 that are projected to exceed efficiency standards necessary to meet long term 2050 State climate change goals , which is a significant and unavoidable impact." [13] The General Plan EIR also states that, *"GHG emissions in 2035 would exceed 3.3 MT CO_2 e/SP/yr (residents + employees), thereby failing to maintain a trajectory to achieve Executive Order S-3-05 emissions levels in 2050."*[14]

Because the GHG emissions from this project are significant and unavoidable the final decision must require a lower PUE for this project. The commission must require that the applicant utilize as much solar power as feasible at the project site. The Commission can require the use of biodiesel in the backup diesel generators which would reduce GHG emissions by as much as 74%. The commission can require a large battery storage facility at the site allowing the project to store and use renewable energy during the day that might otherwise be curtailed. The battery storage would also facilitate reliability in the project area and supply energy during short duration power outages. The battery storage system could be used to store the wasted power of the diesel generators avoiding impacts to energy resources due to the wasteful and inefficient use of energy. Offsite mitigation could also be imposed to reduce the projects significant GHG emissions.

[12] Exhibit 27 Page 8-10 or Page 98 of 109
[13] Exhibit 308 Page 23 of 593
[14] Exhibit 308 page 502 of 593