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BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the matter of: )  
 ) Docket No. 19-SPPE-03  
Application for a Small Power )  
Plant for the Sequoia Backup )  
Generating Facility )  
\_\_\_\_\_ )

EVIDENTIARY HEARING

REMOTE VIA ZOOM

FRIDAY, JUNE 5, 2020

11:00 A.M.

Reported By:

Martha Nelson

APPEARANCES

Hearing Officer

Galen Lemei

Committee Members

Karen Douglas, Commissioner and Presiding Member

Patricia Monahan, Commissioner and Associate Member

Advisors Present

Kourtney Vaccaro, Advisor to Commissioner Douglas

Eli Harland, Advisor to Commissioner Douglas

Jana Romero, Advisor to Commissioner Monahan

Public Advisor

RoseMary Avalos

Staff Present

Lisa DeCarlo, Senior Staff Counsel

Liza Lopez

For Applicant C-1 Santa Clara

Scott Galati, DayZen, LLC

Intervenor

Robert Sarvey

Staff Witnesses

Kevin Kolnowski, Silicon Valley Power

APPEARANCES

Staff Witnesses (cont.)

Henry Hilken, Bay Area Air Quality Management District

Caryn Quist, Bay Area Air Quality Management District

Jacqueline Record

Brewster Birdsall, Aspen Environmental Group

Huei-An Chu, Air Resources Engineer, CEC

Wenjun Qian, Air Resources Engineer, CEC

Kenneth Salyphone, CEC

Shahab Khoshmashrab, CEC

Applicant Witnesses

Marcela DeLong, Corgan

Steven Branoff, Ramboll

Brianna Bohonok, CirclePoint

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EXHIBITS

	IDENTIFICATION	EVIDENCE	WITHDRAWN
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<u>Intervenor</u>			
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1 Advisor's Office?

2 PUBLIC ADVISOR AVALOS: This is RoseMary  
3 Avalos, Commissioner Douglas.

4 PRESIDING MEMBER DOUGLAS: All right.  
5 Well, Good morning. Thank you for being here.

6 PUBLIC ADVISOR AVALOS: Good morning.

7 PRESIDING MEMBER DOUGLAS: At this point,  
8 I'll ask the parties to please introduce  
9 themselves and their representatives, starting  
10 with the Applicant.

11 MR. GALATI: Good morning, Commissioners,  
12 Mr. Hearing Officer, and the rest of the dais,  
13 the virtual dais. This is Scott Galati. I'm  
14 representing the Applicant, which is C-1 Santa  
15 Clara, LLC, which is a project company owned by  
16 CyrusOne. I'll introduce the rest of the people  
17 on our team as it's time for -- when they are to  
18 testify.

19 Thank you.

20 PRESIDING MEMBER DOUGLAS: Thank you very  
21 much.

22 Staff, could you please introduce  
23 yourselves?

24 MS. DECARLO: Good morning. This is Lisa  
25 DeCarlo, Energy Commission Staff Attorney. And



1 we have various Staff members here today and some  
2 members from various agencies, as well, and I'll  
3 introduce them as they're needed.

4 PRESIDING MEMBER DOUGLAS: Thank you.

5 And Intervenor Robert Sarvey?

6 MR. SARVEY: Yeah. This is Bob Sarvey,  
7 Intervenor. Thank you.

8 PRESIDING MEMBER DOUGLAS: Thank you.

9 And is anyone in this hearing  
10 participating today from California Unions for  
11 Reliable Energy, or CURE? Okay. It doesn't  
12 sound like it.

13 Are there any elected officials or  
14 representatives from federal government agencies?

15 What about agencies of the State of  
16 California, other than the Energy Commission?

17 Then is anyone here representing Native  
18 American tribes?

19 Is anyone here representing the Bay Area  
20 Air Quality Management District?

21 MR. HILKEN: Yes. Henry Hilken.

22 PRESIDING MEMBER DOUGLAS: Thank you.

23 What about the City of Santa Clara?

24 MS. QUIST: Caryn Quist from BAAQMD.

25 PRESIDING MEMBER DOUGLAS: I'm sorry. Go

1 ahead.

2 MS. QUIST: Oh, sorry. This is Caryn  
3 Quist from BAAQMD as well.

4 PRESIDING MEMBER DOUGLAS: Excellent.  
5 Thank you. Sorry. I jumped ahead.

6 Anyone else from BAAQMD? All right.

7 What about Silicon Valley Power plant or  
8 City of Santa Clara?

9 MR. KOLNOWSKI: Kevin Kolnowski.

10 PRESIDING MEMBER DOUGLAS: Representing  
11 both?

12 MR. KOLNOWSKI: Yeah, one in the same.

13 PRESIDING MEMBER DOUGLAS: Excellent.  
14 Thank you very much.

15 And, let's see, anyone else representing  
16 nearby towns, cities or local agencies? All  
17 right.

18 At this time, I'll hand over the conduct  
19 of this hearing to the Hearing Officer, Galen  
20 Lemei.

21 HEARING OFFICER LEMEI: Thank you,  
22 Commissioner Douglas.

23 Before I jump in, I just want to clarify,  
24 I'm not sure if the Court Reporter got the names  
25 of the individuals, just beginning from the

1 BAAQMD and the City of Santa Clara and SVP. I  
2 know that I did not get them all. I just want to  
3 make sure I do have them.

4 So I have Henry Hilken; is that correct?

5 MR. HILKEN: Yeah. It's Henry Hilken,  
6 H-I-L-K-E-N.

7 HEARING OFFICER LEMEI: H-I-L-K-E-N.

8 Thank you.

9 And then Caryn Quist; ischemic stroke

10 MS. QUIST: Yeah. It's C-A-R-Y-N, and  
11 last name is Quist, Q-U-I-S-T.

12 HEARING OFFICER LEMEI: Perfect.

13 And, forgive me, I did not get the name  
14 of the individual participating from the City of  
15 Santa Clara and SVP.

16 MR. KOLNOWSKI: It's Kevin --

17 HEARING OFFICER LEMEI: Kevin.

18 MR. KOLNOWSKI: -- Kolnowski,  
19 K-O-L-N-O-W-S-K-I.

20 HEARING OFFICER LEMEI: Kevin Kolnowski.

21 Perfect.

22 MR. KOLNOWSKI: Correct.

23 HEARING OFFICER LEMEI: Okay. Thank you.

24 Just wanted to make sure I have you folks, and  
25 that the Court Reporter did, as well, but mostly

1 me. All right.

2 So I'll start with a little bit of  
3 background.

4 The Committee noticed today's Evidentiary  
5 Hearing in a Notice of Prehearing Conference and  
6 Evidence Hearing Revised Scheduling Order and  
7 further issued orders that was issued on May 8th,  
8 2020. Going forward, I will refer to that  
9 mouthful as the May 8th notice.

10 The evidentiary hearing is being held  
11 remotely, that is we are in separate locations  
12 and communicating only through electronic means.  
13 We are meeting in this fashion, consistent with  
14 the Executive Orders N-25-20 and N-29-20, and the  
15 recommendations from the California Department of  
16 Public Health to encourage physical distancing in  
17 order to slow the spread of COVID-19.

18 Before we proceed with the substantive  
19 portions of this evidentiary hearing, I would  
20 like to discuss a few housekeeping issues.

21 During last week's prehearing conference,  
22 we discussed the changes necessary to ensure a  
23 smooth hearing, complete transcript, as we meet  
24 remotely. We practiced these changes and I would  
25 like to remind some of you of those changes.

1           First, I'm going to ask that only one  
2 witness speak at a time. Please use your raise-  
3 hand or chat feature if you would like to be  
4 recognized.

5           And I will just, at this point/moment,  
6 mention that I will do my best to track the  
7 raised hands from -- whether they're from parties  
8 or members of the public.

9           But I would ask that the staff members  
10 helping me, Liza, I think that you're helping me  
11 on this, let me know if there are raised hands  
12 because it's possible that I'll miss them because  
13 I have a lot of things up on the screen.

14           Second, please identify yourself before  
15 you speak. When we meet remotely, it is harder  
16 for the Court Reporter and me to identify who is  
17 speaking or who wishes to be recognized.

18           I also want to thank everyone for  
19 accommodating our transition from WebEx to Zoom.  
20 This is our first time conducting an evidentiary  
21 hearing using Zoom and we appreciate your  
22 patience and understanding if there are any  
23 hiccups.

24           We'll also just acknowledge that this is  
25 my first time presiding over an evidentiary

1 hearing as a Hearing Officer. And so I would,  
2 again, ask for and appreciate your patience and  
3 understanding if there are any hiccups based on  
4 my lack of experience with this particular role.

5           And I also just will thank in advance  
6 those that are supporting me and the Committee in  
7 presiding over this proceeding, which includes  
8 Liza, Susan Cochran, Commissioners and Advisors,  
9 for your help and assistance. If you note that  
10 there's anything that I may be overlooking,  
11 please do not hesitate to speak up. I really  
12 appreciate your support.

13           Moving now to the substance. This  
14 prehearing conference concerns the Application  
15 for a Small Power Plant Exemption, or SPPE, for  
16 the Sequoia Backup Generating Facility filed by  
17 the Applicant on August 14th, 2019. The  
18 application and many of the other documents I  
19 will be mentioning today are available online,  
20 available in the online docketing system used by  
21 the Energy Commission.

22           The backup generating facility would be  
23 used to ensure an interruptible power supply for  
24 the Sequoia Data Center, located at 2600 De La  
25 Cruz Boulevard in Santa Clara, California. The

1 data center consists of a four-story, 702,114  
2 square foot data center building that will house  
3 computer servers in a secure and environmentally-  
4 controlled structure with approximately 70,000  
5 square feet dedicated to administrative and  
6 office use.

7           The Applicant proposes to construct and  
8 operate the Sequoia Backup Generating Facility  
9 consisting of 54 Tier 2 standby diesel-fired  
10 generators, each with a maximum peak rating of  
11 2.25 megawatts, located in a generator equipment  
12 yard. The generators would be configured in a  
13 distributed, redundant configuration to provide  
14 up to 96.5 megawatts, the maximum building load  
15 of the Sequoia Data Center.

16           The Applicant also intends to construct  
17 an onsite 100 megavolt amp electrical substation  
18 and electrical switch gear and distribution lines  
19 between the substation and buildings, as well as  
20 from the backup generator yards and each  
21 respective building. The substation will allow  
22 for delivery of power from Silicon Valley Power,  
23 or SVP, but will not allow any electricity  
24 generated from the backup generators to be  
25 distributed off the Sequoia site.

1 Under Public Resources Code section  
2 25541, the Commission may grant and SPPE only  
3 when it makes three separate and distinct  
4 findings: one, the proposed power plant has a  
5 generating capacity of up to 100 megawatts; two,  
6 no substantial adverse impact on the environment  
7 will result from the construction or operation of  
8 the power plant; and three, no substantial  
9 adverse impact on energy resources will result  
10 from the construction or operation of the power  
11 plant.

12 In addition, the Commission acts as the  
13 lead agency under CEQA, the California  
14 Environmental Quality Act, in reviewing an SPPE.  
15 The Energy Commission considers the whole of the  
16 action. For this application, the whole of the  
17 action means the backup generators, the data  
18 center, and any other project features, such as  
19 the substation.

20 Staff prepared and published an Initial  
21 Study and Proposed Mitigation Negative  
22 Declaration for the IS/PMND on January 23rd,  
23 2020. The IS/PMND was subject to public review  
24 and comment period that ended on February 28th,  
25 2020.



1           Comments were received from Robert Sarvey  
2 that the Department of Toxic Substances Control,  
3 the City San Jose Airport Department, and from  
4 the Bay Area Air Quality Management District, or  
5 BAAQMD, before the close of the comment period.  
6 Comments were also received from the National  
7 Fuel Cell Resource -- Research Center, sorry, the  
8 National Fuel Cell Research Center on May 22nd,  
9 2020.

10           As explained in the May 8th notice, we  
11 required a prehearing conference statement from  
12 any party seeking to present evidence or cross-  
13 examine witnesses at this evidentiary hearing.  
14 We received prehearing conference statements from  
15 Staff, Applicant, and Intervenor Sarvey. Neither  
16 Intervenor California Unions for Reliable Energy,  
17 nor Helping Hand -- oh, sorry, they're not a part  
18 of this. That's a mistake. Neither Intervenor  
19 for California -- Intervenor -- sorry --  
20 Intervenor California Unions for Reliable Energy  
21 did not file a prehearing conference statement.

22           The May 8th notice also contains a series  
23 of -- contained a series of questions regarding  
24 air quality, greenhouse gas emissions, and public  
25 health. We invited the parties, the Applicant,

1 Staff, and the Intervenors, and the public,  
2 especially the City of Santa Clara/Silicon Valley  
3 Power and BAAQMD, to submit responses to these  
4 questions, even in the form of evidence or  
5 briefings, by May 22nd, 2020. We received  
6 responses from Staff and Applicant.

7           At the prehearing conference there was  
8 discussion of the filing of rebuttal testimony to  
9 information received in responses to the  
10 Committee questions. And the Committee ordered  
11 the parties to file any written rebuttal  
12 testimony by Wednesday, June 3rd. Mr. Sarvey  
13 did, in fact, file responses to Staff and  
14 Applicant's responses to Committee questions on  
15 June 3rd.

16           As set forth in the May 8th notice, the  
17 evidentiary hearing will be conducted using a  
18 formal hearing procedure modified to fit the  
19 remote nature of the hearing.

20           First, with respect to testimony, as  
21 discussed in the prehearing conference, we will  
22 deem all parties' opening and rebuttal testimony  
23 as their direct examination. There is no need to  
24 discuss experts resumes if we have them in  
25 writing and there is no objection to the witness

1 as an expert. If witnesses testify who have not  
2 filed written testimony, please have them  
3 identify themselves. For example, I would  
4 identify myself as Galen Lemei, Senior Attorney  
5 for the California Energy Commission. If any  
6 party has objection, please state the objection.

7 Exhibits. After the prehearing  
8 conference statement both Intervenor Sarvey and  
9 Applicant identified additional exhibits for  
10 introduction at today's evidentiary hearing.

11 Would you please, Liza, could you get the  
12 exhibit list up on the screen? Is that possible?

13 MS. LOPEZ: Would you like me to pull up  
14 Sarvey's or Galati?

15 HEARING OFFICER LEMEI: Well, I was  
16 imagining that we would just pull up the exhibit  
17 list for the proceeding, which is on the docket  
18 page, because that contains all of the exhibits.  
19 I believe it was updated. Right. Thank you. So  
20 my apologies.

21 After the prehearing conference,  
22 actually, Staff, Applicant, and Intervenor, this  
23 was updated since I last -- since I wrote this,  
24 identified additional exhibits for introduction  
25 at today's evidentiary hearing.

1           I will note that when I -- we discussed  
2 the exhibits at the prehearing conference and I  
3 asked the parties to -- or I intended to ask the  
4 parties to file their statement of which specific  
5 exhibits that were -- that they planned to use.  
6 And it was my intention that they were going to  
7 be identifying exhibits that were already in the  
8 record. I hadn't intended to invite or encourage  
9 the parties to file additional exhibits,  
10 additional prehearing conference -- or an  
11 additional exhibit list that were not already on  
12 the record. But as I noted, Applicant, Staff,  
13 and Sarvey all have done so.

14           We have, therefore, updated the exhibit  
15 list to reflect the most recent exhibits filed by  
16 the parties.

17           Are there any objections to the exhibits  
18 currently identified and the updated exhibit list  
19 from the parties? I will, I guess, I'll just  
20 call on the parties in order.

21           Applicant, do you have any objections?

22           MR. GALATI: Mr. Lemei, are you asking  
23 me, am I objecting to all of the exhibits being  
24 listed and entered into evidence or just that the  
25 list captures all the exhibits we're proposing?

1 HEARING OFFICER LEMEI: I guess, at this  
2 stage, I'm just asking if the list captures the  
3 exhibits from your perspective?

4 MR. GALATI: If we could scroll down,  
5 Liza, I just want to make sure Exhibit 35 is  
6 there for me? Thank you.

7 HEARING OFFICER LEMEI: Yes.

8 MR. GALATI: Yes. All of my exhibits are  
9 identified on (indiscernible).

10 HEARING OFFICER LEMEI: Okay. And, yeah,  
11 I think that we'll deal with objections to any  
12 particular item that's identified later in the  
13 proceeding when that comes up.

14 And I'll ask Staff, are your exhibits  
15 captured, and do you have any concerns with the  
16 exhibit list as it's been updated?

17 MS. DECARLO: Lisa DeCarlo for Staff.

18 Yes, our exhibit is properly reflected,  
19 our last filed one. And I'll reserve any  
20 objections or express concerns about particular  
21 documents as they're presented.

22 HEARING OFFICER LEMEI: Okay.

23 And, Mr. Sarvey, do you have -- are your  
24 additional exhibits identified in your updated  
25 exhibit list accurately reflected?

1 MR. SARVEY: Yes, they are, except I  
2 filed another exhibit this morning which I intend  
3 to include in public comment, Exhibit 312.

4 HEARING OFFICER LEMEI: So the document  
5 that was filed this morning, which is -- let me  
6 just try and pull this up.

7 MR. SARVEY: Exhibit 312 is CyrusOne 2020  
8 Proxy Statement.

9 HEARING OFFICER LEMEI: Was that  
10 identified in the exhibit list that you filed  
11 yesterday?

12 MR. SARVEY: I filed it -- I intended to  
13 file it last night, I didn't meet the deadline,  
14 so I want to enter it in as public comment.

15 HEARING OFFICER LEMEI: Okay. So that  
16 document is not being --

17 MR. SARVEY: Exhibit 312 is public  
18 comment. Thank you.

19 HEARING OFFICER LEMEI: Okay. When I  
20 think of exhibit, I think of documents that  
21 are -- exhibits refers to documents that are  
22 being entered into evidence. So I'm not sure if  
23 it's being -- I don't believe it's being marked  
24 as Exhibit 312 but it is part of the  
25 administrative record and will be taken as public

1 comment based on what you are telling us right  
2 now. Is that acceptable, Mr. Sarvey?

3 MR. SARVEY: Oh, yes. I will identify it  
4 as Exhibit 312 but it is public comment when I  
5 use it. Thank you.

6 HEARING OFFICER LEMEY: Okay. Okay.

7 So it was -- I guess I will -- because  
8 parties have indicated that they may have  
9 objections to some of the documents identified  
10 being entered into evidence, I will not yet --  
11 I'm going to allow us to have an opportunity to  
12 hear any such objections but I don't want to  
13 sidetrack where we are in sort of the  
14 administrative discussion to do that. So I'm  
15 going to refrain at this time from entering all  
16 of the exhibits into evidence. But I've made  
17 myself a note that that's something that we will  
18 need to do, that I will need to do later, once  
19 we've heard any objections to that happening.

20 All right, so during the prehearing  
21 conference, we discussed areas would require  
22 testimony. The list that I identified, which is  
23 based on all of the topics identified by all the  
24 parties, and there was quite a bit of crossover  
25 between the topics identified by the parties, are

1 as follows: the jurisdiction and generating  
2 capacity; energy resources; GHG emissions; air  
3 quality and public health; utilities and public  
4 services; and environmental justice.

5           And I will just note that this last  
6 category of environmental justice, it's unclear  
7 to me whether the parties view that as a  
8 standalone topic or as an aspect of air quality,  
9 for example. My sense was that all the parties  
10 might consider that as an aspect of air quality  
11 and public health.

12           So I'll ask what the parties -- if they  
13 had topics identified that are not captured here  
14 first? And then, second, if I'm correct in my  
15 understanding that environmental justice and  
16 public health is best viewed as an aspect of air  
17 quality -- sorry -- if environmental justice is  
18 best viewed as an aspect of air quality and  
19 public health or if it is a standalone topic.

20           Calling on the parties, Applicant, does  
21 this capture -- rather, are all of your topics  
22 you identified captured?

23           MR. GALATI: This is Scott Galati.

24           That captures all of the topics as I  
25 understand them. And I also agree that the



1 complaints in environmental justice seem to be  
2 all related to air quality.

3 HEARING OFFICER LEMEI: Okay. Thank you  
4 very much.

5 Staff, same question?

6 MS. DECARLO: Lisa DeCarlo for Staff.

7 Yes, that accurately captures all of our  
8 stated technical areas. And we also agree that  
9 environmental justice is encapsulated in the air  
10 quality discussion.

11 HEARING OFFICER LEMEI: And, Mr. Sarvey,  
12 same question to you.

13 MR. SARVEY: Yes, I agree that  
14 environmental justice should be handled under air  
15 quality and public health.

16 I do have another issue with the  
17 jurisdiction of the CEC over the project or  
18 planning, except I don't believe we're going to  
19 be taking any testimony on that today. I'll most  
20 likely address that in public comment.

21 Thank you.

22 HEARING OFFICER LEMEI: Okay. That is  
23 appreciated. I'll just note that I did identify  
24 jurisdiction and generating capacity as the first  
25 topic, so that is captured here, but if you

1 don't --

2 MR. SARVEY: Thank you.

3 HEARING OFFICER LEMEI: -- plan to  
4 present testimony, that's fine. We do have  
5 information in the record on that issue. All  
6 right.

7 Is there any particular preference from  
8 the parties in terms of the order that we would  
9 take these issues in?

10 I guess I'll ask -- you know, I'm  
11 actually going to ask you this, Mr. Sarvey, since  
12 a lot of these issues are actually based on --  
13 you are raising the substantive concern, do you  
14 have a preference which order these are taken in?

15 MR. SARVEY: I believe the best course of  
16 action would be to take the SVP witness and the  
17 BAAQMD witnesses, who are both volunteering their  
18 time, and they have busy schedules. So I think  
19 that their testimony will resolve some issues.  
20 And it's important to get that out first, so the  
21 parties don't waste time arguing about BAAQMD and  
22 SVP (indiscernible).

23 HEARING OFFICER LEMEI: Well, I hear that  
24 as highly respectful, Mr. Sarvey.

25 So if I can just translate that into an

1 order of operations, it sounds like you would  
2 see -- I believe that the issue that they're  
3 going testify to are primarily air quality and  
4 public health, as well as greenhouse gas  
5 emissions. And then that would leave -- with, of  
6 course, environmental justice being an aspect of  
7 air quality and public health. So that give us  
8 topics four and six would be first, then topic  
9 three, and that would leave energy resources and  
10 utilities and public service as the remaining  
11 topics, with the understanding that you don't  
12 actually plan to present evidence on jurisdiction  
13 and generating capacity.

14           Do you have a preference between the  
15 order of utilities and public service and energy  
16 resources?

17           MR. SARVEY: In our last hearing, we led  
18 off utilities and service systems, and the we  
19 went to energy resources, and they seemed to  
20 combine it real well there. Then we went to air  
21 quality. We took the BAAQMD witness. And then we  
22 took Applicant, Staff, and myself. I think  
23 that's -- the way we did it last time worked  
24 fairly well and I think we probably should  
25 (indiscernible) brief.

1 HEARING OFFICER LEMEI: Okay. I'm going  
2 to write this down because I'm fallible and, if I  
3 don't, I will not necessarily remember. So bear  
4 with me. Air Q --

5 (Pause)

6 HEARING OFFICER LEMEI: All right, so to  
7 summarize, Mr. Sarvey has proposed the order that  
8 we take things as air quality and public health,  
9 including environmental justice, first, then  
10 greenhouse gas emissions, then utilities and  
11 public service and energy resources, which, as he  
12 observes correctly, I think had some crossover.

13 I will ask Applicant, do you have any  
14 objection to that order?

15 Applicant, have you lost -- can folks  
16 hear me?

17 MR. GALATI: I apologize.

18 HEARING OFFICER LEMEI: Oh.

19 MR. GALATI: This is Scott Galati. I'm  
20 going to get used to where -- to un-mute myself,  
21 although I'm sure many people on this particular  
22 participant list would like to mute me --

23 HEARING OFFICER LEMEI: Oh, no, Mr.  
24 Galati.

25 MR. GALATI: -- as most people who know

1 me.

2           No, what I was saying is that you -- the  
3 fact that you added greenhouse gases to that part  
4 makes sense to be because I believe that the  
5 Silicon Valley Power witness is critical to  
6 greenhouse gas emissions, energy resources, and  
7 utility systems. So taking those as a group  
8 makes sense to me.

9           HEARING OFFICER LEMEI: Okay. All right.  
10 Well, you know, I don't -- these categories are,  
11 admittedly, somewhat artificial because -- or at  
12 least there is a certain amount of, maybe even  
13 quite a bit, of crossover or commonality in terms  
14 of the -- how these issues affect one another, so  
15 I don't want to put too fine a point.

16           What I had proposed was that we do air  
17 quality first, and including any EJ associated  
18 with it, and then greenhouse gases, and then  
19 utility services. Is that different than what  
20 you understood me to say when you say that you  
21 wanted to see greenhouse gases and utilities  
22 services taken together?

23           MR. GALATI: It doesn't matter to me.  
24 It's just that the questions I have for the SVP  
25 witness, I could handle them very quickly, or

1 Staff could handle them very quickly, if we just  
2 focus on what that witness evidence needs to be.

3 HEARING OFFICER LEMEI: Okay. Well, then  
4 I think that, bearing that in mind, I will ask  
5 Staff if they have any objections to the order  
6 that I've suggested or just thoughts on how to  
7 best take these topics and the associated  
8 witnesses?

9 MS. DECARLO: Lisa DeCarlo for Staff.

10 Yes, I am easily confused by the  
11 crossover in the various topic areas, so I prefer  
12 to look at it from the standpoint of who will be  
13 testifying. I think it makes sense that SVP  
14 testify first. A lot of their testimony forms  
15 the basis for the greenhouse gas analysis  
16 assumptions and also goes to a lot of Mr.  
17 Sarvey's questions about the potential impact of  
18 Sequoia on the system and any outfall from that.  
19 I believe this is how we started in Walsh and I  
20 think it worked well.

21 After SVP, I would recommend going then  
22 to BAAQMD for similar reasons. A lot of their  
23 testimony will shed light on their position  
24 regarding Staff's analysis and I think that forms  
25 a good baseline to then dive into Staff's

1 testimony.

2 I'm not sure, I think in Walsh we had  
3 SVP, BAAQMD, then air quality/public health/GHG  
4 testimony, and then we followed it up lastly with  
5 testimony from Staff on energy resources. I  
6 think that last part can probably be slotted  
7 anywhere within that, obviously, after the first  
8 two agencies go.

9 HEARING OFFICER LEMEI: Okay. So what  
10 I'm hearing, I think, all of the parties is a  
11 resistance, or even a rejection, to my attempt to  
12 compartmentalize this by topic and really saying  
13 that the better way to organize our thoughts and  
14 out time is by who is speaking, with the  
15 understanding that Silicon Valley Power and  
16 BAAQMD, in particular, are going to be speaking  
17 to multiple topics.

18 So I accept the wisdom of the parties and  
19 will -- and so our game plan here is going to  
20 take Silicon -- or I'm suggesting now, a new  
21 suggestion, take Silicon Valley Power first, take  
22 BAAQMD second, allow the parties to ask all the  
23 questions of those witnesses on any relevant --  
24 on any of these relevant topics, and then take  
25 Staff's witnesses. And Staff's witnesses would

1 be in the order of air quality and public health,  
2 GHGs, utility, public service, and energy  
3 resources.

4 And I'll just inquire, did -- Mr. Galati,  
5 do you have any other witnesses that wouldn't be  
6 captured by Silicon Valley Power, BAAQMD, and  
7 Staff?

8 MR. GALATI: Yeah. This is Scott Galati.  
9 I do have witnesses.

10 HEARING OFFICER LEMEI: Okay.

11 MR. GALATI: And I -- what we did in  
12 Walsh first is I'm happy to go first but however  
13 order you think makes sense. I think that we  
14 should get one with Silicon Valley Power and Bay  
15 Area Air Quality Management District, ask them  
16 their evidentiary questions, and then move on to  
17 the rest of the witnesses.

18 So I agree that Staff should go first  
19 because those are Staff's witnesses.

20 HEARING OFFICER LEMEI: Um-hmm.

21 MR. GALATI: And we can ask our questions  
22 and then we can go in the normal order of  
23 Applicant with the rest of the testimony, Staff  
24 with the rest of the testimony, and Mr. Sarvey  
25 with the rest of the testimony, and then we can



1 engage in cross on those. That would be my  
2 preference.

3 HEARING OFFICER LEMEI: Okay. This  
4 sounds right to me. Okay.

5 Mr. Sarvey, do you have any objection  
6 to -- I think that Mr. Galati just articulated  
7 quite well what I was trying to articulate but  
8 not especially artfully. I mean, I'm going to  
9 try to repeat it, just to make sure I have it  
10 down right. Starting with SVP, then BAAQMD,  
11 then -- which I think is -- well, and any other  
12 Staff witnesses, if they're already -- if Staff  
13 has other witnesses that aren't included there,  
14 then Mr. Galati's witnesses, and then Mr.  
15 Sarvey's witnesses?

16 MR. SARVEY: Yes. That was my original  
17 recommendation.

18 HEARING OFFICER LEMEI: Perfect. I'm  
19 glad that we all agreed. And it just took me a  
20 little while to get there. Sorry for taking  
21 everyone's time with that.

22 MS. DECARLO: This is Lisa DeCarlo. I'm  
23 sorry to throw a wrench in this. I didn't intend  
24 to subvert the natural order of Applicant  
25 witnesses go first, then Staff, and then Mr.

1 Sarvey.

2           So my proposal would be SVP, BAAQMD, and  
3 then as we revisit the various separate technical  
4 areas, have Applicant go first for their experts,  
5 and then Staff, and then Mr. Sarvey, if that  
6 didn't completely confuse everything.

7           HEARING OFFICER LEMEI: Okay. Sure. I  
8 understood that you were suggesting to the  
9 contrary.

10           So in that case, without belaboring the  
11 point, Applicant and Sarvey, Mr. Sarvey, do you  
12 have any objection to that, proceeding with the  
13 normal order, as Ms. DeCarlo suggested, once we  
14 conclude with SVP and BAAQMD?

15           MR. GALATI: This is Scott Galati. No  
16 objection.

17           MR. SARVEY: This is Robert Sarvey. No  
18 objections.

19           HEARING OFFICER LEMEI: All right. All  
20 right. Thank you. I'm glad we managed to get  
21 through that together. Another fun aspect of  
22 having a less experienced Hearing Officer. It  
23 takes a little more time to figure these things  
24 out. Okay.

25           Well, I think to this point -- so my

1 understanding is that the normal procedure is  
2 before we ask the witnesses to start testifying,  
3 we do normally enter the exhibits that have been  
4 identified by the parties into the record of the  
5 proceeding.

6 I'll just ask the clarifying question.  
7 Is my understanding of the normal operating  
8 procedure correct in that regard? I'm hearing no  
9 objections, so --

10 MR. GALATI: Yeah. This is Scott Galati.  
11 I didn't know that question was sent to me but,  
12 yes, that is the normal way and I agree.

13 And with that, I make a motion to move my  
14 Exhibits 1 through 35 into the record.

15 HEARING OFFICER LEMEI: Okay. Are there  
16 any objections to Mr. Galati moving his exhibits  
17 into the -- 1 through 35, as identified in his  
18 most recently filed updated exhibit list, into  
19 the record?

20 MS. DECARLO: No objection from Staff.

21 MR. SARVEY: Robert Sarvey has no  
22 objections.

23 HEARING OFFICER LEMEI: All right.  
24 Applicant's Exhibits 1 through 35 are moved into  
25 the record.

1 (Applicant Exhibits 1 through 35 are  
2 admitted.)

3 HEARING OFFICER LEMEI: Ms. DeCarlo,  
4 would you like to make a motion to move your  
5 exhibits into the record?

6 MS. DECARLO: Yes. Staff moves to move  
7 our Exhibits 200 through 204 into the record.

8 HEARING OFFICER LEMEI: All right. Are  
9 there any objections from the other parties to  
10 Staff's exhibits being moved into the record,  
11 starting with Applicant?

12 MR. GALATI: This is Scott Galati. No  
13 objections.

14 HEARING OFFICER LEMEI: Robert Sarvey?

15 MR. SARVEY: I have no objections. Thank  
16 you.

17 HEARING OFFICER LEMEI: All right.

18 (Staff Exhibits 200 through 204 are  
19 admitted.)

20 HEARING OFFICER LEMEI: Robert Sarvey,  
21 would you like to make a motion to move your  
22 exhibits into the record?

23 MR. SARVEY: I would like to move my  
24 Exhibits 300 through 311 into the record please.

25 HEARING OFFICER LEMEI: 300 through 311.

1 Okay.

2           And I will then ask the other parties,  
3 starting with Staff, do you have any objection to  
4 those exhibits being moved into the record?

5           MS. DECARLO: No objection from Staff.

6           HEARING OFFICER LEMEI: Applicant, do you  
7 have any objection to those exhibits being moved  
8 into the record?

9           MR. GALATI: No, I'd don't have any  
10 objection to that.

11          (Intervenor Exhibits 300 through 311 are  
12 admitted.)

13           I do have an objection to public comment  
14 being identified as Exhibit 312, whether it's  
15 moved in or not. It's confusing whether it is an  
16 evidentiary exhibit or public comment, so I  
17 suggest the exhibit list not be modified to  
18 include what Mr. Sarvey is not moving into the  
19 record.

20           HEARING OFFICER LEMEI: I am inclined to  
21 agree with that. The Committee -- as I was  
22 indicating previously, I use exhibits as a term  
23 of art to refer to specific pieces of evidence  
24 that have been moved into the record. If that is  
25 not being moved into the record as an exhibit, I

1 am not planning to identify it as an exhibit. I  
2 will try to keep in mind that if Mr. Sarvey  
3 refers to an Exhibit 312, that he's referring to  
4 that, but I can't promise to remember that.

5           So, hopefully, he'll -- I would  
6 appreciate it, Mr. Sarvey, if you could, you  
7 know, if you're going to refer to that document  
8 in a public comment portion of this proceeding, I  
9 would appreciate it if you identify it by name.  
10 Are you amenable to that?

11           MR. SARVEY: Yeah. I have no issue with  
12 it. Thank you.

13           HEARING OFFICER LEMEI: Okay. Thanks.  
14 Okay. So just a moment.

15           So just as a reminder -- well, I won't  
16 say it's a reminder because we've modified our  
17 standard operating procedure to take Silicon  
18 Valley Power and BAAQMD witnesses first. And,  
19 otherwise, we're going to proceed with the  
20 standard order of Applicant, Staff, and Mr.  
21 Sarvey.

22           A quick note on closing statements. We  
23 had some discussion of closing statements, sort  
24 of indirectly, at the prehearing conference. But  
25 if my recollection is correct, I did not

1 specifically ask the parties if they wanted to  
2 make closing statements at the prehearing  
3 conference, and so I will just do now.

4           Do the parties desire to make a closing  
5 statement of up to ten minutes at the conclusion  
6 of this evidentiary hearing, or after evidence is  
7 presented in this evidentiary hearing, I should  
8 say, beginning with -- and just to be clear, I'm  
9 asking for a yes or no statement at this point,  
10 not a preview of your closing statement.

11           Staff, do you wish to make a closing  
12 statement?

13           MS. DECARLO: We certainly have one  
14 prepared. And if the other parties are amendable  
15 to making their statements, we would request to  
16 make one as well.

17           HEARING OFFICER LEMEI: Okay.

18           Applicant, do you wish to make a closing  
19 statement?

20           MR. GALATI: Yes.

21           HEARING OFFICER LEMEI: Okay.

22           MR. GALATI: This is Scott Galati.

23           HEARING OFFICER LEMEI: Okay.

24           Mr. Sarvey, do you wish to make a closing  
25 statement?

1           MR. SARVEY: This is Bob Sarvey. I don't  
2 see any reason to have a closing statement. I  
3 think everything will be clear at the end of this  
4 and I don't think we need to go there. But if  
5 everybody wants to make one, I'll make one as  
6 well. I prefer to have a brief, rather than a  
7 closing statement. I think it's more  
8 illustrative to the Committee of the issues, the  
9 facts, and the law applied, so I prefer a brief  
10 than closing.

11           HEARING OFFICER LEMEY: Okay. So the  
12 question of whether there's briefs is distinct  
13 from the question of whether there's closing  
14 statements. But I do observe that the position  
15 of Mr. Galati has been that briefs aren't  
16 necessary but he would like to make a closing  
17 statement. And I understand your position, as it  
18 has been, that you would like to file briefs but  
19 don't necessarily see value in a closing  
20 statement. So maybe you're both looking at these  
21 things as serving a similar function.

22           I understood you, Mr. Sarvey, as not  
23 objecting to others making a closing statement  
24 and -- but wishing an opportunity to make your  
25 own closing statement if others are making a



1 closing statement. Am I understanding you  
2 correct, Mr. Sarvey?

3 MR. SARVEY: If the other parties make a  
4 closing statement, I will as well.

5 HEARING OFFICER LEMEI: Okay. In that  
6 case, I'll go back to you, Mr. Galati. Is your  
7 desire to make a closing statement on the  
8 assumption that that will serve in lieu of briefs  
9 or do you wish to make a closing statement  
10 irrespective of whether there's briefs?

11 MR. GALATI: We'll do whatever the  
12 Committee finds helpful. And, again, this is  
13 Scott Galati. We'll do whatever the Committee  
14 finds helpful.

15 I believe that the purpose of briefs are  
16 to brief legal arguments and not be a closing  
17 factual evidentiary statement, and that's what I  
18 would do in my statement is identify for the  
19 record what sometimes have been put in briefs,  
20 which is simply what the exhibits say and which  
21 ones the Committee should rely on and what the  
22 facts are. But if the Committee has any new  
23 question, I believe the appropriate way for --  
24 and a legal question, is in a brief.

25 HEARING OFFICER LEMEI: Okay. That is

1 clear.

2 PRESIDING MEMBER DOUGLAS: Mr. Lemei, I'm  
3 just going to break in here. This is  
4 Commissioner Douglas.

5 I think brief closing statements would be  
6 helpful.

7 HEARING OFFICER LEMEI: Okay. In that  
8 case, then the preference of the Presiding Member  
9 takes precedence, certainly, over mine, not that  
10 I have any concerns about closing statements.

11 So let's go -- yes, we will have closing  
12 statements of ten minutes per party, which, I  
13 understand, no one objects to having closing  
14 statements.

15 So with that bit of housekeeping out of  
16 the way, I believe we are ready to proceed to the  
17 heart of the evidentiary hearing. So we are  
18 going to begin with Mr. Kolnowski from Silicon  
19 Valley Power.

20 MS. DECARLO: Yes. This is Lisa DeCarlo,  
21 Staff Attorney.

22 We will be sponsoring Mr. Kolnowski's  
23 direct testimony.

24 HEARING OFFICER LEMEI: Excellent.

25 Mr. Kolnowski, are you able to be sworn

1 in?

2 MR. KOLNOWSKI: Yes.

3 HEARING OFFICER LEMEI: All right.

4 (Kevin Kolnowski is sworn.)

5 HEARING OFFICER LEMEI: Thank you.

6 All right, I will hand it over to you,

7 Ms. DeCarlo.

8 MS. DECARLO: Thank you, Mr. Lemei.

9 Mr. Kolnowski, can you please state your  
10 name and title for the record?

11 MR. KOLNOWSKI: My name is Kevin

12 Kolnowski,

13 K-O-L-N-O-W-S-K-I, and I'm the Chief Operating

14 Officer for Silicon Valley Power, which is the

15 Electric Department of the City of Santa Clara.

16 MS. DECARLO: And can you please briefly

17 describe your responsibilities at Silicon Valley

18 Power?

19 MR. KOLNOWSKI: As the Chief Operating

20 Officer, I handle the day-to-day operations of

21 the utility. Prior to this role at the utility,

22 I was in charge of engineering, generation,

23 transmission, distribution, and control.

24 MS. DECARLO: And are you generally

25 familiar with the Sequoia Data Center proposal?

1 MR. KOLNOWSKI: Yes.

2 MS. DECARLO: Would the construction and  
3 operation of the Sequoia Data Center require SVP  
4 to construct new infrastructure to accommodate  
5 the project?

6 MR. KOLNOWSKI: There will be a new  
7 substation that is part of the project that the  
8 Applicant will be building and providing. It  
9 will become a part of SVP's sys, so that is a new  
10 piece of construction that will be done on their  
11 part for us.

12 MS. DECARLO: How about any other  
13 infrastructure needed for the system?

14 MR. KOLNOWSKI: Not specifically for  
15 this. We do have projects that are planned to  
16 accommodate low growth, which we've been planning  
17 for the last ten -- or we look out for a ten-year  
18 horizon.

19 MS. DECARLO: On page 20 of Exhibit 300,  
20 Mr. Sarvey lists several anticipated  
21 infrastructure projects being considered by SVP.  
22 Are any of these projects being proposed as a  
23 direct result of the Sequoia Data Center?

24 MR. KOLNOWSKI: No. I'm just -- I want  
25 to just check my list because sometimes we use

1 different names. And the Parker Substation, the  
2 Oaks Junction, Laurelwood Substation, and Freedom  
3 Circle were planned for various data centers and  
4 I'm just looking to double check.

5 No, none of those were specifically  
6 identified for this project.

7 MS. DECARLO: All right. And just to  
8 confirm, are they expected to move forward,  
9 regardless of whether the Sequoia Data Center is  
10 ever built?

11 MR. KOLNOWSKI: Yes.

12 MS. DECARLO: Can you please discuss  
13 SVP's current and future ability to accommodate  
14 the electrical needs of the Sequoia Data Center?

15 MR. KOLNOWSKI: We currently -- Silicon  
16 Valley Power has experienced a five to seven  
17 percent load growth over the last several years.  
18 And we have laid out projects to accommodate that  
19 load growth.

20 Along with that, we continue to look for  
21 resources to -- renewable resources to supply the  
22 increased demand that comes with that load  
23 growth. And we currently have about 400 -- a  
24 little over 400 megawatts that are scheduled to  
25 come on in the next several years to accommodate

1 the growth that we're experiencing. And we  
2 continue to look forward for opportunities with  
3 power purchase agreements with other developers  
4 to continue to add resources to our portfolio.

5 MS. DECARLO: Is the ability to  
6 accommodate Sequoia altered in any way by the  
7 fact that additional data centers will likely  
8 also be constructed and operated in SVP  
9 territory?

10 MR. KOLNOWSKI: No.

11 MS. DECARLO: Would operation of the  
12 Sequoia Data Center create any procurement  
13 shortfall for SVP?

14 MR. KOLNOWSKI: No. It does create a  
15 procurement obligation for us but not a  
16 shortfall.

17 MS. DECARLO: In your experience, do data  
18 centers typically operate at or near their  
19 maximum listed capacity?

20 MR. KOLNOWSKI: No, they do not.

21 MS. DECARLO: Will SVP be required to  
22 procure more natural gas as a result of the  
23 Sequoia Data Center?

24 MR. KOLNOWSKI: No.

25 MS. DECARLO: Have you had a chance to

1 review Applicant's Exhibit 31, which is an email  
2 chain originated from SVP Representative Kathleen  
3 Hughes on February 6, 2019?

4 MR. KOLNOWSKI: Yes.

5 MS. DECARLO: Can you please describe the  
6 substance of the email?

7 MR. KOLNOWSKI: This is a projection of  
8 our average carbon intensity projected from 2019  
9 through 2030. And it shows a declining trend  
10 because of the renewable resources we have,  
11 either procured or are going to procure, to meet  
12 the state obligations for renewable portfolio  
13 standards.

14

15

16 HEARING OFFICER LEMEI: Mr. Kolnowski,  
17 sorry to interrupt. Would you like that document  
18 displayed on the screen?

19 MR. KOLNOWSKI: I have it. No, that's  
20 okay, I have it in front of me, unless others  
21 would.

22 HEARING OFFICER LEMEI: Do you think it's  
23 helpful for the members of the Committee to see  
24 that document?

25 I'm sorry to interrupt. I won't do this

1 again, I just -- just going forward, please let  
2 me know if you want the document identified on  
3 the screen and we'll make that happen if it's  
4 identified as an exhibit.

5 MS. DECARLO: Mr. Kolnowski, to your  
6 knowledge, do these numbers fairly represent  
7 SVP's projected GHG emissions for every year  
8 through 2030?

9 MR. KOLNOWSKI: Yes.

10 MS. DECARLO: Staff's calculation of  
11 Sequoia's GHG emissions uses a carbon intensity  
12 for SVP of 430 pounds CO2 equivalent per megawatt  
13 hour.

14 In your opinion, does the use of this  
15 number lead to a likely overestimation of GHG  
16 emissions attributable to the Sequoia Data  
17 Center?

18 MR. KOLNOWSKI: Yes.

19 MS. DECARLO: Mr. Sarvey argues that  
20 Staff should have, instead, used SVP's power  
21 content label to estimate GHG emissions.

22 In your opinion, which is a more accurate  
23 reflection of the potential GHG emissions that  
24 could be attributed to Sequoia Data Center, a  
25 calculation derived from the power content label



1 or one derived from SVP's overall carbon  
2 intensity factor?

3 MR. KOLNOWSKI: We believe it should be  
4 derived from the overall carbon intensity factor  
5 because it's more reflective of what is delivered  
6 to our customers.

7 MS. DECARLO: Are you familiar with the  
8 SB 100 mandate that electricity portfolios be 60  
9 percent renewable by 2030?

10 MR. KOLNOWSKI: Yes.

11 MS. DECARLO: And that it is the state's  
12 goal that portfolios consist of 100 percent  
13 renewable or zero-carbon electricity by 2045?

14 MR. KOLNOWSKI: Yes.

15 MS. DECARLO: Is SVP working to meet  
16 these targets?

17 MR. KOLNOWSKI: Yes.

18 MS. DECARLO: Can you please explain what  
19 actions SVP is taking to meet its state GHG and  
20 RPS goals and requirements?

21 MR. KOLNOWSKI: We have a Resources Group  
22 that continually is looking for acquiring  
23 resources. PPAs, typically, is the approach that  
24 we use, power purchase agreements. And I think  
25 it was about two years ago, we added a 200

1 megawatt wind facility and a 50 megawatt wind  
2 facility. And we're continuing to always  
3 evaluate different projects that come on to  
4 support our renewable portfolio standard.

5           And we also rely -- we recently --  
6 Northern California Power Agency, NCPA, went --  
7 did a solicitation for renewable products and  
8 we're currently reviewing those.

9           So we're always -- we have to meet the  
10 obligation. And we have a team of professionals  
11 that are monitoring and finding available  
12 resources. And we have put our RFPs for power  
13 and we may be doing that in the future.

14           MS. DECARLO: And would the potential  
15 electricity demand from Sequoia impede the  
16 ability of SVP to meet its GHG and RPS goals and  
17 requirements?

18           MR. KOLNOWSKI: No.

19           MS. DECARLO: Moving on to PG&E's public  
20 safety power shutoffs, Mr. Sarvey argues that  
21 PG&E's PSPS events make it more likely that SVP  
22 will suffer an outage, requiring Sequoia Data  
23 Center to use its backup generators.

24           Can you please discuss whether PG&E's  
25 actions significantly increase the likelihood

1 that data centers in SVP territory will need to  
2 operate their emergency generators?

3 MR. KOLNOWSKI: At Silicon Valley Power,  
4 we receive power from the Pacific Gas and  
5 Electric's transmission grid at either 230  
6 kilovolts or 115 kilovolts versus a number of  
7 the -- of agencies receive power at distribution  
8 levels.

9 Based on history to date, we have not had  
10 any of the PG&E PSPS events curtail -- cause us  
11 to curtail load in Silicon Valley Power.

12 And it's possible it could happen but, to  
13 date, it has not happened. We communicate with  
14 PG&E differently since we are a transmission  
15 taker of theirs versus a distribution taker. It  
16 could happen. We believe everything that PG&E  
17 has been doing reduces the likelihood of events  
18 occurring. They've been making their  
19 transmission system more robust in terms of their  
20 vegetation management system and so forth, so we  
21 believe the trend will continue.

22 But, again, going back to historically,  
23 so far we have not had a PSPS even that caused  
24 curtailment in Santa Clara.

25 MS. DECARLO: And lastly, on page 8 of

1 Exhibit 305, Mr. Sarvey provides and highlights a  
2 quote from a version of SVP's IRP. Can you  
3 please provide some context for that quote?

4 MR. KOLNOWSKI: Okay. Let me find that  
5 for a second. Is this the statement that SVP  
6 finds that the generic emissions rate of 0.43  
7 metric tons of CO2 per megawatt hour for the spot  
8 market purchases per the CEC guidelines to be too  
9 high. If this rate is applied, SVP portfolio  
10 emissions will exceed the GHG targets?"

11 MS. DECARLO: Yes, 0.428. Yes.

12 MR. KOLNOWSKI: Yeah. Yes. That was  
13 taken from our original submittal of the IRP. We  
14 submitted a revised version of the IRP, I believe  
15 it was on August 23rd of '19, which has -- those  
16 statements were changed and no longer in the  
17 document.

18 MS. DECARLO: All right. Thank you, Mr.  
19 Kolnowski. That concludes my direct.

20 The witness is available from questions  
21 from the Committee or cross-examination.

22 HEARING OFFICER LEMEI: Thank you, Ms.  
23 DeCarlo.

24 I guess I'll just follow the standard  
25 order.

1           Applicant, do you have any questions for  
2 this witness? Do you wish to cross-examine this  
3 witness?

4           MR. GALATI: Yes, I do. Thank you. This  
5 is Scott Galati.

6           So could we please put up Exhibit 35 for  
7 the Committee? And I would specifically like  
8 page 4-3.

9           HEARING OFFICER LEMEI: Looks like we're  
10 working on that.

11          MR. GALATI: Yeah. Thank you. Page 4-3,  
12 I apologize, I don't know which of the .pdf it  
13 is. Sorry. Next time, I'll give you the .pdf  
14 number page number, as well, Liza. Sorry.  
15 That's right. Forecast methodology and  
16 assumptions, 4-3.

17          I guess while this is happening, Mr.  
18 Kolnowski, I can ask you. The preliminary  
19 question is: Is this the Silicon Valley Power  
20 Integrated Resource Plan?

21          MR. KOLNOWSKI: Yes.

22          MR. GALATI: And you're familiar with  
23 that?

24          MR. KOLNOWSKI: Yes.

25          MR. GALATI: Okay.

1 Thank you, Liza. That's correct.

2 The first paragraph in Section 4.2, do  
3 you see that, Mr. Kolnowski, on the screen?

4 MR. KOLNOWSKI: Yes.

5 MR. GALATI: This describes your -- how  
6 you work with load forecasting and meeting the  
7 demand of data centers; is that correct?

8 MR. KOLNOWSKI: Correct.

9 MR. GALATI: Could you briefly describe  
10 how you works with data centers so that you know  
11 how and what to procure?

12 MR. KOLNOWSKI: We maintain continual  
13 contact with them about what they're planning,  
14 how they're planning on loading the data center.  
15 They typically don't load up to the full  
16 capacity. And they will lay out a 12- to 18-  
17 month, to a 16-month ramp rate. And we gather  
18 that from all the data centers and we put that  
19 into our Resource Plan to determine what resource  
20 adequacy we have to procure because we anticipate  
21 the load to show up and what resources that we  
22 need to have available to make that happen. And  
23 we typically -- there's certain filings we have  
24 to do with the CAISO and the Energy Commission.  
25 And we make that communication ahead of time with

1 the data centers and we're continually doing it  
2 to find out where their anticipated load growth  
3 will be, if any.

4 MR. GALATI: Thank you. Would you agree  
5 that your Integrated Resource Plan, you update it  
6 very five years in accordance with the law;  
7 correct?

8 MR. KOLNOWSKI: Yes.

9 MR. GALATI: Would you say that your  
10 Integrated Resource Plan is how you demonstrate  
11 that you will meet the state greenhouse gas  
12 reduction goals?

13 MR. KOLNOWSKI: Yes. Yes.

14 MR. GALATI: You mentioned that it's your  
15 experience that data centers don't usually ask  
16 you for their design maximum.

17 Do you have an estimate of the data  
18 centers that you currently serve about what  
19 percentage of the design maximum of the data  
20 center you usually serve?

21 MR. KOLNOWSKI: It's typically less than  
22 50 percent. We checked it for the month of  
23 March, either March or April, and they were  
24 running at about 40 percent.

25 MR. GALATI: Okay. All right.

1           Can we please call up Exhibit 307, page  
2 2?

3           Mr. Kolnowski, this is a document that  
4 Mr. Sarvey filed. He labeled it Exhibit 307 and  
5 it's been introduced into the record. Are you  
6 familiar with what this document is?

7           MR. KOLNOWSKI: Yes.

8           MR. GALATI: Okay. And I think if you go  
9 to page two, Liza, please, there's -- I  
10 apologize, the highlighted area, that is  
11 highlighted by Mr. Sarvey. Can you just briefly  
12 take a look at that and then comment?

13          MR. KOLNOWSKI: You're talking about the  
14 highlighted section?

15          MR. GALATI: Yeah. Read the highlighted  
16 section first. I want to make sure that it's  
17 fresh in your mind before I ask my next question.

18          MR. KOLNOWSKI: Okay.

19          MR. GALATI: Could you read the next four  
20 paragraphs and summarize if you think that's in  
21 conflict?

22          MR. KOLNOWSKI: Do you want me to read  
23 them to the group?

24          MR. GALATI: I don't think you need to.  
25 I just want to make sure you're familiar with



1 what they say.

2 MR. KOLNOWSKI: I'm familiar with the  
3 statements, yes.

4 MR. GALATI: Okay. Thank you. Can you  
5 please just summarize it then for us what the  
6 next four paragraphs say in relation to the  
7 paragraph that's highlighted?

8 MR. KOLNOWSKI: The next four paragraphs  
9 articulate what we're doing to meet that load  
10 growth. And some of the projects have been  
11 completed and some of the projects are continuing  
12 to be completed.

13 At the time that this was written, we  
14 were getting ready to do a project with PG&E for  
15 reconductoring a line from, I believe it was our  
16 Northern Receiving Station to our Scott Receiving  
17 Station, which removed the capacity issue that  
18 was identified here, and that was done in -- it  
19 was January. It was right about the time PG&E  
20 went into bankruptcy. They performed the  
21 construction of that line. And that was a  
22 project that we had been working on, probably,  
23 for about five to six years with PG&E to get  
24 completed.

25 The next four paragraphs talk about the

1 projects that we have going on, the South Loop  
2 Project, which is to improve the reliability of  
3 the loop where a number of the data centers are,  
4 along with some other infrastructure improvements  
5 that we're doing. We're continuing to look at  
6 what systems need to be updated, as we have been  
7 a utility for over 100 years, so we have some old  
8 infrastructure that we need to continue to look  
9 at and improve, and technology has changed, but  
10 we're always looking at what things we have to do  
11 to improve the reliability and replace and update  
12 equipment.

13 MR. GALATI: Great. I think that Staff  
14 Counsel asked you the ultimate question about  
15 your ability to serve the Sequoia Data Center, so  
16 I won't ask you any more questions.

17 Thank you very much, Mr. Kolnowski.

18 HEARING OFFICER LEMEI: All right. Thank  
19 you, Mr. Galati.

20 Mr. Sarvey, would you like to cross-  
21 examine Mr. Kolnowski?

22 MR. SARVEY: Yes, I would. And, first, I  
23 want to apologize to Mr. Kolnowski for asking you  
24 some of the same questions I'll ask  
25 (indiscernible) record at different hearings. So

1 if I ask questions (indiscernible) I apologize in  
2 advance.

3 Back to Exhibit 307 that is currently  
4 still displayed, can you put that back up,  
5 please, the same page that Mr. Galati referred  
6 to, page two?

7 It says here on page two in your company  
8 communique that,

9 "However, SVP's current infrastructure will  
10 not be able to carry the high power demands  
11 of these new data centers. According to  
12 research conducted by SVP's Engineering Team,  
13 the current system could overload by 2021  
14 without any upgrades of investments to meet  
15 the higher demand for electricity."

16 Do you disagree with that statement?

17 MR. KOLNOWSKI: Like I said, there was  
18 a -- there was a line that had constraints on it.  
19 It was a PG&E line that is imbedded within our  
20 system. It goes between two of our substations.

21 So to describe this line, it's a PG&E  
22 line, owned and operated, but it's only between  
23 two of our substations, so it's not connected to  
24 the PG&E system in any way but they own it, don't  
25 ask me why but they do. And that line, that

1 project, we had been working with them for a  
2 number of years to get that updated and  
3 reconducted. And that provided the ability to  
4 move power from the northern end to the southern  
5 end of town. That project has been completed.  
6 And that limitation was removed.

7 MR. SARVEY: Okay. Thank you but that's  
8 not the question I asked.

9 I asked you, does -- SVP's current  
10 infrastructure will not be able to carry the high  
11 power demand to the new data center; is that  
12 true?

13 MR. KOLNOWSKI: No. This was done in  
14 2018 but we --

15 MR. SARVEY: Right.

16 MR. KOLNOWSKI: -- in 2017, we had laid  
17 out a number of projects that we had to take  
18 place over a certain period of time. Once this  
19 one took place, it raised our capacity. Now as  
20 we approach to 1,000 megawatts, we have other  
21 projects that we need to have implemented. And  
22 the last one comes up, I think, in 2027, where we  
23 have to put another 230 transformer in for  
24 reliability issues.

25 MR. SARVEY: It says here,

1

2

3 "The current system could override by 2021  
4 without any upgrades or investments to meet the  
5 higher demand for electricity."

6 And I'm assuming that means data centers;  
7 is that correct?

8 MR. KOLNOWSKI: Our load growth has been  
9 predominantly from data centers and residential  
10 development. There's been, in Santa Clara,  
11 there's been a fairly significant amount of high-  
12 density homes or apartments and condominiums  
13 being developed, and it also means those --

14 MR. SARVEY: Isn't it true --

15 MR. KOLNOWSKI: -- (indiscernible) data  
16 centers.

17 MR. SARVEY: -- isn't it true that 91  
18 percent of your power goes to nonresidential  
19 uses?

20 MR. KOLNOWSKI: True.

21 MR. SARVEY: Okay. Thank you.

22 MR. KOLNOWSKI: That's in the current  
23 state.

24 MR. SARVEY: Thank you. Excuse me for a  
25 second. I've got to get back to where I was here.

1           So previously, last week, you stated SVP  
2 has approximately 850 megawatts of resources  
3 currently?

4           MR. KOLNOWSKI: Let me look at my  
5 spreadsheet.

6           MR. SARVEY: I believe, last week, you  
7 said SVP currently has about 850 megawatts of  
8 resources.

9           MR. KOLNOWSKI: I think what I said was  
10 we had -- let me just look at my spreadsheet  
11 because I had it last week. We have 672  
12 megawatts of renewable, 306 megawatts of fossil,  
13 for a total of 978. And we have projected to  
14 come on over the next several years about 412  
15 megawatts of renewable --

16           MR. SARVEY: Those --

17           MR. KOLNOWSKI: (indiscernible).

18           MR. SARVEY: -- those are all renewables;  
19 correct?

20           MR. KOLNOWSKI: The new stuff coming on,  
21 correct.

22           MR. SARVEY: Right. So you basically,  
23 ultimately, are going to carry about 1,400  
24 megawatts?

25           MR. KOLNOWSKI: Yeah. Once all this is

1 available, it takes us up to 1,391; 78 percent of  
2 that is renewable and 22 percent of that is  
3 fossil

4 MR. SARVEY: Okay. Previously you  
5 testified that you've redone your Integrated  
6 Resource Plan. Would that be Exhibit 35 that the  
7 Applicant has introduced into evidence?

8 MR. KOLNOWSKI: That is the most current  
9 version of it, correct. That was done -- that  
10 was submitted to the Energy Commission, I believe  
11 it was on August 23rd, 2019.

12 MR. SARVEY: Okay.

13 MR. KOLNOWSKI: And that was through  
14 the --

15 MR. SARVEY: Now -- go ahead. I'm sorry.

16 MR. KOLNOWSKI: That was -- when you  
17 submit the IRP, there's an iteration process that  
18 takes place between Energy Commission and us.  
19 And that was the outcome of the discussions that  
20 took place over that period of time, with  
21 feedback from the Energy Commission and so forth  
22 to Kathleen Hughes and the Resource Group.

23 MR. SARVEY: Okay. Thank you.

24 Now could you display that exhibit, page  
25 9 of 111, please?

1 MS. LOPEZ: Can you repeat the exhibit  
2 number?

3 MR. SARVEY: I'm sorry. It's one of the  
4 late exhibits. Hold on one second. I'll get it  
5 for you.

6 MR. GALATI: This is Scott Galati.

7 MR. SARVEY: It's the (indiscernible) I  
8 had posted.

9 MR. GALATI: I think it's -- this is  
10 Scott Galati.

11 I think, Mr. Sarvey, it's Exhibit 35, if  
12 you're talking about what I put up on the screen.

13 MR. SARVEY: Yes, that's correct. Thank  
14 you, Mr. Galati.

15 And I'd like to illustrate page 9 of 111  
16 at the bottom.

17 Now at the bottom of that document, it  
18 says the exact same thing that you said it didn't  
19 say previously. Do you see that?

20 MR. KOLNOWSKI: I do, yes.

21 MR. SARVEY: The last paragraph of that  
22 document?

23 MR. KOLNOWSKI: I see that, yes.

24 MR. SARVEY: It says,  
25



1       "The recommended plan meets the 2030  
2       renewable energy target, as well as the  
3       intermediate targets for renewable energy and  
4       GHG emission reductions. Meeting the GHG  
5       targets assumes that only SVP-owned resources  
6       count towards the emissions target. SVP  
7       finds that a generic emissions rate of 0.428  
8       metric tons of CO2 per megawatt hour from  
9       spot purchases per the CEC Guidelines is too  
10      high. If this rate is applied, SVP's  
11      portfolio emissions will exceed the GH  
12      target."

13             Do you see that

14             MR. KOLNOWSKI: I do.

15             MR. SARVEY: Thank you.

16             What net qualifying capacity do you  
17      assign to your wind resources?

18             MR. KOLNOWSKI: I'm not positive. That I  
19      do not know.

20             MR. SARVEY: What net qualifying capacity  
21      do you assign to your solar resources?

22             MR. KOLNOWSKI: I'm not positive.

23             MR. SARVEY: Do you have a net qualifying  
24      capacity for your existing 978 megawatts?

25             MR. KOLNOWSKI: I can tell you what it

1 was in -- for the 2017 and 2018 time period if  
2 you'll hold on a second?

3 In 2017, our -- oh, hold on a second --  
4 our load factor for our renewables was 43.7  
5 percent. And in 2018, our load factor for our  
6 renewables were 27.2 percent. And the difference  
7 between those two years, 2017 was a wet year and  
8 we had coal in the resource, 2018 was a dry year  
9 and we did not have coal in the resources. That  
10 was the load factor of our renewable resources.

11 MR. SARVEY: So the numbers --

12 MR. KOLNOWSKI: Does that answer your  
13 question?

14 MR. SARVEY: Yeah. So the number of  
15 resources that you have is really dependent on  
16 your net qualifying capacity and, also, your  
17 ability of hydro resources; is that correct?

18 MR. KOLNOWSKI: Correct.

19 MR. SARVEY: Okay. Thank you.

20 MR. KOLNOWSKI: Because hydro is carbon-  
21 free.

22 MR. SARVEY: Okay. Now, well, we can  
23 argue about that but I'm not going to.

24 October PSPS showed it impacted SVP's  
25 geothermal resources.

1 Has Unit 1 come back online yet?

2

3 MR. KOLNOWSKI: I do not know.

4 MR. SARVEY: Do not know? Are you not in  
5 charge of SVP's resources?

6 MR. KOLNOWSKI: I am and --

7 MR. SARVEY: Oh, you don't know? I  
8 understand. I'm just trying to --

9 MR. KOLNOWSKI: I can find out for you  
10 real quick. I believe it has. And I believe the  
11 last one came on in April but I'm not positive on  
12 that.

13 MR. SARVEY: So that, if it came on in  
14 April, that resource had been offline five  
15 months?

16 MR. KOLNOWSKI: It was off an extended  
17 period of time, but let me find out for you, Mr.  
18 Sarvey.

19 MR. SARVEY: Oh, you don't have to do  
20 that. I accept your answer. We can move on.

21 Which hydro resources that provided power  
22 to SVP, whether controlled by SVP or not, were  
23 curtailed during the 2019 PSPS events?

24 MR. KOLNOWSKI: I believe NCPA had some  
25 issues with their facilities for short periods of

1 time. And our Grizzly Facility was offline, it's  
2 been offline since the Camp Fire, and that's  
3 connected to PG&E.

4 MR. SARVEY: Do you --

5 MR. KOLNOWSKI: But it's not -- that's  
6 not PSP related --

7 MR. SARVEY: Okay.

8 MR. KOLNOWSKI: -- the Grizzly is not.

9 MR. SARVEY: All right.

10 San Jose experienced a power curtailment  
11 during the 2019 PSPS event. To your knowledge,  
12 did it affect any data centers in San Jose?

13 MR. KOLNOWSKI: I do not know.

14 MR. SARVEY: Okay. Thank you.

15 Has SVP performed an analysis of possible  
16 PSPS impacts?

17 MR. KOLNOWSKI: We have.

18 MR. SARVEY: And would you expect the  
19 probability of a PSPS event impacting SVP?

20 MR. KOLNOWSKI: Our experience to date,  
21 we have not been affected. In discussion with  
22 PG&E, since we take power at a transmission  
23 level, it's lower. And we have six  
24 interconnection points with PG&E --

25 MR. SARVEY: Are you --

1           MR. KOLNOWSKI:  -- that are coming from  
2 various areas.

3           MR. SARVEY:  So your analysis didn't  
4 determine a probability of this event happening  
5 and SVP --

6           MR. KOLNOWSKI:  We --

7           MR. SARVEY:  -- curtailing?

8           MR. KOLNOWSKI:  We did not.

9           MR. SARVEY:  Okay.  Thank you.

10          Has SVP developed a plan for earthquake  
11 impacts to the electrical system?

12          MR. KOLNOWSKI:  We have an Emergency  
13 Response Plan that an earthquake is a potential  
14 outcome.

15          MR. SARVEY:  And you're aware that your  
16 system is located in the Calaveras and San  
17 Andreas Faults; is that correct?

18          MR. KOLNOWSKI:  Yes.

19          MR. SARVEY:  Okay.  Has SVP assigned any  
20 probability of an earthquake affecting power  
21 delivery in SVP's territory?

22          MR. KOLNOWSKI:  We have not.

23          MR. SARVEY:  Okay.  Thank you.

24          Could you display Exhibit 300, page 6,  
25 please?

1 MS. LOPEZ: Can you repeat that? You cut  
2 out.

3 MR. SARVEY: I'm sorry. Exhibit 300,  
4 page 6. Thank you.

5 In your 2018 power content label, your  
6 nonresidential power mix is almost identical to  
7 the 2018 California power mix. The only major  
8 difference is that your nonresidential mix has 23  
9 percent of unspecified sources of power and the  
10 2018 California power mix has only 11 percent  
11 unspecified sources of power. Your natural gas  
12 power sources are almost identical.

13 Have you calculated a carbon intensity  
14 per megawatt for your nonresidential power mix?

15 MR. KOLNOWSKI: Yes.

16 MR. SARVEY: And what is that number?

17 MR. KOLNOWSKI: The number that I -- I  
18 believe it's like 340.

19 MR. SARVEY: 340. Thank you.

20 MR. KOLNOWSKI: And -- yeah.

21 MR. SARVEY: Does SVP currently have  
22 enough zero-carbon resources to supply the  
23 Sequoia Data Center with 100 percent clean power?  
24 And I don't mean renewable energy credits, I mean  
25 zero-carbon resources.

1           MR. KOLNOWSKI: I'm not sure I quite  
2 understand because we are utilizing our power  
3 right now.

4           So you're saying, if they wanted to go  
5 100 percent renewable, could we accommodate that?

6           MR. SARVEY: Yes.

7           MR. KOLNOWSKI: We would make it happen.  
8 We'd figure out how to make it happen.

9           MR. SARVEY: Thank you.

10          Do data centers report to SVP every time  
11 they use their backup generators in emergency  
12 mode for any reason?

13          MR. KOLNOWSKI: No.

14          MR. SARVEY: Okay. Are you involved with  
15 the environmental permitting for SVP resources?

16          MR. KOLNOWSKI: For? You tailed off at  
17 the end.

18          MR. SARVEY: I said, are you involved in  
19 the environmental permitting for SVP resources?

20          MR. KOLNOWSKI: By resources, do you mean  
21 our power facilities?

22          MR. SARVEY: Your power facilities, yes.  
23 I'm sorry.

24          MR. KOLNOWSKI: The existing ones that we  
25 have --

1 MR. SARVEY: Yes.

2 MR. KOLNOWSKI: -- or are you talking  
3 about a new PPA?

4 MR. SARVEY: No. No. The existing  
5 sources that you have environmental issues in  
6 permitting that they're going through at this  
7 point.

8 MR. KOLNOWSKI: I'm familiar with them.

9 MR. SARVEY: Okay. Are you aware that  
10 the final Donald Von Raesfeld Plant is undergoing  
11 environmental review for its high cancer risk  
12 under BAAQMD Rule 1118?

13 MR. KOLNOWSKI: No.

14 MR. GALATI: I would object to that  
15 question. This is Scott Galati. Mr. Sarvey is  
16 proposing a hypothetical question, I guess, or is  
17 he stating a fact? Because if he's stating a  
18 fact, then he should be sworn and he should  
19 provide that as testimony.

20 MR. SARVEY: Well, I believe I asked him,  
21 did he have a knowledge of it? I didn't say it  
22 was testimony but later on it could be.

23 HEARING OFFICER LEMEI: Yeah. This is  
24 the Hearing Officer.

25 I did not understand Mr. Sarvey's



1 statement to be offered as testimony and it  
2 doesn't have evidentiary weight or value. I  
3 think the question was allowed and the question  
4 was answered.

5 MR. SARVEY: Subject to verification,  
6 would you agree that the Bonneville Dam Regional  
7 Plan is about 1,600 feet from the Sequoia Data  
8 Center?

9 MR. KOLNOWSKI: That seems about correct.

10 MR. SARVEY: Okay. Thank you. That's  
11 all I have. Thank you very much, Mr. Kolnowski.

12 HEARING OFFICER LEMEI: All right. Just  
13 a moment. All right.

14 We will thank you, Mr. Kolnowski.

15 I believe at this point, we can move on  
16 to the BAAQMD witnesses, witness or witnesses,  
17 with the clarifying question on -- Mr. Kolnowski,  
18 are you planning to continue to be available  
19 going forward, should the Committee have  
20 questions?

21 MR. KOLNOWSKI: I will be available.

22 HEARING OFFICER LEMEI: You will be  
23 available. Is your ability to participate in  
24 today's proceeding -- obviously, I imagine you're  
25 very busy. Were you planning to participate in

1 the full public portion of the hearing or were  
2 planning to participate only in the initial  
3 portion when you were being asked questions?

4 MR. KOLNOWSKI: I was planning on  
5 continuing to listen.

6 HEARING OFFICER LEMEI: Okay. Thank you  
7 very much.

8 In that case, I think we can go on to the  
9 witnesses representing the Bay Area Air Quality  
10 Management District.

11 Staff, are you sponsoring those, as well?

12 MS. DECARLO: Yes. This is Lisa DeCarlo.

13 We have Henry Hilken, who will be  
14 providing direct testimony. He is the Director  
15 of Planning and Climate Protection for BAAQMD.

16 We will also have Caryn Quist available.  
17 She is a AQ, Air Quality, Engineer in the  
18 Permitting Office. She will not be providing  
19 direct but she will be available for any  
20 questions.

21

22 HEARING OFFICER LEMEI: Thank you. All  
23 right.

24 So, in that case, my understanding is  
25 that in this moment -- sorry, I have multiple

1 sheets of paper here -- I am swearing in Mr.  
2 Henry Hilken only.

3 Ms. DeCarlo, do you think it is  
4 appropriate for me to swear in both witnesses at  
5 this time or just Mr. Hilken?

6 MS. DECARLO: I don't think it hurts,  
7 just in case the Committee or others might have  
8 questions with regard to permitting, if you want  
9 that as sworn testimony.

10 HEARING OFFICER LEMEI: All right. In  
11 that case, I will go ahead and address the  
12 following two.

13 Both Mr. Hilken and Ms. Quist, thank you  
14 both very much for participating.

15 (Henry Hilken and Caryn Quist are sworn.)

16 HEARING OFFICER LEMEI: Thank you both.

17 Ms. DeCarlo?

18 MS. DECARLO: Thank you.

19 Mr. Hilken, can you please state your  
20 name and title for the record?

21 MR. HILKEN: Henry Hilken, H-I-L-K-E-N.  
22 I'm the Director of Planning and Climate at the  
23 Bay Area Air Quality Management District.

24 MS. DECARLO: And can you please briefly  
25 describe your responsibilities at BAAQMD?

1           MR. HILKEN:  Yes.  I supervise a team of  
2 planners that prepare air quality plans, and do  
3 CEQA review and commenting, and other work with  
4 cities and counties.  And I supervise a team of  
5 staff, our Climate Protection Staff, that  
6 coordinates much of the Air District's climate  
7 protection activities.

8           MS. DECARLO:  And are you generally  
9 familiar with the Sequoia Data Center project?

10          MR. HILKEN:  Yes.

11          MS. DECARLO:  Did you supervise the  
12 preparation of the comments BAAQMD submitted on  
13 Energy Commission staff's Initial Study, Proposed  
14 Mitigated Negative Declaration, for the Sequoia  
15 Data Center project?

16          MR. HILKEN:  Yes.  My Planning staff  
17 prepared the letter.

18          MS. DECARLO:  And have you reviewed  
19 Staff's Response to Committee Questions, Exhibit  
20 203, which, also, which address the BAAQMD  
21 comments?

22          MR. HILKEN:  Yes.  I don't know the  
23 exhibit number but it's the -- I believe it's  
24 dated May 22nd, the CEC Staff Responses.

25          MS. DECARLO:  All right.  And did the

1 Energy Commission staff meet with you and others  
2 at BAAQMD to try to address the stated concerns  
3 about the analysis?

4 MR. HILKEN: Yes.

5 MS. DECARLO: In the area of public  
6 health, did Energy Commission staff's cumulative  
7 health risk assessment analysis address the  
8 concerns raised by BAAQMD in its comments on the  
9 Initial Study?

10 MR. HILKEN: Yes, it did.

11 MS. DECARLO: Do you agree with Energy  
12 Commission staff's cumulative health risk  
13 assessment analysis conclusion that the project's  
14 contribution to PM2.5 at 0.0003 micrograms per  
15 cubic meter is not cumulatively considerable?

16 MR. HILKEN: I agree that the increment  
17 from the Sequoia project is very small in  
18 relation to the other sources in the area that  
19 all cumulatively contribute to the impacts that  
20 are identified in the Staff's Responses.

21 MS. DECARLO: In the area of greenhouse  
22 gases, did Staff's supplemental information  
23 regarding the project's consistency with long-  
24 term state GHG reduction goals address the  
25 concerns raised by BAAQMD in its comments on the

1 initial study?

2 MR. HILKEN: So the gist of our comments  
3 was really to look at those longer-term state  
4 regulations and programs beyond 2020. And, yes,  
5 the CEC Staff's Responses did look beyond 2020  
6 and discuss longer-term state regulations and  
7 executive orders and programs. Some of those  
8 were discussed earlier in the previous testimony.

9 I think that we believe the discussion of  
10 indirect emissions from the grid are handled  
11 sufficiently. And discussed in the staff report,  
12 there are a number of state regulations and  
13 programs that are driving the electrical sector  
14 to more renewables and, ultimately, towards full  
15 renewable.

16 With respect to the operation of the  
17 diesel generators, we, you know, overall, we are  
18 concerned about the ongoing use of diesel,  
19 fossil-based diesel fuel. We have campaigns at  
20 the Air District, for both climate reasons and  
21 for health reasons, to minimize and reduce the  
22 use of fossil-based diesel. And so that's an  
23 area that we would very much like to continue to  
24 work with the CEC staff. How can regional  
25 authorities and state authorities support some of

1 these programs that are identified in your  
2 staff's responses to continue to trim down the  
3 use of fossil diesel.

4 MS. DECARLO: Thank you.

5 That concludes my questions for this  
6 witness. He is available for questions from the  
7 Committee or cross-examination.

8 HEARING OFFICER LEMEI: Thank you, Ms.  
9 DeCarlo.

10 Mr. Galati, do you wish to cross-examine  
11 this witness?

12 MR. GALATI: Yes. I have just, I think,  
13 one or two questions.

14 HEARING OFFICER LEMEI: And I guess I'll  
15 also say, if any of the parties, Mr. Galati, you  
16 in this case, also have questions for Ms. Quist,  
17 please, please indicate that you do wish to ask  
18 Ms. Quist questions as well.

19 MR. GALATI: Yes. Thank you very much.  
20 This is Scott Galati.

21 Mr. Hilken, before we ask you a question,  
22 Liza, I would like you to please pull up Exhibit  
23 23. And page five of the .pdf, Liza. Right  
24 there.

25 Oh, I'm sorry, Mr. Hilken, are you

1 familiar with this document?

2 MR. HILKEN: Yes. I haven't seen it  
3 lately but, certainly, I'm familiar with it, yes.

4 MR. GALATI: Okay. This is the Diesel-  
5 Free by  
6 '33 statement from your website; correct?

7 MR. HILKEN: Yes.

8 MR. GALATI: Okay. And are you familiar  
9 with this section that talks about stationary  
10 engines?

11 MR. HILKEN: Yes.

12 MR. GALATI: Are you familiar that in the  
13 last paragraph here, the Bay Area recognizes that  
14 there has to be some technology changes and  
15 regulatory changes, really, to address the use of  
16 large generators that probably might take up to  
17 15 years to do so?

18 MR. HILKEN: I certainly understand that  
19 we can't do it overnight. It will take some  
20 time. And I think what we're saying is that we  
21 would like public agencies in California to do  
22 whatever we can to support and encourage and  
23 accelerate that transition.

24 MR. GALATI: Thank you very much, Mr.  
25 Hilken. I have no further questions.



1 HEARING OFFICER LEMEI: Thank you, Mr.  
2 Galati.

3 Mr. Sarvey, would you like to cross-  
4 examine this witness? Also, if you'd like to ask  
5 questions of Ms. Quist, she's been made  
6 available.

7 MR. SARVEY: Yes, I would. Thank you.

8 HEARING OFFICER LEMEI: All right. Go  
9 ahead.

10 MR. SARVEY: Mr. Galati just referenced  
11 you to a Diesel-Free Workbook or whatever it is.  
12 And the workbook talks about zero-emission  
13 technologies replacing diesel generators.

14 There's a lot of other technologies that  
15 exist right now that could replace diesel  
16 generators; isn't that correct?

17 MR. HILKEN: Yes.

18 MR. SARVEY: And they would have far less  
19 impacts than the diesel generators; would that be  
20 your opinion?

21 MR. HILKEN: There are greener  
22 alternatives out there, yes, hydrogen fuel cells,  
23 renewable diesel. Yes, there are other  
24 alternatives to fossil-diesel generators.

25 MR. SARVEY: And is that your main

1 concern with the -- this project, is to eliminate  
2 the use of backup diesel generators?

3 MR. HILKEN: I think our main concern is  
4 the use of the fossil fuel-diesel backup  
5 generators.

6 MR. SARVEY: Okay. Has CEC Staff or the  
7 City of Santa Clara offered to meet with the  
8 District and discuss eliminating backup diesel  
9 generators in all of the CEC data centers under  
10 review?

11 MR. HILKEN: The City of Santa Clara's  
12 mayor did sign onto that diesel-free-by-'33  
13 pledge previously. I can't say that Staff has  
14 reached out to us recently, affirmatively, to set  
15 up a meeting. But we meet with cities and  
16 counties and some of the local CCAs quite  
17 frequently. And we would certainly be happy to  
18 have those discussions with them.

19 MR. SARVEY: How is the Diesel-Free by  
20 '33 Program being accepted by cities in the Air  
21 District?

22 MR. HILKEN: Well, I think there was a  
23 lot of enthusiasm. When we first launched it, a  
24 number of cities, quite a few cities and other  
25 public entities, signed on. And now we have,

1 since then, been working with local staff in  
2 various jurisdictions to help them make some  
3 progress, to identify their local diesel assets,  
4 and identify best practices, and support local  
5 staff in making that transition. And that was  
6 captured in that pledge.

7 MR. SARVEY: If you met with the CEC  
8 staff and the City of Santa Clara, what  
9 alternatives would you propose to replace these  
10 diesel engines? Would it be natural gas engines,  
11 microturbines, biodiesels, fuel cells, or some  
12 other source?

13 MR. HILKEN: All of those alternatives  
14 that you mentioned are possibilities. And I  
15 believe we mentioned several of those in our  
16 original comment in February.

17 MR. SARVEY: So far the Energy Commission  
18 has approved the McLaren Data Center with its 47  
19 diesel-fired backup generators each with a peak  
20 output capacity of 2.75 megawatts. It also  
21 approved the Laurelwood Data Center with 56 3-  
22 megawatt standby backup diesel-fired generators.  
23 This project proposes permitting 54 2.25 megawatt  
24 diesel-fired generators.

25 Is that buildup of diesel generators

1 centered in this environmental justice community  
2 concern the District?

3 MR. HILKEN: As I said, we have had a  
4 campaign for several years now to reduce the use  
5 of fossil-based diesel in mobile and stationary  
6 engines. And so that continues to be a campaign  
7 of ours in all communities for both climate  
8 reasons and local health reasons.

9 MR. SARVEY: Does the District have the  
10 authority to require the data centers to not use  
11 diesel engines and use some other form?

12 MR. HILKEN: That's a permit question  
13 that I would rather -- I would refer to my  
14 colleague from the Engineering Division who would  
15 speak to the permit requirements better than I  
16 could.

17 MR. SARVEY: Okay. Are they available?

18 MR. HILKEN: Yes.

19 MR. SARVEY: Okay. Do I need to repeat  
20 the question?

21 HEARING OFFICER LEMEY: I'm just thinking  
22 whether it's best for you to finish your  
23 questions from Mr. Hilken first and then --

24 MR. SARVEY: Well, they're testifying as  
25 a panel, so I don't see any --

1 HEARING OFFICER LEMEI: Okay. I guess  
2 that's correct.

3 All right, I will go ahead and ask, Ms.  
4 Quist, are you present and available?

5 MS. QUIST: Yes, I am.

6 HEARING OFFICER LEMEI: Did you  
7 understand Mr. Sarvey's question and are you able  
8 to answer it?

9 MS. QUIST: Yeah, could you repeat the  
10 question please?

11 MR. SARVEY: Yeah. I was wondering if  
12 the District had the authority to require these  
13 data centers to use something else besides diesel  
14 engines or some other?

15 MS. QUIST: So I think maybe two  
16 responses to that.

17 One would be, you mentioned that it's an  
18 environmental justice community. And it is true  
19 that the site is located within a 2013 cumulative  
20 impact area through CARE, the Community Air Risk  
21 Evaluation Program. However, that designation  
22 alone doesn't currently trigger additional permit  
23 evaluation studies or legally compel the  
24 Applicant to use alternative source technologies.

25 And then the other consideration would be

1 best available control technology. And in the  
2 engineering evaluation, we go through a pretty  
3 extensive analysis of this but, long story short,  
4 at this time the engines being proposed in this  
5 application meet best available control  
6 technology, or BACT, through being Tier 2 engines  
7 and using low-sulfur diesel.

8 MR. SARVEY: And their application is for  
9 28 engines, not 54; is that correct?

10 MS. QUIST: That is correct.

11 MR. SARVEY: So they haven't applied for  
12 a full 54 2.25 megawatt diesel generators; am I  
13 assuming that's correct?

14 MS. QUIST: You're correct. The new  
15 source review application that we received is for  
16 the initial 28 generators to be installed.

17 MR. SARVEY: Thank you.

18 In the BAAQMD CEQA Guidelines, power  
19 plants are considered complex sources; isn't that  
20 true?

21 HEARING OFFICER LEMEI: Can you please  
22 clarify? Are you asking this next question of --

23 MR. SARVEY: Either.

24 HEARING OFFICER LEMEI: Okay.

25 MR. SARVEY: Either person --

1 HEARING OFFICER LEMEI: Okay.

2

3 MR. SARVEY: -- can answer.

4 HEARING OFFICER LEMEI: Okay. Okay. So

5 just for our own clarity's sake, I think the

6 assumption is that all of these questions are

7 being directed as cross-examination to Mr.

8 Hilken.

9 Mr. Hilken, please, if you think that the

10 question is best answered by Ms. Quist, so

11 indicate and we'll let her answer the question,

12 just so that we can maintain a clean transcript.

13 MR. HILKEN: Certainly.

14 Mr. Sarvey, could you repeat the

15 question?

16 MR. SARVEY: Yes. In the BAAQMD CEQA

17 Guidelines, power plants are considered complex

18 sources; is that correct?

19 MR. HILKEN: I believe so.

20 MR. SARVEY: Okay. A power plant, which

21 is Rule 1118 source, was located within 1,600

22 feet of the proposed source, the SDC. Was this

23 correct amount included in the cumulative health

24 risk assessment?

25 MR. HILKEN: Are you talking about the

1 recommended cumulative analysis in the CEQA  
2 document or any analysis we do as part of our  
3 review of the permit application?

4 MR. SARVEY: Any analysis that you  
5 recommend the Energy Commission conduct.

6 MR. HILKEN: Well, our CEQA Guidelines  
7 speak to a cumulative impact analysis. That was  
8 part -- that was discussed in our letter and we  
9 touched upon it earlier. So we recommend that  
10 any CEQA documents, including this one, when  
11 analyzing the impacts from an individual project,  
12 also look at other -- the cumulative effects of  
13 other sources, stationary and mobile sources,  
14 within 1,000-foot radius of the project being  
15 analyzed.

16 MR. SARVEY: Ms. Quist, are you familiar  
17 with the Rule 1118?

18 MS. QUIST: Yes, I am.

19 MR. SARVEY: And is it true that the  
20 Donald Von Raesfeld Plant is currently being  
21 evaluated under that permit rule?

22 MS. QUIST: There's another subgroup  
23 within my division that is working on sites for  
24 the 1118 evaluation, so I'm not specifically  
25 aware if that's currently being evaluated or not,



1 I don't know, or that it was allocated.

2 MR. SARVEY: Thank you.

3 You mentioned earlier that the  
4 contribution of the Sequoia Data Center to the  
5 maximum cancer impact was de minimis, so,  
6 therefore, you believe that it's not significant;  
7 is that correct?

8 MR. HILKEN: I did not use the word de  
9 minimis but I said it was -- I agreed with the  
10 comment that it was very small in comparison to  
11 other sources in the area.

12 MR. SARVEY: Well, do you remember what  
13 that amount was?

14 MR. HILKEN: Oh, boy, I think I have the  
15 document in front of me. Let me take a look.  
16 With respect to what pollutant? There are three  
17 tables here. I'm sorry. Were you talking about  
18 cancer risk or PM or what are you asking me  
19 specifically?

20 MR. SARVEY: The cancer risk.

21 MR. HILKEN: For cancer risk, let me see,  
22 it appears, well, there's separate different  
23 receptor points. The CEC staff looked at four  
24 different receptor points, so there are four  
25 different figures here that I can read for you.

1 From Table 1, the cancer risk for the MEIW, it's  
2 2.2. For the maximum -- that's worker exposure.  
3 For a maximum exposed individual resident, MEIR,  
4 it's 0.19. For the maximally exposed soccer  
5 child receptor, it is 0.002. And for the  
6 maximumly exposed child care receptor, it is 0.5.

7 (Background feedback.)

8 MR. HILKEN: There's a lot of noise. I  
9 can't understand your, Mr. Sarvey.

10 MR. SARVEY: Yeah. I was just waiting  
11 for the line there.

12 At what level would you consider the  
13 contributions of Sequoia Data Center being  
14 significant?

15 MR. HILKEN: Well, I don't know. We  
16 don't have a firm benchmark for that. I think  
17 it's more of a common sense approach. You can --  
18 and in this case the CEC will make that  
19 determination. You can see at the bottom of the  
20 table, our significance threshold for cumulative  
21 impacts is an increased cancer risk of 100-in-a-  
22 million. And so, then, I guess the question is,  
23 comparing those figures that you asked me to read  
24 earlier, to that 100-in-a-million, so they are  
25 very small.

1 MR. SARVEY: Would a cancer risk of 0.1  
2 be considered significant?

3 MR. HILKEN: As I said, this -- well,  
4 for -- the cumulative significance threshold is  
5 100, an increased cancer risk of 100-in-a-  
6 million. That's our recommended threshold of  
7 significance.

8 MR. SARVEY: Right. And if it exceeded  
9 that and the Sequoia Data Center contributed 0.1  
10 to that cancer risk, would that be considered  
11 significant?

12 MR. HILKEN: I'm not understanding the  
13 question. If the total cumulative were above --  
14 could you rephrase the question, Mr. Sarvey?

15 MR. SARVEY: Yeah. If the total --

16 MR. HILKEN: I'm not hearing what you're  
17 asking.

18 MR. SARVEY: -- cumulative impact is  
19 above the threshold, would a 0.1 cancer risk  
20 impact be considered significant if it was from  
21 the Sequoia Data Center?

22 MR. HILKEN: We do not have clear, firm  
23 guidance on that. I think that would be a call  
24 by the lead agency. It appears to me to be a  
25 small increment to that total but, ultimately,

1 that's up to the lead agency to make that  
2 determination.

3 MR. SARVEY: I understand.

4 Ms. Quist, are natural gas-fired  
5 generators able to be utilized as backup  
6 generators for the Sequoia Data Center?

7 MS. QUIST: You know, if the Applicant  
8 could identify, you know, a model, a make and  
9 model that is within their operating specs and  
10 budget, I think it would be up to the Applicant.  
11 We certainly permit those. We haven't permitted  
12 those for a large-scale data center before but,  
13 you know, we permit those one-off or two-off  
14 engines. I've seen those before and those meet  
15 our standards.

16 MR. SARVEY: Okay. Thank you. That's  
17 all I have. Thank you very much.

18 HEARING OFFICER LEMEI: All right. Thank  
19 you, Mr. Sarvey.

20 And thank you, Mr. Hilken.

21 And thank you, Ms. Quist.

22 And thank you, Mr. Kolnowski.

23 I guess I'll just take this moment and,  
24 if I was sitting on a panel with my Commissioners  
25 alongside me, I would just look at them and make

1 eye contact and see if they wanted to ask  
2 questions. But because I don't have that luxury  
3 here, I will just ask if Commissioner Douglas or  
4 Commissioner Monahan or any of their advisors  
5 wish to ask questions at this time?

6 PRESIDING MEMBER DOUGLAS: This is  
7 Commissioner Douglas. I do not have any follow-  
8 up questions.

9 HEARING OFFICER LEMEI: And, Commissioner  
10 Monahan, if you have any follow-up questions?

11 ASSOCIATE MEMBER MONAHAN: I do not.

12 HEARING OFFICER LEMEI: All right. Okay.  
13 Sorry for putting you both on the spot like that.  
14 So, okay, I will thank you both.

15 And I guess I'll just ask the same  
16 question of Mr. Hilken and Ms. Quist that I asked  
17 Mr. Kolnowski.

18 Are you planning to continue  
19 participating in this proceeding or being present  
20 for this proceeding throughout the public portion  
21 or are you planning to step away after this?

22 MR. HILKEN: This is Henry Hilken. I am  
23 happy to stay on the call as long as I'm needed.  
24 I'm not familiar enough with your proceedings to  
25 know when I might be needed, so I can be

1 available as long as I'm needed.

2 HEARING OFFICER LEMEI: Well, I  
3 definitely don't want to waste your time because  
4 you've been so generous with your time already in  
5 participating and offering yourselves as  
6 witnesses. There is a possibility that, at the  
7 conclusion of the presentation of evidence, for  
8 example, the Committee might ask some high-level  
9 questions of the parties. And that could be  
10 useful to have you present to help answer those.

11 But one of the reasons that I checked in  
12 now was sort of not to require you to be present,  
13 you know, for longer than needed or, I mean,  
14 we're in unusual circumstances, I don't know if  
15 you're able to do other things with your day and  
16 not necessarily monitor this proceeding actively  
17 but still be able to return a little bit later in  
18 the day, you know, if there are Committee  
19 questions that you might be able to speak to.

20 MR. HILKEN: Could you give me a ballpark  
21 estimate of what that timing might look like?

22 HEARING OFFICER LEMEI: My best guess is  
23 that we will conclude with the presentation of  
24 evidence in a couple -- fewer than two hours from  
25 now would be my best guess.

1 MR. HILKEN: Okay. I can be available.

2 HEARING OFFICER LEMEI: Okay. Okay. All  
3 right.

4 So at this time, we can move forward with  
5 the topic of air quality and public health,  
6 including environmental justice considerations.  
7 And I will look first to Staff.

8 Do you have any additional witnesses on  
9 that topic, in addition to Silicon Valley Power  
10 and BAAQMD?

11 MS. DECARLO: We do. And we would also  
12 ask that greenhouse gases be rolled into that, as  
13 well, since there's some overlap with AQ in that  
14 analysis, although --

15 HEARING OFFICER LEMEI: Okay. So you  
16 want to take those topics together?

17 MS. DECARLO: Yes, if that's --

18 HEARING OFFICER LEMEI: Yeah. That's, of  
19 course, fine.

20 MS. DECARLO: And I would defer to the  
21 Applicant, if they wanted to go first, which is  
22 the natural order.

23 HEARING OFFICER LEMEI: Oh, I'm so sorry.  
24 I have my -- right. I made -- was supposed to  
25 make a note to that when we were talking. My

1 apologies.

2 I will start with Mr. Galati. Would you  
3 like to present witnesses on the topic of air  
4 quality and public health, including  
5 environmental justice? And would you also like  
6 to, as Ms. DeCarlo indicated what she prefers to  
7 do, take greenhouse gases at the same time?

8 MR. GALATI: Yes, I do. This is Scott  
9 Galati. Thank you, Mr. Lemei. I have three  
10 witnesses, so I'd like to make sure that they un-  
11 mute themselves. The first is Marcela Delong.  
12 The second is Steven Branoff. And the third is  
13 Brianna Bohonok.

14 So if you guys could un-mute yourselves.  
15 And, I think, Mr. Lemei can swear you in.

16 HEARING OFFICER LEMEI: Okay. So just to  
17 clarify, these witnesses are testifying as a  
18 panel?

19 MR. GALATI: Correct. So because there's  
20 overlap in some of these areas, I'm putting them  
21 up as a panel, even though Mr. Branoff is the  
22 primary air quality person, and Ms. Bohonok is  
23 the primary greenhouse gas person, and Ms. Delong  
24 will fill in some gaps on the Applicant side.

25 HEARING OFFICER LEMEI: Okay. That's



1 very helpful.

2           Before I swear you all in, will you  
3 please do me a favor, and I did not get your  
4 names down, but would you please state and spell  
5 your names in the order that Mr. Galati  
6 introduced you?

7           MS. DELONG: I'll start. I'm Marcela  
8 DeLong, that's M-A-R-C-E-L-A, last name is  
9 DeLong, D-E-L-O-N-G.

10           HEARING OFFICER LEMEI: Is that capital  
11 L?

12           MS. DELONG: It doesn't matter, but,  
13 yeah.

14           HEARING OFFICER LEMEI: Okay.

15           MS. DELONG: People do it both ways.

16           HEARING OFFICER LEMEI: Thank you.

17           And, my apologies, the next person, whose  
18 name I still don't have.

19           MR. GALATI: Mr. Branoff --

20           HEARING OFFICER LEMEI: Uh-oh.

21           MR. GALATI: -- spell your name?

22           HEARING OFFICER LEMEI: Have we lost  
23 audio?

24           MR. GALATI: No, I can still hear you, I  
25 just don't hear Mr. Branoff.

1 HEARING OFFICER LEMEI: Mr. Branoff.

2 Okay.

3 Well, while we're waiting for him to,  
4 hopefully, return, Mr. Galati --

5 MR. BRANOFF: Hi. Sorry. Sorry. Can  
6 you hear me now?

7 HEARING OFFICER LEMEI: Yes, we can hear  
8 you.

9 MR. BRANOFF: Okay. Sorry. I think my  
10 headset was faulty, so I finally just unplugged  
11 that and now I can actually use the audio.

12 HEARING OFFICER LEMEI: Oh, and we can  
13 hear you perfectly.

14 MR. BRANOFF: Okay. Good.

15 HEARING OFFICER LEMEI: And would you  
16 mind stating your name and spelling your name for  
17 my benefit?

18 MR. BRANOFF: Yes. I'm Steven Branoff,  
19 that's Steven with a V, S-T-E-V-E-N, and the last  
20 name is B, as in boy, -R-A-N-O-F-F.

21 HEARING OFFICER LEMEI: Perfect. Thank  
22 you so much.

23 And the last individual?

24 MR. BOHONOK: Yes. This is Brianna  
25 Bohonok, spelled B-R-I-A-N-N-A, last name is

1 B-O-H-O-N-O-K.

2 HEARING OFFICER LEMEI: Did you say

3 D-O-H-O-N-O-K?

4 MR. BOHONOK: It starts with a B, as in  
5 boy.

6 HEARING OFFICER LEMEI: Oh, B-O-H-O-N-O-  
7 K?

8 MR. BOHONOK: Correct.

9 HEARING OFFICER LEMEI: Perfect. Okay.  
10 Thank you all.

11 I will swear all of you in.

12 (Marcela DeLong, Steven Branoff, and Brianna  
13 Bohonok are sworn.)

14 HEARING OFFICER LEMEI: Thank you all.  
15 Appreciate it.

16 All right, Mr. Galati?

17 MR. GALATI: Great. Thank you. Again,  
18 this is Scott Galati, representing the Applicant.

19 Could you -- I'm going to go through and  
20 have each of you do this, so we'll start with Ms.  
21 DeLong, then we'll go with Mr. Branoff, and then  
22 we'll go with Ms. Bohonok.

23 So could you please describe who you work  
24 for and what your role was on the project?

25 MS. DELONG: This is Marcela DeLong. I'm

1 an architect at Corgan. I'm here today on the  
2 Applicant's side. I'm the Project Manager,  
3 retained by CyrusOne for the Sequoia Data Center  
4 Project. I have almost nine years of data center  
5 design experience. And I have a master's degree  
6 in Architecture from Ohio State University.

7 And before you go, Mr. Branoff, Ms.  
8 DeLong, could you spell Corgan for the Court  
9 Reporter?

10 MS. DELONG: Yes, sir. C-O-R-G-A-N,  
11 Corgan.

12 MR. GALATI: Thank you.

13 Go ahead, Mr. Branoff.

14 MR. BRANOFF: Okay. Hi. Can you hear  
15 me?

16 MR. GALATI: Yes.

17 MR. BRANOFF: Just confirming, before I  
18 get started. So my name is Steven Branoff. I'm  
19 a Principle in the San Francisco Office of  
20 Ramboll, and Ramboll is spelled R-A-M-B-O-L-L.  
21 We are a civil and environmental engineering  
22 firm. And I have expertise in air quality and  
23 climate change-related work. I've been doing  
24 this work for 25 years. I started my career as a  
25 regulator working at the USEPA Region 9 in San

1 Francisco. And now I've been working for the  
2 past 20 years out of the San Francisco Office of  
3 Ramboll.

4 And for this project, I prepared the air  
5 quality portion of the SPPE application. That  
6 includes the criteria air pollutant emission  
7 assessments, including modeling, and the toxic  
8 air contaminant health risk assessment.

9 MR. GALATI: Thank you.

10 And Ms. Bohonok?

11 MR. BOHONOK: Yes. I am AICP certified  
12 and I work as an Associate Principle at Circle  
13 Point. We offer environmental consulting  
14 services. I have a master's degree in Urban  
15 Planning Policy from the University of Illinois  
16 and seven years of experience preparing CEQA  
17 documents, including those for data centers. And  
18 I managed the preparation of the SPPE -- sorry,  
19 the SPPE application.

20 MR. GALATI: Okay. Thank you.

21 So what I'm going to ask each of you to  
22 do is, starting with Ms. DeLong, could you please  
23 just summarize your testimony for the Committee?

24 MS. DELONG: This is Marcela DeLong  
25 again. Yes, Mr. Galati.

1 Energy efficiency was definitely a key  
2 concern during the design of the Sequoia Data  
3 Center and its components, such as mechanical  
4 system, lighting, and building envelope. The  
5 estimated PUE for this facility is 1.23, which is  
6 well below the industry average of what was  
7 measured to be 169 last year. This can be seen  
8 in Exhibit Number 26, which is the 2019 study by  
9 the Uptime Institute.

10 It is also important to note that it's  
11 unlikely for data centers to ever reach their  
12 full design power capacity, which the SVP  
13 representative also referenced earlier today. In  
14 the CyrusOne portfolio, specifically, the maximum  
15 power usage that has ever been reached in one of  
16 their facilities was 85 percent of the contracted  
17 power demand.

18 In addition, I wanted to also note that  
19 the data center will be built in phases. It will  
20 not start with the ultimate power demand. It  
21 will ramp up to that demand over several years.  
22 For the Sequoia Data Center, this load is not  
23 estimated to ramp up to the full design load  
24 until spring of 2027.

25 A data center, in general, does not have

1 a defined design life. Its life relies on the  
2 life of the equipment within it, which can be  
3 maintained and replaced as required, and the  
4 Sequoia Data Center is no different. It's been  
5 designed to allow modifications over time and to  
6 accommodate equipment changes and customer-  
7 specific requirements.

8 So I think that summarizes it.

9 MR. GALATI: Okay. Thank you, Ms.  
10 DeLong.

11 Mr. Branoff, could you please summarize  
12 your testimony?

13 MR. BRANOFF: Yes. So, again, I oversaw  
14 the preparation of air quality emissions and  
15 modeled impacts, as well as the health risk  
16 assessment. The air emissions from this project,  
17 when we calculated them, came back as less than  
18 the BAAQMD CEQA Guideline significance  
19 thresholds. We also performed air quality  
20 modeling of impacts at the request of the CEC.  
21 Those impacts came out below both state and  
22 federal air quality standards.

23 We also performed a risk assessment for a  
24 number of different categories as required by  
25 CEQA Guidelines. We performed both an assessment

1 of the Sequoia facility, itself, as well a part  
2 of a cumulative risk assessment that included  
3 other data centers and the airport and other  
4 sources within 1,000 feet. Again, that's  
5 consistent with Bay Area AQMD CEQA Guidelines.

6           So I would say overall my testimony is  
7 that this project had a less than significant  
8 impact in every category of air quality and risk  
9 that we evaluated and that we not only met Bay  
10 Area CEQA Guidelines, but in the analysis that  
11 was requested by CEC Staff that went beyond those  
12 CEQA Guidelines, we still came back as a less  
13 than significant impact in all categories.

14           And I think one thing to note is that the  
15 less than significant impact, again, as far as  
16 emissions and impacts and health risks, is to be  
17 expected for a project like this.

18           I believe the Commission is historically  
19 used to evaluating much larger power plants that,  
20 first of all, operate year-round, much taller  
21 stacks, higher quantities of emissions, and are  
22 commonly regulated as a major source under the  
23 Clean Air Act. This project, by comparison, is a  
24 minor source, does not trigger the same  
25 requirements. And the model impacts, the overall



1 emissions and the modeled impacts, are far closer  
2 into the facility.

3           One important thing to keep in mind about  
4 this project about this project is not only does  
5 it operate far less than -- again, a typical  
6 power plant, in fact, the nonemergency operating  
7 hours are limited by regulation to less than 50  
8 hours a year, so we have far restricted  
9 operation. And then in addition to that, as far  
10 as the diesel particulate emissions, so I think  
11 diesel particulate is probably the main concern  
12 as far as air quality regulation, those emissions  
13 are reduced by 85 percent for this project from  
14 the use of diesel particulate filters, which is  
15 considered the most state-of-the-art, most  
16 effective technology at reducing diesel  
17 particulate matter emissions.

18           So again, our air emissions have been  
19 minimized to the fullest extent possible. And  
20 our impacts came back below all significance  
21 thresholds under each air quality and risk  
22 category.

23           MR. GALATI: Thank you very much, Mr.  
24 Branoff.

25           Ms. Bohonok, would you please summarize

1 your opening testimony?

2 MS. BOHONOK: Yes. So in looking in  
3 greenhouse gas emissions and evaluating them  
4 under CEQA, we used methods that are consistent  
5 with the State CEQA Guidelines and BAAQMD CEQA  
6 Guidelines. The State CEQA Guidelines call for  
7 lead agencies to make what's called a good-faith  
8 effort to describe and, if possible, quantify  
9 greenhouse gas emissions that would result from a  
10 project.

11 So we find that for data centers the best  
12 way to do this is to break the greenhouse gas  
13 emissions apart into three categories. So we  
14 look at construction emissions, so that would be  
15 like tailpipe emissions from construction  
16 equipment. For our CEQA analysis we used the  
17 BAAQMD CEQA Guidelines which does not provide a  
18 quantitative threshold but does recommend the use  
19 of best management practices, of BMPs. Then we  
20 look at stationary source emissions. Those would  
21 be the backup generators. And, again, we used  
22 BAAQMD's threshold there. That's a quantitative  
23 threshold.

24 And then the third category is the  
25 operational emissions, so what's happening on the

1 day-to-day when the data center is up and  
2 running. And as we know, most of the operational  
3 emissions will be indirect. Those will come from  
4 SVP's electricity generation.

5           So to evaluate these under CEQA, we  
6 really need to take a step back and look at the  
7 broader picture statewide. And I'm going to try  
8 to get through this quickly because I know that  
9 we're all familiar with this. But in CARB's 2017  
10 Scoping Plan Update, it's clear to us, as  
11 environmental professionals, that in order to  
12 meet the 2030 greenhouse gas emission reduction  
13 goals, we need to really look at state regulation  
14 and policy.

15           The Scoping Plan outlines the key sectors  
16 for greenhouse gas emissions in the state which,  
17 of course, includes electricity generation. And  
18 it describes the need for each sector to reduce  
19 their emissions. Now some sectors are not really  
20 addressed by existing regulation, so there's less  
21 certainty around how those greenhouse gas  
22 emissions are going to be reduced.

23           But in contrast, greenhouse gas emissions  
24 from electricity generation, definitely, are  
25 clearly regulated by the state, in part through

1 SB 350. As we know, SB 350 required the state to  
2 establish greenhouse gas emission reduction  
3 targets for the energy sector. And the  
4 implementation tool for that is the IRP, or  
5 Integrated Resource Planning.

6 In July 2018, CARB completed their  
7 environmental analysis -- it's equivalent to CEQA  
8 under their Certified Regulatory Program -- that  
9 evaluated the statewide greenhouse gas emission  
10 reduction targets that they were looking at to  
11 set in order to comply with SB 350. And based on  
12 that analysis, it was determined that those  
13 emission reduction targets would meet the  
14 requirements of SB 350 and, therefore, would be  
15 in line with the statewide greenhouse gas  
16 emission reduction goals.

17 The way that all of that is implemented  
18 at the local level is through the IRPs. As we  
19 heard earlier, SVP's Integrated Resource Plan was  
20 approved by the CEC as being consistent with SB  
21 350. Therefore, greenhouse gas emissions from  
22 SVP are going to be consistent with statewide  
23 planning and targets for greenhouse gas emission  
24 reduction.

25 For our project specifically, we did

1 quantify operational greenhouse gas emissions  
2 that would be direct and indirect. I just want  
3 to be clear, we did not tier off of Santa Clara's  
4 General Plan EIR. We did refer to Section  
5 15064.4(b)(3) of the CEQA Guidelines. That  
6 guides a lead agency to consider whether a  
7 project would comply with or obstruct  
8 implementation of an existing greenhouse gas  
9 emission reduction plan, so that is the threshold  
10 of significance that we've used for operational  
11 emissions.

12           In this case, as discussed, the  
13 appropriate Greenhouse Gas Emission Reduction  
14 Plan would be the Integrated Resource Plan. So  
15 we evaluated whether the project would impede  
16 upon implementation of that plan? As we heard  
17 earlier, this project would not. SVP has  
18 confirmed that they can serve the data center and  
19 still hit their IRP goals. So, therefore, we are  
20 less than significant for indirect operational  
21 emissions.

22           I just want to be clear, we didn't elect  
23 to use Bright Line or a numerical threshold.  
24 Although BAAQMD provides that 1,100 metric ton  
25 threshold, that's really a land-use-based

1 threshold. It was established to meet the 2020  
2 greenhouse gas emission reduction goals, so it's  
3 really outdated at this point. And the  
4 methodology that goes into an analysis like that  
5 would have had the potential to undercount this  
6 project's greenhouse gas emissions because data  
7 centers are so energy intensive.

8           So overall, our analysis was consistent  
9 and compliant with the State CEQA Guidelines and  
10 BAAQMD CEQA Guidelines. And we found that the  
11 greenhouse gas emission would be less than  
12 significant.

13           MR. GALATI: Thank you very much.

14           This question is to all three of you, so  
15 I think I'll start -- actually, it's just to two  
16 of you. I think I will start with Mr. Branoff.

17           Did you review Mr. Sarvey's testimony and  
18 filings?

19           MR. BRANOFF: Yes, I did.

20           MR. GALATI: And do you have anything,  
21 any specifics, that you need or would like to  
22 comment on?

23           MR. BRANOFF: Yes. I would say, in both  
24 the comments that were received to the ISMND that  
25 the CEC staff have already responded to and then,

1 again, in the Response to Commission Questions  
2 that were filed before this hearing, Mr. Sarvey  
3 has made a number of comments.

4           First of all, that the evaluation was not  
5 done consistent with BAAQMD CEQA Guidelines and I  
6 don't believe that's correct. He pointed out a  
7 number of examples of things that are just not  
8 consistent with how those Guidelines are written  
9 or implemented. For example, he commented that  
10 emergency scenario emissions should be evaluated  
11 when looking at air quality impacts. That is not  
12 required by the guidelines. And in my  
13 experience, doing this work for the past 20  
14 years, that is simply not done. It's not  
15 evaluated, you know, under -- and I think the CEC  
16 staff got it right in their writeup, stating that  
17 that kind of analysis would be speculative and is  
18 not required under CEQA.

19           I also want to comment on some of the  
20 examples that Mr. Sarvey brought up in his  
21 Response to Commission Questions about the  
22 unreliability of CEC staff evaluations.

23           First of all, he pointed out that there  
24 are two data centers, the 2200 De La Cruz Data  
25 Center and the 2805 Lafayette Data Center that

1 were not included in the new CEC staff cumulative  
2 risk analysis that was done in response to Bay  
3 Area AQMD comments. But both of those data  
4 centers are more than 1,000 feet from the Sequoia  
5 Data Center. And, again Bay Area CEQA Guidelines  
6 require that you evaluate sources within 1,000  
7 feet.

8           In fact, in order to do our analysis,  
9 when we did ours, and when CEC evaluated, we  
10 asked BAAQMD staff for sources within 1,000 feet.  
11 And what they provided to us were the sources  
12 that we included in our analysis. So the  
13 supplemental analysis went even further than that  
14 and included additional sources. But it was  
15 appropriate not to include, again, those two data  
16 centers that Mr. Sarvey had cited because they  
17 are further than 1,000 feet away.

18           And, you know, as I mentioned before, if  
19 you look at impacts that we modeled, typical  
20 impacts from a data center like this, they happen  
21 within 1,000 feet. So you would not expect that  
22 those data centers would contribute to overall  
23 risk.

24           Another thing to point out is Mr. Sarvey  
25 commented that there were inconsistencies in some



1 of the values of health risks reported for both  
2 the McLaren Data Center, that was another data  
3 center that was included in our cumulative  
4 analysis, as well as for the Sequoia Data Center,  
5 when you compare reported impacts from each of  
6 those facilities listed in different documents  
7 that were reported by the CEC staff. He cited  
8 numbers taken from the ISMND for each of those  
9 projects and then, also, in the CEC Staff  
10 Response to Commission Questions.

11           The project is when he pulled numbers  
12 from different documents, he's looking at health  
13 risks that really belong in different categories  
14 and simply can't be compared to each other. In  
15 both cases, he takes numbers that represent  
16 modeled PM2.5 ambient concentrations, which are  
17 reported in units of micrograms per cubic meter,  
18 and compares that to a calculated cancer risk,  
19 which is reported in value of incremental cancer  
20 risk in a million. So those numbers are just not  
21 comparable in any way and just don't --

22           Another problem that I found is that Mr.  
23 Sarvey tried to compare impacts, not only for  
24 PM2.5 versus cancer risk, but in one case he took  
25 an operational risk number, a risk that

1 represented, you know, impacts during the  
2 operation of the facility, and compared that to a  
3 calculated risk from the construction impacts  
4 which were impacts that would only be experienced  
5 during the construction of the facility. So,  
6 again, an apples-to-oranges comparison and does  
7 not in any way reflect on, you know, the  
8 reliability of the CEC staff.

9 Yes, okay, and I think that's -- those  
10 are probably all the comments that I had about  
11 Mr. Sarvey's responses.

12 MR. GALATI: Thank you, Mr. Branoff.

13 Ms. Bohonok, do you have anything to add,  
14 based on the review of Mr. Sarvey's comments and  
15 filings?

16 MS. BOHONOK: Yes. I just briefly want  
17 to highlight, Mr. Sarvey points out or, you know,  
18 states in his response that we -- Staff did not  
19 use significance thresholds. But as I outlined,  
20 significance thresholds were certainly used in  
21 the greenhouse gas emissions analysis. The  
22 first, for BAAQMD's construction, we used --  
23 (background coughing) -- (indiscernible)  
24 stationary source threshold. That is the only  
25 quantitative of Bright Line-style threshold. And

1 then we used the consistency with greenhouse gas  
2 emissions.

3           Part of the context of Mr. Sarvey's  
4 responses, partially the idea that a threshold  
5 would be numeric, the CEQA Guidelines are clear  
6 that you do not need to have a quantitative or  
7 numeric threshold for greenhouse gas emissions  
8 and, in fact, in many cases, it's not an  
9 appropriate threshold. In here, we've tried to  
10 use the best threshold, as most appropriate, to  
11 provide a meaningful contextual analysis of  
12 greenhouse gas emission.

13           MR. GALATI: Thank you, Ms. Bohonok. Do  
14 you have anything else?

15           I apologize. Somebody's, unfortunately,  
16 coughing when -- during the testimony.

17           This is Scott Galati and let me just ask  
18 that we mute the volume, we mute our lines, so  
19 Ms. Bohonok can finish.

20           Ms. Bohonok, do you have anything else,  
21 Ms. Bohonok?

22           MS. BOHONOK: Nothing else on greenhouse  
23 gas emission.

24           MR. GALATI: Thank you.

25           Mr. Lemei, I don't have any further

1 questions for these witnesses.

2 HEARING OFFICER LEMEI: All right. Thank  
3 you, Mr. Galati.

4 Ms. DeCarlo, would you like to cross-  
5 examine or ask questions of these witnesses?

6 MS. DECARLO: Staff does not have any  
7 cross-examination for the witnesses.

8 HEARING OFFICER LEMEI: Mr. Sarvey, would  
9 you like to ask questions or cross-examine these  
10 witnesses?

11 MR. SARVEY: I'll let those folks go  
12 home.

13 HEARING OFFICER LEMEI: You're very  
14 generous, Mr. Sarvey. Okay.

15 Before we -- and that was your entire  
16 panel; correct, Mr. Galati?

17 MR. GALATI: Yes, it was.

18 HEARING OFFICER LEMEI: I do not have any  
19 questions of these witnesses at this time. I  
20 will trust that if members of the Committee had  
21 questions, that they will speak up and let me  
22 know, or otherwise let me know.

23 One thing I want to acknowledge is that  
24 I'm looking at the Zoom chat, which, forgive me,  
25 I'm not familiar with Zoom, and I see that Mr.

1 Mark Connolly from the County of Santa Clara  
2 Airport and Land use Commission joined.

3 I do not recall if Commissioner Douglas  
4 announced your participation, Mr. Connolly, but  
5 on the chance that it was not noted, I just want  
6 to note that you've been participating for almost  
7 the entire proceeding and wanted to thank you for  
8 being present.

9 Second, before we proceed to Staff's  
10 witnesses, I just want to do a time check. Are  
11 individuals in need of a short break for any  
12 reason or are we okay moving forward? Yeah, I  
13 think that that would be humane.

14 I will ask Commissioner Douglas, do you  
15 have a preference for whether we take a five or a  
16 ten -- I would say ten at least? I would say 10  
17 or 15 minutes, so that we could reconvene either  
18 at 1:30 or 1:35.

19 PRESIDING MEMBER DOUGLAS: Yes. Let's  
20 reconvene at 1:35. Everybody get some lunch, if  
21 you need it, in 15 minutes, if you haven't eaten  
22 already, and we'll be back then.

23 HEARING OFFICER LEMEI: All right. Thank  
24 you.

25 (Off the record at 1:19 p.m.)

1 (On the record at 1:38 p.m.)

2 HEARING OFFICER LEMEI: All right. I'm  
3 checking to see if we still have all of our  
4 participants. It looks like we do. It doesn't  
5 mean that they are back at their computers but,  
6 hopefully, most of us are. I'll just do a quick  
7 roll call.

8 Do we have -- Commissioner Douglas, are  
9 you present?

10 PRESIDING MEMBER DOUGLAS: Yes, I'm here.

11 HEARING OFFICER LEMEI: Commissioner  
12 Monahan?

13 ASSOCIATE MEMBER MONAHAN: Yes, I'm here.

14 HEARING OFFICER LEMEI: Great.

15 Checking in with our parties. Mr.  
16 Galati?

17 MR. GALATI: Yes, I'm here. Thank you.

18 HEARING OFFICER LEMEI: Ms. DeCarlo?

19 MS. DECARLO: I'm here.

20 HEARING OFFICER LEMEI: And Mr. Sarvey?

21 MR. SARVEY: No. I'm taking a siesta.

22 HEARING OFFICER LEMEI: Oh. Well, time  
23 to wake up.

24 All right, I think that we are ready to  
25 move forward.

1 MS. LOPEZ: Galen, this is Liza the host.  
2 I just want to make sure the Court Reporter is  
3 back as well.

4 HEARING OFFICER LEMEI: I guess she's  
5 pretty important too. Thank you for the  
6 reminder.

7 COURT REPORTER: (Off mike.) Yes, I'm  
8 here.

9 HEARING OFFICER LEMEI: All right. All  
10 right.

11 So I think that we can go back on the  
12 record. We have just concluded with Mr. Galati's  
13 witnesses. And we were going to move -- I think  
14 next on the agenda would be Staff's witnesses but  
15 I did think that we might be able just to take a  
16 quick moment.

17 I don't know if -- Mr. Kolnowski, are you  
18 still present?

19 MR. KOLNOWSKI: Yes, I am.

20 HEARING OFFICER LEMEI: You are present.  
21 I had -- and I apologize for not ask a question  
22 from you, that I just wanted to clarify  
23 something, and my apologies for not asking it  
24 sooner. I just wanted to touch base with my  
25 Committee and make sure that I hadn't missed

1 something that they were aware of.

2 Is it okay if I ask you a clarifying  
3 question about your testimony?

4 MR. KOLNOWSKI: Yes.

5 HEARING OFFICER LEMEI: Okay. You are  
6 still sworn in.

7 Mr. Sarvey asked you about the statement  
8 in your executive or in the -- not your executive  
9 summary, in the executive summary of the revised  
10 Silicon Valley Power document that -- I'm not  
11 going to get the phrasing exactly right -- but  
12 having to do with the calculation of or  
13 accounting for unspecified power, I believe, and  
14 you had testified about that statement.

15 I just wanted to clarify, was your  
16 testimony that that statement in the executive  
17 summary was an accurate statement or an  
18 inaccurate statement?

19 MR. KOLNOWSKI: The testimony in the  
20 executive summary should have been removed when  
21 it was removed in other areas, based on the  
22 discussion our staff with the Energy Commission  
23 staff. So we --

24 HEARING OFFICER LEMEI: Understood.

25 MR. KOLNOWSKI: -- we took it out in one



1 section and we should have removed it and that  
2 was missed.

3 HEARING OFFICER LEMEI: Okay. My  
4 apologies. You probably made that clear and I  
5 just missed it as I was trying to catch  
6 everything. Okay. Thank you for that  
7 clarification. It's very much appreciated.

8 MR. KOLNOWSKI: And I'd like to clarify  
9 something else that I said.

10 HEARING OFFICER LEMEI: Okay.

11 MR. KOLNOWSKI: This was in regards to  
12 the health risk assessment for our DVR facility.  
13 And I did a little checking. We currently  
14 have -- and I think when Mr. Sarvey made the  
15 comment that our DVR facility is close to this  
16 project, I went back and checked, the DVR  
17 facility is about a mile away. And we have  
18 another that is closer that is our Cogen  
19 (phonetic) facility. And that facility, that --  
20 we are -- it does have a health risk assessment  
21 associated with it.

22 And I just want to make sure that my  
23 testimony was clear because I was -- I was not  
24 clear in my mind. DVR does not have a health  
25 risk assessment taking place at this point. Our

1 Cogen facility, which is closer to the  
2 Applicant's project and closer to the McLaren  
3 Data Center, and the difference is Cogen is a six  
4 megawatt power plant that provides process steam  
5 to a paper processing company, whereas DVR is a  
6 147 megawatt combined-cycle plant that was  
7 permitted through the California Energy  
8 Commission in the 2005 time period.

9 HEARING OFFICER LEMEI: Okay. Thank you  
10 for that clarification.

11 That was -- I guess I just want to make  
12 sure, I'll just check with the parties, do you  
13 have any concerns about -- or feel the need to  
14 follow-up, based on that substantive  
15 clarification that Mr. Kolnowski just offered,  
16 starting with the Applicant?

17 MR. GALATI: No. We don't have any need  
18 to ask questions of Mr. Kolnowski.

19 HEARING OFFICER LEMEI: Okay. Ms.  
20 DeCarlo, do you have any need to clarify?

21 MS. DECARLO: No. And thank you for  
22 getting that clarification, Mr. Lemei. I think  
23 that was helpful for the record.

24 HEARING OFFICER LEMEI: Okay. And, Mr.  
25 Sarvey, do you need to follow up and clarify on

1 that precise point?

2 MR. SARVEY: Yeah. I have a couple  
3 questions.

4 HEARING OFFICER LEMEI: Okay. I will --  
5 because we just sort of reopened this one rather  
6 substantive issue, I will allow a couple of  
7 questions. But I -- you know, this is a little  
8 bit of a sidetrack from where we are in the  
9 proceeding, so, hopefully, we can get through  
10 this rather quickly.

11 MR. SARVEY: Yeah. I just wondered how  
12 close that Cogen facility was to the Sequoia Data  
13 Center?

14 MR. KOLNOWSKI: By looking at Google  
15 Maps, it's about three-tenths of a mile.

16 MR. SARVEY: Three-tenths of a mile.  
17 Okay.

18 Now you mentioned that you had intended  
19 to take that paragraph out of your Integrated  
20 Resource Plan. Can you tell me, was that plan --  
21 did the CEC issue that plan, that revised plan,  
22 or was that Silicon Valley Power that put that  
23 revised plan in?

24 MR. KOLNOWSKI: Silicon Valley Power  
25 issued it.

1 MR. SARVEY: Okay. So it wasn't a CEC  
2 mistake? You claim it was an error by your  
3 organization; is that correct?

4 MR. KOLNOWSKI: Correct. They corrected  
5 in one area. They didn't correct it in all the  
6 areas.

7 MR. SARVEY: Okay. That's a pretty  
8 important oversight, don't you think?

9 HEARING OFFICER LEMEI: You know, I don't  
10 know that -- I'm not sure that that question is  
11 relevant to the proceeding, you know, whether --  
12 I don't know that Mr. Kolnowski's opinion about  
13 the importance of the oversight is relevant. I  
14 think he's testified as to what he believes the  
15 position of the document was and that that  
16 paragraph was unintentionally included.

17 MR. SARVEY: Are you testifying, Mr.  
18 Lemei?

19 HEARING OFFICER LEMEI: No. No, I am not  
20 testifying.

21 MR. SARVEY: Thank you. That's all I  
22 have.

23 HEARING OFFICER LEMEI: I'm clarifying  
24 that I understood, my apologies, Mr. Kolnowski to  
25 have said -- I don't want to put him on the spot

1 and ask him to, you know, talk about his opinion  
2 about severity.

3 MR. SARVEY: Well, I was just wondering.

4 HEARING OFFICER LEMEI: But I'll --

5 MR. SARVEY: I just wondered who was  
6 going to get fired, that's all.

7 HEARING OFFICER LEMEI: Hopefully not me.  
8 Okay.

9 Mr. Sarvey, did you have any other  
10 questions?

11 MR. SARVEY: No. Thank you very much.

12 HEARING OFFICER LEMEI: Okay. Thank you.  
13 Okay.

14 Thank you, Mr. Kolnowski. I will admit,  
15 that was the question that was sort of in the  
16 back of mind that I just wanted to check in if it  
17 had been clear on the record and I had dismissed  
18 it.

19 I cannot say for certain that there won't  
20 be, you know, a desire to ask additional  
21 questions of you or Mr. Hilken or Ms. Quist  
22 towards the end of the proceeding but I don't,  
23 necessarily, think that it's likely.

24 And, you know, if, for example, Staff has  
25 a way to contact you if we are -- if the

1 Committee would like additional information from  
2 you and have -- and you are able to make yourself  
3 available later on? I just don't want to hold  
4 you unnecessarily for the remainder of the  
5 proceeding for what I think is probably an  
6 unlikely possibility that you're specifically  
7 needed to ask a specific question.

8           So I don't hear any -- that wasn't a  
9 question. I didn't hear from either you.

10           So do the parties have any objection with  
11 letting the individuals from BAAQMD and SVP get  
12 along with their day with the understanding that,  
13 if we do need to ask a question of them, we can  
14 do our best to see if they're able to return  
15 later on?

16           MR. GALATI: This is Scott Galati on  
17 behalf of the Applicant.

18           We don't have any further questions.

19           HEARING OFFICER LEMEI: Okay. Ms.  
20 DeCarlo?

21           MS. DECARLO: This is Lisa DeCarlo for  
22 Staff. No, we have no objection to letting them  
23 go. And we thank them very much for their  
24 participation today. It's been very helpful.

25           HEARING OFFICER LEMEI: Okay. Mr.

1 Sarvey, do you have any objection to that?

2 MR. SARVEY: I have no objection. I just  
3 want to thank those witnesses. They did a great  
4 job.

5 HEARING OFFICER LEMEI: Yeah. I want to  
6 reiterate that. I really want to thank you for  
7 coming and being so generous of your time today  
8 and, you know, more broadly in the efforts that  
9 you and your organization --

10 (Background conversation.)

11 HEARING OFFICER LEMEI: --

12 (indiscernible).

13 We have someone who is un-muted. Please  
14 check and make sure that you're muted.

15 Anyway, sorry. I just wanted to say  
16 thank you for your organizations participation,  
17 also, and your individual participation today and  
18 in the proceeding at large, because I know that  
19 this has been quite a bit of effort from you and  
20 your organizations.

21 Okay, so with that, let's carry on, and  
22 moving on to Staff.

23 MS. DECARLO: Yes. Lisa DeCarlo here.

24 So I need to apologize briefly. At the  
25 prehearing conference, I identified four Staff

1 members, two of which would be giving an opening  
2 statement. Because of the flurry of filings that  
3 we've seen since then and the additional  
4 testimony, we felt it was important to have all  
5 four witnesses testify, at least give a brief  
6 discussion of their analysis and address certain  
7 points raised in the interim.

8           So we will be having the following  
9 witnesses in this panel, Jacquelyn Record,  
10 Brewster Birdsall, Dr. Ann Chu, and Dr. Wenjun  
11 Qian.

12           HEARING OFFICER LEMEI: All right. Yeah.  
13 Thank you for that, Ms. DeCarlo.

14           I think that in this -- I think the  
15 prehearing conference for this hearing, I think  
16 the efficacy of it was somewhat undermined or  
17 obviated by some of the late filings, but here we  
18 are and we're all present, so let's proceed with  
19 what we need to do today, so go ahead.

20           Oh, sorry, let me swear in those  
21 witnesses. Where's my -- oh, dear. There it is.  
22 All right.

23           Would you please -- I'm wondering if I  
24 should have each you state and spell your name  
25 for the record for the benefit of the Court



1 Reporter? Would the four of you mind doing that  
2 in the order that Ms. DeCarlo introduced you,  
3 just state your name and spell it for my benefit  
4 and the benefit of the Court Reporter?

5 MS. RECORD: Hi. This is Jacquelyn Record,  
6 J-A-C-Q-U-E-L-Y-N, Record, R-E-C-O-R-D.

7 HEARING OFFICER LEMEI: Okay. The next  
8 person.

9 MR. BREWSTER: This is Brewster Birdsall.  
10 Can you hear me?

11 HEARING OFFICER LEMEI: Yes, I can.  
12 Thank you.

13 MR. BREWSTER: Thank you. My name is  
14 Brewster Birdsall, that's B-R-E-W-S-T-E-R, last  
15 name Birdsall,  
16 B-I-R-D-S-A-L-L.

17 HEARING OFFICER LEMEI: Thank you.

18 And the next individual that Lisa  
19 DeCarlo -- or that Ms. DeCarlo identified?

20 MS. CHU: Hi. This is Huei-An Chu, H-U-  
21 E-I hyphen A-N C-H-U. And I also go by Ann Chu,  
22 A-N-N C-H-U.

23 HEARING OFFICER LEMEI: Thank you, Ms.  
24 Chu. And am I pronouncing that correctly, Ms.  
25 Ann Chu?

1 MS. CHU: Yes.

2 HEARING OFFICER LEMEI: Okay. Thank you.

3 And finally?

4 MS. QIAN: This is Wenjun Qian,

5 W-E-N-J-U-N Q-I-A-N.

6 HEARING OFFICER LEMEI: And, I'm sorry,

7 would you pronounce your last name for me one

8 more time?

9 MS. QIAN: Q-I-A-N.

10 HEARING OFFICER LEMEI: And that's

11 pronounced Ken?

12 MS. QIAN: Chen.

13 HEARING OFFICER LEMEI: Chen?

14 MS. QIAN: Chen.

15 HEARING OFFICER LEMEI: Chen?

16 MS. QIAN: Yeah.

17 HEARING OFFICER LEMEI: Okay. Ms. Qian,

18 thank you.

19 I'm going to do my best to pronounce

20 everyone's name correctly. Thank you all for

21 that. That helps me.

22 (Jacqueline Record, Brewster Birdsall, Huei-

23 An Chu, and Wenjun Qian are sworn.)

24 HEARING OFFICER LEMEI: All right. Ms.

25 DeCarlo?

1 MS. DECARLO: All right. Each of the  
2 witnesses has prepared an opening statement, so I  
3 will just have them read them in the order that I  
4 mentioned before, starting with Jacquelyn Record.

5 MS. RECORD: Okay. Good afternoon. My  
6 name is Jacquelyn Record. I have been with the  
7 Energy Commission as an Air Resources Engineering  
8 since 2009. My areas of expertise include air  
9 quality and greenhouse gases. And my education  
10 is in chemical engineering.

11 I prepared the Air Quality and Greenhouse  
12 Gas Emissions sections of the Initial Study,  
13 which is Exhibit 200, pages 5.3-1 to 5.3-5, 5.3-9  
14 to 5.3-19, 5.8-1 to 5.9-16. And in the Responses  
15 to Bay Area Air Quality Management District  
16 comments, Exhibit 201, and Responses to Committee  
17 Questions, Exhibit 203, which represents my  
18 written testimony.

19 My declaration and qualifications were  
20 previously filed in this proceeding.

21 I concluded, after an independent  
22 analysis, including determining project impacts  
23 and assessing whether the impacts are  
24 significant, that the project would not have any  
25 significant impacts in the areas of air quality

1 and greenhouse gas emissions.

2 Staff's conclusions are as follows.

3 The maximum emissions during construction  
4 and for the backup generators (indiscernible)  
5 testing and maintenance were below the thresholds  
6 of significance from the Bay Area AQMD CEQA  
7 Guidelines. The project is not expected to  
8 result in a cumulatively considerable net  
9 increase of criteria pollutants during the  
10 construction or for readiness testing and  
11 maintenance. These impacts would be less than  
12 significant.

13 Page 5.3-1, Section 5.3 of the Initial  
14 Study PMND states,

15 "Intermittent and standby emitting sources,  
16 like those proposed in this project, could  
17 operate for emergency use and such emergency  
18 operations would be infrequent and for  
19 unplanned circumstances which are beyond the  
20 control of the project owner. Emergency  
21 operations and the impact of air pollutants  
22 during emergencies are generally exempt from  
23 Air District permitting. Emissions from  
24 emergency operation are not regular,  
25 expected, or easily quantifiable, such that

1           they cannot be analyzed with certainty.”

2           In Exhibit 303, pages 5-9, Mr. Sarvey  
3 argues that Staff’s analysis is inadequate  
4 because air quality impacts from emergency  
5 operations of the backup generators have not been  
6 analyzed. His broad statement is misleading.

7           The Initial Study goes into great detail  
8 on pages 5.3-27 to 5.3-34 on why attempting to  
9 model emissions is speculative and why federal,  
10 state, and local air quality guidelines and  
11 rules, including those from the Bay Area AQMD and  
12 other air districts, do not require emissions’  
13 analysis for emergency operations for backup  
14 generators.

15           CEC staff, in the Laurelwood Data Center  
16 case, performed some limited modeling of air  
17 quality impacts of the project in two emergency  
18 operation modes. Mr. Sarvey infers that by not  
19 performing similar modeling runs the Sequoia  
20 analysis is incomplete.

21           This logic is incorrect because the  
22 modeling performed in Laurelwood was not required  
23 and is not required for Sequoia, and will be  
24 explained further by colleague, Brewster  
25 Birdsall, who performed the criteria pollutant

1 air quality impact analysis.

2           In preparing for my air quality analysis,  
3 and to ensure an environmental document that  
4 provides comprehensive yet clear information, I,  
5 along with others working on the team, including  
6 Dr. Chu, Dr. Qian, and Mr. Birdsall, in  
7 consultation with other air districts, revisited  
8 the Laurelwood modeling and whether going forward  
9 with such hypothetical analysis is appropriate  
10 and should be included in a Sequoia analysis?  
11 Given the probabilistic nature of the emergency  
12 event and the layers of assumptions, I concurred  
13 with my colleagues that such an analysis would  
14 not be required, not helpful, subject to  
15 misinterpretation, and the results are  
16 speculative.

17           Staff's approach in this analysis is  
18 consistent with current approaches used by  
19 California's local air districts on emergency-  
20 use-only equipment. As noted previously,  
21 emergency operations would be infrequent,  
22 uncontrolled, unpredictable, and are for  
23 unplanned circumstances beyond the control of the  
24 project owner.

25           CEQA provides that the lead agency may

1 find that an environmental impact is too  
2 speculative for evaluation. And CEQA requires  
3 that we look at reasonably foreseeable impacts.

4           Accordingly, my colleagues and I conclude  
5 that modeling of air quality impacts during  
6 emergency operation is not warranted.

7           On page 3 of Exhibit 303, Mr. Sarvey is  
8 concerned the project is not consistent with the  
9 Diesel-Free by '33 initiative. The City of Santa  
10 Clara adopted resolution BOS-28-103 on September  
11 11, 2018, endorsing the Bay Area AQMD's Diesel-  
12 Free by '33 Statement of Purpose.

13           Bay Area AQMD left it to the signatories  
14 to develop their strategies to meet the goal of  
15 their emissions from the use of petroleum-derived  
16 diesel fuel within their communities. This State  
17 of Purpose does not create a legally binding  
18 obligation on the signatories. Staff is not  
19 aware of any regulations implemented at this time  
20 by the City of Santa Clara to implement the  
21 Statement of Purpose.

22           If any such regulations are applied to  
23 existing data centers, and if this facility is  
24 built and becomes operational, the facility would  
25 have an evolving range of options to comply with

1 this future regulation, including batteries, fuel  
2 cells, biodiesel, fail-safe servers that obviate  
3 the need for bugs of shutdown.

4           In Mr. Sarvey's Exhibit 303 on page 8, he  
5 argues some data centers have performed a pull-  
6 the-plug test where they test all the generators  
7 operating at the same time in a simulated outage  
8 and, therefore, is enough reason for CEC to model  
9 for criteria pollutants during emergency  
10 operations with all engines running  
11 simultaneously.

12           For the Sequoia backup generators the  
13 Applicant proposed that only one engine would be  
14 tested at a time. So my colleague, Brewster  
15 Birdsall, modeled what 3ws proposed in the  
16 application, one engine at a time.

17           Also, the Applicant has agreed to an  
18 Applicant-proposed measure called APMAQ2  
19 (phonetic) which would limit operation for  
20 maintenance and testing to one generator at a  
21 time.

22           For greenhouse gases or GHGs, Staff  
23 calculated the project's direct GHG emissions for  
24 the backup generators, the project's stationary  
25 sources, and compared those estimates to the Bay



1 Area AQMD CEQA Guidelines thresholds of  
2 significance for GHGs from stationary sources,  
3 found in Table 5.8-2 in the Initial Study. The  
4 project's direct GHG emissions would be 1,395  
5 metric tons of CO2-equivalents during the  
6 construction period. Post construction estimated  
7 direct emissions from the backup generators  
8 during readiness testing and maintenance are  
9 estimated in Table 5.8-2 to be 4,301 metric tons  
10 of CO2-equivalents per year.

11           The GHG emissions from the construction  
12 period and the annual testing and maintenance  
13 would be well below Bay Area AQMD's stationary  
14 source significance threshold of 10,000 metric  
15 tons of CO2-equivalents per year.

16           Staff calculated the Sequoia Data  
17 Center's indirect GHG emissions, as described in  
18 Staff's Exhibit 201, TN 232338, from energy use  
19 by multiplying the project's maximum capacity of  
20 96.5 megawatts by every hour of the year for  
21 8,760 hours. Then Staff multiplied that total,  
22 which was 845,340 megawatt hours per year. By  
23 Silicon Valley Power's, or SVP's, systemwide  
24 average carbon intensity factor of 430 pounds of  
25 CO2 equivalents per megawatt hour. Then Staff

1 converted that result to metric tons of CO2-  
2 equivalents per megawatt hour.

3           We recognize that the carbon intensity  
4 value is a factor that will change from year to  
5 year and, historically, it has always trended  
6 downwards. For example, if solar, wind, or  
7 hydroelectric resources are available, generally  
8 the carbine content of electricity is expected to  
9 come down. And with SVP precuring more  
10 renewables to its system, while replacing other  
11 fossil-fuel power plants, such as coal, then the  
12 carbon intensity value is expected to trend  
13 downward over time.

14           The Applicant provided a forecasted  
15 carbon intensity value of 271 pounds of CO2-  
16 equivalents per megawatt hour, shown in the  
17 Applicant's Exhibit 31, which was originally used  
18 by Staff for estimating GHG emissions. However,  
19 Staff revised the carbon intensity value in  
20 response to comments from Bay Area AQMD. The  
21 carbon intensity value is twice a year and is  
22 updated to reflect current renewables online  
23 compared to the total amount of electricity sent  
24 to SVP's grid. A carbon intensity value of 430  
25 pounds of CO2-equivalents per megawatt hour is

1 used to estimate GHG emissions and assess impacts  
2 in the most conservative manner possible.

3           However, it does not accurately reflect  
4 current real-world GHG emissions, so it is  
5 reasonable to assume, by the time this project is  
6 built, the carbon intensity factor would have a  
7 lower systemwide average than 430 pounds of CO2-  
8 equivalents per megawatt hour and, thus, indirect  
9 GHG emissions are likely overstated.

10           For the Sequoia Data Center's total  
11 indirect GHG emissions, Staff estimated the  
12 emissions to be 170,865 metric tons of CO2-  
13 equivalents, as shown in Staff Exhibit 201, CEC  
14 Response to Comments on the Initial Study. The  
15 majority of these indirect emissions would come  
16 from the generation of electricity provided by  
17 SVP and consumed at the data center. Increasing  
18 the percentage of carbon-free power procured by  
19 SVP would be the most impactful GHG reduction  
20 measure.

21           SVP's GHG emissions are trending down due  
22 to SVP's decreasing carbon intensity and  
23 compliance with various renewable and low-carbon  
24 energy requirements. Some of these requirements  
25 come from Senate Bill 350, which includes the

1 Renewables Portfolio Staff and its increasing  
2 stringency for reducing carbon emissions from  
3 publicly-owned utilities, such as SVP.

4 Another factor Staff took into  
5 consideration is Senate Bill 100.

6 Okay, I lost my spot. Sorry.

7 Another factor Staff took into  
8 consideration is Senate Bill 100 which calls for  
9 reducing the carbon intensity of the electricity  
10 supply.

11 Additionally, (indiscernible) has  
12 determined that its Climate Action Plan is  
13 insufficient to tier from because it does not  
14 fully address 2035 goals. It remains a valuable  
15 document to compare the project with. The  
16 project, as proposed, would comply with all  
17 applicable measure proposed in that document,  
18 subject to coordination with the city during  
19 design review.

20 In Exhibit 301, page 1, Mr. Sarvey  
21 asserts that the staff analysis in the Initial  
22 Study should not use the Santa Clara Climate  
23 Action Plan, or CAP, to determine the  
24 significance of project GHG emissions under CEQA  
25 because the plan only goes to 2020. And even if

1 the project could use the CAP, its emission  
2 levels are not consistent with the Climate Action  
3 Plan.

4           The City of Santa Clara's Climate Action  
5 Plan adopted in 2013 provides a comprehensive  
6 emissions reduction strategy that will allow the  
7 city to achieve its fair share of statewide  
8 emission reductions through 2020. Consistent  
9 with Assembly Bill 32, consistency with the CAP  
10 framework is a relevant consideration in the  
11 analysis of the significance of the project's GHG  
12 impacts because many of the policies are expected  
13 to be carried forward by the city to address  
14 post-2020 emissions in its next CAP update.

15           GHG impacts from all project emission  
16 sources would be considered less than significant  
17 and the project would pose no potential conflict  
18 with the City of Santa Clara's Climate Action  
19 Plan or any applicable or regulatory programs or  
20 policies adopted by the California Air Resources  
21 Board, Assembly Bill 32, Senate Bill 32, which  
22 requires to achieve GHG emission reductions to 40  
23 percent below 1990 levels by 2030, Senate Bill  
24 350 and Senate Bill 100, and executive orders.  
25 All of these various laws and policies drive a

1 reduction in GHG emissions. And these would all  
2 decrease the facility's indirect GHG emissions as  
3 SVP increases the use of renewable electricity.

4           Since the Renewables Portfolio Standard,  
5 RPS, increases to 50 percent by 2030, which is SB  
6 100, the carbon intensity of California's and  
7 SVP's electricity supply and the GHG emissions  
8 generated to serve the project's electricity  
9 demand will continue to drop.

10           These are all part of the considerations  
11 for indirect emissions. Staff concluded in  
12 Checklist Item B of the Greenhouse Gas section  
13 that the project would not conflict with any  
14 plans, policies, and regulations because Staff  
15 determined that the project would not cause  
16 significant impact. Mitigation beyond SDCC's GHG  
17 reduction efforts would not be required.

18           However, additional measures, such as  
19 onsite PV generation, landscaping, electric  
20 vehicle charging stations could be incorporated  
21 during the project review at the local level.

22           And this concludes my opening statement.

23           MS. DECARLO: Thank you, Ms. Record.

24           Mr. Birdsall?

25           MR. BIRDSALL: Okay. I'm here. You got

1 me?

2 MS. DECARLO: Yes. We can hear you.

3 MR. BIRDSALL: Thank you. Sorry for  
4 that.

5 My name is Brewster Birdsall and I'm  
6 employed by Aspen Environmental Group as an on-  
7 call contractor for the Energy Commission staff  
8 for air quality analysis of power plant siting  
9 cases. I've served in this role off an on since  
10 2001. I'm a California-licensed Mechanical  
11 Engineer and certified as a qualified  
12 environmental professional. And my education is  
13 in mechanical and civil engineering.

14 I prepared the criteria pollutant air  
15 quality impact analysis in the Air Quality  
16 section of the Initial Study, which represents my  
17 written testimony. My declaration and  
18 qualifications were previously filed.

19 In my written testimony covering criteria  
20 pollutant air quality impacts, set forth in the  
21 Initial Study, I concluded, after an independent  
22 analysis, that the project would not have any  
23 significant impact in the potential to expose  
24 sensitive receptors to substantial pollutant  
25 concentrations of criteria pollutants. The

1 project emissions would not cause any new ambient  
2 air quality standard exceedance or any  
3 substantial contribution to an existing  
4 exceedance of an ambient air quality standard.

5           And my assessment of air quality impacts  
6 and my conclusions are consistent with the  
7 conclusions presented just prior to me by Ms.  
8 Record, and also by Dr. Chu and Dr. Qian, who  
9 will speak next. And my written testimony in the  
10 Initial Study is between pages 5.3-19 to 23 and  
11 it sets forth the analysis in detail.

12           One point to note about the criteria  
13 pollutant assessment for the Sequoia Initial  
14 Study is that the Bay Area Air Quality Management  
15 District comment letter that arrived in February  
16 on this Initial Study did not raise any issues  
17 with the criteria pollutant air quality impact  
18 analysis.

19           There have been questions by the  
20 Committee, and also by Intervenor Sarvey, and the  
21 Committee's Questions, at least in the notice for  
22 this hearing, were really two basic framing  
23 questions about the impacts of criteria  
24 pollutants.

25           The first question was: Is the staff's



1 analysis in the Initial Study for criteria  
2 pollutant emissions consistent with the Bay Area  
3 CEQA -- Bay Area Air Quality Management District  
4 CEQA Guidelines? And my answer to that is, yes.  
5 And Ms. Record has already addressed this in much  
6 detail but I'll reiterate that Staff follows its  
7 own best practices in quantifying the emissions  
8 and then preparing an air quality impact  
9 analysis.

10 And Staff's practices are consistent with and  
11 make use of the 2017 Bay Area Air Quality  
12 Management District CEQA Air Quality Guidelines  
13 which establish mass-rate threshold to test the  
14 significance of project emissions, and this  
15 project would emit at levels below those emission  
16 thresholds. That discussion appears in Item B in  
17 the Air Quality section of the Initial Study.

18 After Item B comes Item C which presents  
19 Staff's additional ambient air quality impact  
20 analysis which confirms that substantial  
21 pollutant concentrations would not occur near the  
22 project due to the project's permitted emissions.

23 That was the first Committee question.

24 The Committee had a second question that  
25 it posed, whether or not the analysis would be

1 CEQA compliant? And Staff's analysis is CEQA  
2 compliant.

3 I think the one area that Intervenor  
4 Sarvey has really raised regarding criteria air  
5 pollutants regards examining emergency operation.  
6 And as Ms. Record has pointed out, Intervenor  
7 Sarvey claims that Staff does not examine  
8 emergency operation but that claim does not  
9 recognize the discussion devoted to the topic  
10 within the Initial Study that appears on pages  
11 5.3-27 to 34.

12 The concern, I'll just go into this in a  
13 little bit more detail, the concern about  
14 emergency operations, at least in Intervenor  
15 Sarvey's Prehearing Conference Statement, and  
16 also in his response that came just a couple of  
17 days ago on June 3rd, Intervenor Sarvey states  
18 that during emergency operation the NO2 ambient  
19 air quality standard could be exceeded without  
20 providing analysis to support that possible  
21 conclusion.

22 So in contrast, Staff did consider the  
23 potential for air quality impacts during  
24 emergency operations and concluded that  
25 undertaking such a quantitative analysis would

1 involve making speculative assumptions. Ms.  
2 Record alluded to this just before I began to  
3 speak.

4           To go into a little bit more detail, we  
5 recognize that the project does aim to be  
6 available in case of a power outage, so Staff's  
7 work began with attempting to figure out how  
8 often the engines might run in an emergency  
9 situation. And emergency situations are  
10 addressed in the Bay Area Air Quality Management  
11 District Regulations for these kinds of engines  
12 and an emergency use is one that is stemming  
13 from, quote, "an unforeseeable failure of regular  
14 electric power supply," unquote. And that part  
15 of the Bay Area Regulations appears in our  
16 Initial Study on page 5.3-12.

17           Our work in the Initial Study goes on  
18 through pages 5.3-27 to 34 and shows that a power  
19 outage and subsequent emergency use of the backup  
20 generators would be very infrequent. Now if we  
21 dismiss the low probability nature of an  
22 emergency arising, Staff would still need to  
23 craft assumptions on the timing and the nature  
24 and mass of emissions that would be emitted  
25 during the emergency. We've explained the

1 challenge of -- the challenges of making such  
2 assumption in Staff's prior Responses to Comments  
3 on the IS, or Initial Study. And these are the  
4 Staff's Responses that appeared March 5th.

5           In Staff Response to Sarvey-8, again,  
6 from our March 6th Responses to the Comments on  
7 the Initial Study, Staff looked at six factors  
8 we'd need to establish before we could conduct a  
9 meaningful analysis of the air quality impacts of  
10 emissions during an emergency.

11           I'll run through those six factors  
12 quickly.

13           One is the hours of the engines being  
14 used, meaning the duration of how long the  
15 engines are used in an emergency; two, the  
16 continuous or variable use of the engines in the  
17 midst of the emergency; three, the local  
18 meteorological conditions at that time; four, the  
19 background air quality concentrations of criteria  
20 pollutants at that time; five, the number of  
21 generators and engines that would be running  
22 simultaneously, all of some; and then six was the  
23 load points of each generator -- for example, is  
24 it running at 50 percent load or 100 percent  
25 load? -- which, again could vary during an

1 emergency. Now those six factors are also  
2 described in a more narrative way within the text  
3 of the Initial Study in four bullets of the text  
4 between pages 5.3-27 to 28.

5           Now when faced with making such a wide  
6 range of assumptions to define the nature, the  
7 timing, and the mass of these emissions, Staff  
8 decided that it could not identify a meaningful  
9 or representative modeling scenario to reflect  
10 emergency operations. And this is spelled out in  
11 the Initial Study across some pages, where I'll  
12 read quotations. Staff's conclusion is that  
13 undertaking an air quality impact analysis of any  
14 possible emergency use scenario would force Staff  
15 to make, quote,

16           "A host of unvalidated, unverifiable, and  
17 speculative assumptions about when and under  
18 what circumstances such a hypothetical  
19 emergency would occur."

20           That quote appears on 5.3-28.

21           And then continuing later,

22           "Staff recognizes that the backup generating  
23 facility and the engines would rarely enter  
24 into emergency operations. Accordingly, the  
25 possibility of any adverse impacts to ambient

1 air quality concentrations would be a very  
2 low probability event, thus Staff concludes  
3 that assessing the impacts of emergency  
4 operation of the standby generators would be  
5 speculative due to the infrequent, irregular,  
6 and unplanned nature of power outages."

7 And that appears around page 5.3-33.

8 And in the end, we believe that such a  
9 speculative analysis is not required under CEQA.

10 I'll stop here and that concludes my  
11 opening statement.

12 MS. DECARLO: Thank you, Mr. Birdsall.

13 Dr. Chu?

14 DR. CHU: Hi. Can you hear me?

15 MS. DECARLO: Yes. Thank you.

16 DR. CHU: Okay. My name is Dr. Huei-An  
17 Ann Chu. My area of expertise include human  
18 health risk assessment, biostatistics and  
19 environmental epidemiology. I prepared the  
20 Public Health analysis within the Air Quality  
21 section of the Initial Study, Responses to  
22 Comments on the IS/PMND, and Responses to the  
23 Committee Questions, which represent my written  
24 testimony. My declaration and qualifications  
25 were previously filed in this proceeding.

1           In my written testimony covering public  
2 health impacts from toxic air contaminants set  
3 forth in the Initial Study, Responses to Comments  
4 on the IS/PMND, and Responses to the Committee  
5 Questions, we concluded, after independent  
6 analyses, that the project would not have any  
7 significant impacts in the area of air quality  
8 and public health.

9           Consistent with CEQA, my analysis of  
10 toxic air contaminants in the Initial Study  
11 includes determining project impacts and  
12 assessing whether the impacts are significant.

13           My written testimony in the Initial Study  
14 from pages 5.3-6 to 5.3-8, and pages 5.3-23 to  
15 5.3-27, sets forth this analysis in detail. I  
16 reviewed applicant's health risk assessment for  
17 project construction and project readiness  
18 testing and maintenance. The health risk  
19 assessment measures the incremental risks from  
20 the project's toxic air emissions, including  
21 three key areas of health effects: cancer,  
22 chronic non-cancer and acute non-cancer health  
23 effects. The health risk assessment was based on  
24 very conservative assumptions to overestimate the  
25 risk due to the uncertainty and variability of

1 health risk assessment.

2           Examples of these conservative  
3 assumptions include, first, health risks during  
4 readiness testing and maintenance were evaluated  
5 assuming a total of 50 hours of operation per  
6 year for all 54 generators operating  
7 simultaneously. However, readiness testing and  
8 maintenance activities are expected to occur 10  
9 to 12 hours per year only.

10           Second, the acute hazard index analysis  
11 assumes that all generators are operating in any  
12 one hour time period, which is a conservative  
13 assumption.

14           Three, for residential exposure, we  
15 assumed a 30-year exposure duration, starting  
16 with exposure during the third trimester of  
17 pregnancy. While for offsite worker exposure, we  
18 assumed a 25-year exposure, from age 16 to 40.

19           Even using these conservative assumptions  
20 in the health risk assessment, the impacts from  
21 both the project construction and project  
22 readiness testing and maintenance would be less  
23 than significant.

24           My detailed response to the Committee  
25 questions is from pages one to ten, Public Health



1 1 and Public Health 2, of the Staff's response,  
2 Exhibit 203.

3 CEC staff normally doesn't conclude --  
4 CEC Staff normally doesn't conduct cumulative  
5 health risk assessments but focuses on  
6 incremental risk only, especially for cancer.  
7 The reasons are the following.

8 First, Staff relies on regulations, such  
9 as Proposition 65, California Code of  
10 Regulations, Title 22, Air Toxics Hot Spots, AB  
11 2588, BAAQMD CEQA for guidance in establishing  
12 significance thresholds for incremental risk.  
13 Staff's approach and thresholds are consistent  
14 with these regulations and programs.

15 Second, according to OEHHA,  
16 "The incremental risk posed by a given  
17 exposure to a carcinogen does not depend on  
18 the individual's background exposure to that  
19 or any other carcinogen."

20 Therefore, if the incremental risk is  
21 below the significance threshold, it's not  
22 necessary to take background exposures into  
23 account.

24 Third, it is important to note that the  
25 background lifetime cancer risk is already high.

1 Therefore, it's not necessarily useful or  
2 informative to do the cumulative health risk  
3 assessment and attempt to separate out the  
4 contribution of other sources.

5           Staff's health risk assessment in the  
6 Initial Study did not -- did comply with OEEHA  
7 guidance and BAAQMD CEQA guidelines based on our  
8 usual practice. But because BAAQMD suggested  
9 more analysis, we accommodated their  
10 recommendations and conducted the cumulative  
11 health risk assessment.

12           I and my colleague, Dr. Wenjun Qian,  
13 conducted the cumulative health risk assessment  
14 based on BAAQMD's comments. The results of  
15 cumulative health risk assessment, which again  
16 use the same conservative assumptions I just  
17 stated, show that the cumulative risks are below  
18 BAAQMD thresholds of significance for cancer risk  
19 and chronic non-cancer risk.

20           Section 2.3 of the BAAQMD Guideline  
21 recommends a 1,000-foot radius for cumulative  
22 assessment. But they also recommend a lead  
23 agency to enlarge the 1,000-foot radius on a  
24 case-by-case basis if an unusually large source  
25 of risk hazard emissions that may affect a

1 proposed project is beyond the recommended  
2 radius.

3           Following BAAQMD's guidelines and  
4 suggestions, staff's cumulative health risk  
5 assessment includes four major types of sources.

6           The first one is the San Jose  
7 International Airport emissions sources located  
8 within 2,000 feet of the boundaries proposed for  
9 the Walsh and Sequoia projects combined.

10           The second are the existing stationary  
11 sources nearby.

12           And the third one is the surrounding  
13 highways, main streets, and railways.

14           And the final include the proposed  
15 Sequoia project, the proposed Walsh project, and  
16 the proposed -- and the approved McLaren project.

17           Therefore, staff's cumulative health risk  
18 assessment does include other data centers  
19 nearby, including Walsh and McLaren projects, and  
20 the existing Microsoft Data Center at 2045  
21 Lafayette Street. But staff did not include  
22 other data centers because they are beyond the  
23 1,000-foot radius from all maximally exposed  
24 sensitive four receptors of Sequoia.

25           The cumulative PM2.5 impacts are over the

1 significance threshold of cumulative health risk  
2 assessment but Sequoia's contribution is minimal.

3           I want to focus your attention on Table 3  
4 on page 9 of Exhibit 203. If you look at the  
5 total cumulative source row, you will see one  
6 value, 1.4402. It exceeds the 0.8 microgram per  
7 cubic meter significance threshold of cumulative  
8 health risk assessment. While there is an  
9 exceedance due to one existing stationary source,  
10 we can see the local concentration has already  
11 exceeded the threshold. And the contribution of  
12 Sequoia project to the total risk is minimal.  
13 The modeled number shows that with total risk of  
14 1.4402, Sequoia only adds 0.0003 micrograms per  
15 cubic meter to that receptor.

16           Since the project's contribution is  
17 minimal, staff concluded that the project won't  
18 result in a cumulatively considerable  
19 contribution. Therefore, the project does not  
20 cause cumulatively considerable impacts.

21           Staff's supplemental analysis also shows  
22 that the standard approach used to perform a  
23 health risk assessment in the Initial Study is  
24 adequate and a cumulative analysis does not  
25 change our results and conclusions.

1           Mr. Sarvey had comments regarding  
2 emergency operation of the project. He stated  
3 that,

4           "Diesel particulate matter concentrations  
5 could reach unhealthy levels but neither  
6 staff nor applicant has analyzed these  
7 impacts."

8           As mentioned previously, the health risk  
9 assessment for project readiness testing and  
10 maintenance were evaluated by assuming a total of  
11 50 hours of operation per year for all 55  
12 generators operating simultaneously. Readiness  
13 testing and maintenance activities are expected  
14 to occur only 10 to 12 hour per year. Therefore,  
15 our analysis of diesel particulate matter is very  
16 conservative for expected operations, and  
17 adequate up to the proposed 50 hours of annual  
18 testing and maintenance.

19           The health risk assessment results shown  
20 in Table 5.3-10 of the Initial Study are all  
21 below the significance thresholds, so no  
22 additional impact analysis is required to  
23 evaluate the emergency operations for cancer,  
24 chronic and acute noncancer health impacts.

25           On pages 12 to 14 of Mr. Sarvey's reply

1 testimony, Exhibit 303, Mr. Sarvey listed a  
2 number of proposed data center projects as  
3 supporting his position that a cumulative impact  
4 assessment must be performed. In his Response to  
5 Staff's and Applicant's Committee Questions, he  
6 also listed three more data centers, including  
7 the 2805 Lafayette Street Data Center, the 2200  
8 De La Cruz Avenue Data Center, and the Santa  
9 Clara Data Center.

10           As I mentioned previously, our cumulative  
11 health risk assessment includes Walsh and  
12 McLaren, along with Sequoia. We didn't include  
13 Mission College, San Jose and Laurelwood, the  
14 2805 Lafayette Street Data Center, the 2200 De La  
15 Cruz Avenue Data Center, and the Santa Clara Data  
16 Center because they are all beyond the 1,000-foot  
17 radius from the maximally exposed sensitive  
18 receptors of Sequoia, and the BAAQMD didn't  
19 suggest staff to include these data centers.

20           Also, let me explain in more details. As  
21 I explained in Public Health 2 of CEC staff's  
22 Responses to Committee Questions, Exhibit 203,  
23 when staff conducted our cumulative health risk  
24 assessment, we used BAAQMD's Permitted Sources  
25 Risk and Hazard Map to get data for the existing

1 stationary sources. If the data centers Mr.  
2 Sarvey listed were not included in staff's  
3 cumulative health risk assessment, it means they  
4 are beyond the 1000-ft radius of the receptors.

5           Staff double-checked the Excel sheets  
6 downloaded from BAAQMD. None of these data  
7 centers listed by Mr. Sarvey were included  
8 because they are all beyond the 1,000 foot radius  
9 of the maximally exposed sensitive receptors.  
10 But we did include the existing Microsoft Data  
11 Center at 2045 Lafayette Street.

12           The 1,000 foot distance is pertinent not  
13 only because it is the zone of analysis  
14 identified in BAAQMD's CEQA Guidelines, but also  
15 because emissions from sources outside of a  
16 project's 1,000-foot radius are unlikely to  
17 commingle and contribute to a cumulative impact.

18           According to the Risk Calculator provided  
19 by the BAAQMD, the risk number drops to around  
20 four percent of the original one when the  
21 distance goes to around 1,000 foot. Theretofore,  
22 the San Jose Airport is the only source beyond  
23 the 1000-foot radius source -- beyond the 1,000-  
24 foot radius that staff added after consulting  
25 with BAAQMD. Neither staff nor the BAAQMD

1 identified any other sources outside this 1,000-  
2 foot zone that justified inclusion in this  
3 analysis.

4 This concludes my opening statement.

5 MS. DECARLO: Thank you, Dr. Chu.

6 And, lastly, Dr. Qian.

7 DR. QIAN: My name is Dr. Wenjun Qian.

8 My areas of expertise include air dispersion  
9 modeling and health risks modeling. I helped  
10 preparing the Public Health section of the  
11 Responses to Committee Questions, which represent  
12 my written testimony. My declaration and  
13 qualifications were previously filed in this  
14 proceeding.

15 My detailed response to the Committee  
16 Questions is at pages 4 to 12 of Exhibit 203,  
17 Staff's Responses to Committee Questions. I  
18 focused on modeling the cumulative health impacts  
19 of the San Jose International Airport and  
20 identifying the cumulative impacts from Walsh and  
21 McLaren Data Centers at sensitive receptors for  
22 the Sequoia Data Center.

23 Mr. Sarvey had comments regarding the  
24 cumulative health risk impacts in his response to  
25 staff and applicant on committee questions filed



1 on June 3rd, Exhibit Number 305. Staff would  
2 like to respond to these comments.

3           Staff would like to emphasize that the  
4 cumulative health risk impacts shown in Tables 1  
5 to 3 in Exhibit 203, Staff's Responses to  
6 Committee Questions, were conducted at each  
7 maximally exposed receptor location identified in  
8 the Initial Study for Sequoia. For the  
9 cumulative impacts from Walsh and McLaren Data  
10 Center projects, because Staff has refined the  
11 modeling files from the applicant of each  
12 project, staff looked into the modeling files in  
13 great detail to find the receptor locations that  
14 are closest to each of the maximally exposed  
15 receptor location identified for Sequoia. The  
16 health risk impacts from Walsh and McLaren at  
17 these closest receptor locations are provided as  
18 cumulative impacts from these projects as shown  
19 in Tables 1 to 3 in Exhibit 203.

20           Applicant's modeling domain usually  
21 covers a big region, beyond the 1,000-foot radius  
22 required by Bay Area AQMD. Applicants normally  
23 model thousands of receptors around project  
24 areas. Therefore, it's not surprising that there  
25 might be identical receptors modeled for two

1 nearby projects.

2           For example, the soccer child receptor  
3 locations were both identified for the McLaren  
4 and Sequoia projects. It means the Applicant and  
5 Staff evaluated the health impacts of both  
6 projects at the soccer child receptor locations.

7           Mr. Sarvey mistakenly stated that the  
8 maximum cancer, chronic, and the PM2.5 impacts  
9 from McLaren all occur at the soccer field.  
10 However, Table 5.3-10 on page 5.3-24 of the  
11 McLaren Initial Study, that's TNN Number 223911,  
12 actually shows that maximum cancer, chronic HI,  
13 and PM2.5 impacts would occur at the maximum  
14 exposed individual worker, and the cancer risk at  
15 the soccer field is shown as lowest compared to  
16 other receptor locations identified in that  
17 table.

18           As the Applicant pointed out previously,  
19 Mr. Sarvey also mistakenly compared the PM2.5  
20 impacts with the cancer risk impacts. Mr. Sarvey  
21 looked at the wrong table. The cumulative cancer  
22 risks table -- are in Table 1 of Exhibit 203,  
23 Staff's Responses to the Committee Questions.  
24 However, the values, 0.0081 and 0.00031, that Mr.  
25 Sarvey mentioned in his Response to Staff's and

1 Applicant's Committee Questions are from Table 3  
2 of Exhibit 203, which are cumulative PM2.5  
3 impacts, not cancer risks. They are in different  
4 units and cannot be compared with each other.

5           In addition, the cancer risk at the  
6 soccer field from testing and the maintenance at  
7 Sequoia is consistently shown as 0.002, in the  
8 millions, in both Table 5.3-10 of the Initial  
9 Study and Table 1 of Staff's Responses to  
10 Committee Question. The 0.1-in-a-million value  
11 mentioned by Mr. Sarvey is in Table 5.3-9, Health  
12 Risk Impacts for the Construction Phase of the  
13 Project. It cannot be compared with the cancer  
14 risk from testing and the maintenance of the  
15 engines.

16           This concludes my opening statement.

17           MS. DECARLO: Thank you, Dr. Qian.

18           Just for the record, the table from the  
19 McLaren Initial Study that Dr. Qian referenced we  
20 docketed as Exhibit 204 in this proceeding, just  
21 for ease of reference.

22           And that concludes this panel's direction  
23 testimony. They are available for cross and  
24 Committee questions.

25           HEARING OFFICER LEMEI: Thank you, Ms.

1 DeCarlo, and thank you for that clarification  
2 about the exhibit.

3 I will ask the Applicant, Mr. Galati, do  
4 you have any questions or wish to cross-examine  
5 any of these -- any of Staff's witnesses?

6 MR. GALATI: No, I do not. And, Mr.  
7 Lemei, may I also correct something that needs to  
8 be corrected before my old mind forgets about it?

9 HEARING OFFICER LEMEI: Of course.

10 MR. GALATI: I docketed Exhibit 35, which  
11 we've used in this. That is the revised Silicon  
12 Valley Power Integrated Resource Plan. The  
13 original one that I docketed is Exhibit 27 and  
14 that was -- it did not represent the final; I'd  
15 like to withdraw 27. I meant to not include that  
16 in my motion. I apologize.

17 HEARING OFFICER LEMEI: You'd like to  
18 withdraw Exhibit 27 from the record?

19 MR. GALATI: Yeah.

20 HEARING OFFICER LEMEI: Okay.

21 MR. GALATI: It's an earlier version of  
22 what was Exhibit 35, and I did not have the final  
23 version at the time, so I'd just like to withdraw  
24 27.

25 HEARING OFFICER LEMEI: Just to clarify,

1 then is Exhibit 27, forgive me for not  
2 remembering this, mentioned by name in or  
3 referenced in anything, in any of your filings in  
4 this proceeding, other than your Prehearing  
5 Conference Statement?

6 MR. GALATI: Yeah, not as Exhibit 27. It  
7 is referenced as the Silicon Valley Power  
8 Integrated Resource Plan.

9 HEARING OFFICER LEMEI: And you'd like  
10 those references to -- when we read those  
11 references, you'd like us to look to the final  
12 version of the plan, which is currently Exhibit  
13 35, rather than the non-final version which is  
14 currently docketed as Exhibit 27, which you are  
15 requesting to withdraw?

16 MR. GALATI: That's correct.

17 HEARING OFFICER LEMEI: Let me ask Staff,  
18 do you have any objection to the motion to  
19 withdraw Exhibit 27?

20 MS. DECARLO: I do not.

21 HEARING OFFICER LEMEI: Mr. Sarvey, do  
22 you have any objection to the motion to withdraw  
23 Exhibit 27?

24 MR. SARVEY: Yes, I do. I would have  
25 sponsored the exhibit myself but Mr. Galati put

1 it into the record. So at this point, if he wants  
2 to withdraw it, I'd like to sponsor.

3 HEARING OFFICER LEMEI: Okay. So this is  
4 going to require -- I guess in theory, we could  
5 have it stricken as Exhibit 27 and have it  
6 readmitted as an additional exhibit.

7 You were going -- was someone going to  
8 say something?

9 MR. GALATI: Yeah. Mr. Lemei, if that  
10 would be form over substance, I withdraw my  
11 request. I was just trying to correct the  
12 record. If Mr. Sarvey --

13 HEARING OFFICER LEMEI: No. That's what  
14 I --

15 MR. GALATI: -- wants to refer to the  
16 exhibit (indiscernible).

17 HEARING OFFICER LEMEI: Yeah.  
18 Understood.

19 What I will say is this, just for  
20 clarification sake, Mr. Galati, when you are  
21 referring to the plan, I will understand you to  
22 be referring to Exhibit 35.

23 Mr. Sarvey, the motion is withdrawn. And  
24 I understand that when I encounter, you know,  
25 references to Exhibit 27, I will mentally

1 remember that is, you know, that is something  
2 that you wanted to be retained in the record, for  
3 what that's worth.

4           So I think that that clears things up.  
5 And thank you of that. Thank you all for that  
6 clarification.

7           So then we are still asking about cross-  
8 examination of Staff's panel.

9           I will ask Mr. Sarvey, do you have  
10 questions of the members of Staff's panel?

11           MR. SARVEY: Yes, I do.

12           HEARING OFFICER LEMEY: All right. You  
13 may proceed.

14           MR. SARVEY: Okay.

15           Brewster, have you examined Exhibit 304,  
16 which is the Washington State Department of  
17 Ecology's Analysis for Emergency Operations at  
18 the CyrusOne Data Center in Quincy, Oregon?

19           MR. BIRDSALL: This is Brewster.

20           Mr. Sarvey, could you repeat that  
21 question please? I'm sorry.

22           MR. SARVEY: Sure. Have you examined  
23 Exhibit 304, which is the Washington State  
24 Department of Ecology's Analysis of Emergency  
25 Operations at the CyrusOne Data Center in Quincy,

1 Oregon?

2 MR. BIRDSALL: Oh, yes. Thanks, Mr.  
3 Sarvey. I have. I've taken a quick look at it  
4 and I recognize that this is a study done in  
5 Washington State for a facility up there in  
6 Washington.

7 Do you have a specific question?

8 MR. SARVEY: Yeah. Why can't the CEC  
9 staff perform what is, basically, a routine  
10 evaluation of emergency operations at data  
11 centers in Quincy, Washington?

12 MR. BIRDSALL: Your question was cutting  
13 out a little bit but I think you said, "routine  
14 evaluation of emergency operations."

15 MR. SARVEY: Well, I asked, why can't  
16 Staff, CEC Staff, perform what is, basically, a  
17 routine evaluation of emergency operations at  
18 data centers in Quincy, Washington?

19 MR. BIRDSALL: Well, I think that we  
20 covered this when Ms. Record and myself portrayed  
21 the assumptions that need to be made before  
22 running an air quality dispersion model for  
23 something like an emergency.

24 Do you have a specific challenge beyond  
25 what we've talked about or --



1 MR. SARVEY: No. No. Basically --

2 MR. BIRDSALL: -- (indiscernible)?

3 MR. SARVEY: -- basically, CEC Staff is  
4 claiming that they can't do it, it's too  
5 complicated, whatever, but they seem to be doing  
6 it routinely in Washington. And I don't  
7 understand what CEC Staff's problem is.

8 MR. BIRDSALL: Okay. I think maybe I  
9 understand your question better.

10 What goes into the dispersion model first  
11 is the assumption of whether or not this source  
12 is on or off.

13 And when we're talking about the model,  
14 just to give the Committee a little background,  
15 the model is to predict concentrations,  
16 concentrations downwind of the --

17 HEARING OFFICER LEMEY: Did we lose Mr.  
18 Birdsall?

19 MR. BIRDSALL: I think I'm back. Am I  
20 here?

21 MS. DECARLO: Yes. Yes, we can hear you.

22 MR. BIRDSALL: My line was muted, I  
23 guess.

24 So to give a little background on how the  
25 dispersion model works, and this is the same for

1 the State of Washington or for the work that we  
2 do here, it's the same model and the same tool,  
3 it begins with an assumption of whether the  
4 source is on or off. And when we are modeling  
5 the source that is tested routinely or that runs  
6 on a routine schedule, we can make some  
7 assumptions about how that source is on. And we  
8 do this in our impact analysis for all the  
9 readiness testing and routine maintenance of  
10 these data center facilities.

11           During the course of a five-year term,  
12 which is the record or the length of the record  
13 for the meteorological data that we put into the  
14 model, during the course of the five-year term we  
15 looked at whether or not emergency operations  
16 could occur. And we did this looking back in the  
17 Laurelwood case and so we had some time to sort  
18 of think about it.

19           But when we looked we found that, by its  
20 nature, a power outage is really, because it is a  
21 failure of the routine supply of electricity, it  
22 is something that is unscheduled and can't be  
23 assumed to occur at any particular time. We know  
24 that these sources, these emergency backup  
25 generator engines, would turn on, really, for a

1 routine testing and maintenance, and we have the  
2 impact analysis for that, but we don't know how  
3 they would turn or when they would turn on in the  
4 face of the failure of the grid.

5           And I think what happened in Washington  
6 or what the study does in Washington is it  
7 probably assumes that the emergency could occur  
8 anytime. And, in fact, I haven't looked closely  
9 at the modeling, but in order to model that over  
10 five years the modeler, myself or whomever is  
11 running the model, you have to just basically put  
12 the engines in running for every hour of all  
13 those five year.

14           And after our work on Laurelwood and the  
15 work in the cases that have followed, we, as  
16 Staff, have decided that that would be an  
17 unrealistic assumption to carry forward in a CEQA  
18 analysis. And Washington State, I'll point out,  
19 is, obviously, outside of California. And our  
20 analysis is really driven by CEQA and we are  
21 mindful that CEQA discourages speculation.

22           And that, I hope, provides a little  
23 context on

24           MR. SARVEY: So in the last four years,  
25 Silicon Valley Power has experience two outages

1 that have impacted data centers. But what is the  
2 probability that there will be another data  
3 center outage based on those statistics?

4 MR. BIRDSALL: I don't have that number  
5 right in front of my face right now but we did  
6 identify those outages and published them in the  
7 Initial Study. And we have concluded, as I've  
8 said in my introduction, that an outage we view  
9 as being a very low probability event.

10 MR. SARVEY: And you based that on ten  
11 years of operations instead of the last four; is  
12 that correct?

13 MR. BIRDSALL: That statement of  
14 probability is really based on our information  
15 that's in the Initial Study and the table of the  
16 outages that is shown there.

17 MR. SARVEY: And is that --

18 MR. BIRDSALL: And I think that -- excuse  
19 me -- and that information also appears in one of  
20 the Initial Study appendices. And I think the  
21 record of information we gathered from SVP goes  
22 back ten years.

23 MR. SARVEY: Um-hmm. Did Staff consider  
24 the probability of a PSPS causing the data center  
25 backup generators to operate?

1           MR. BIRDSALL: In the Initial Study the  
2 PSPS is -- or the potential for a PSPS outage is  
3 described in the project description of the  
4 Initial Study. And there have not been outages  
5 in the SVP territory as a result of a PSPS. I  
6 believe that's on page -- somewhere in Section 4  
7 of the Initial Study, page 4-9, according to my  
8 notes.

9           MR. SARVEY: So you're aware that the  
10 PSPS shutoff affected San Jose area; is that  
11 correct?

12           MR. BIRDSALL: You've, I believe,  
13 Intervenor Sarvey, you've presented information  
14 that shows the PSPS affecting generators that are  
15 connected to the grid, not necessarily in SVP  
16 territory but maybe up in PG&E territory by the  
17 geysers.

18           MR. SARVEY: Did Staff consider other  
19 possible scenarios, like UPS outages, like the  
20 Friendster outage in Exhibit 209, which might  
21 require the backup generators to operate?

22           MR. BIRDSALL: We're looking at power  
23 outages and have asked SVP, and SVP provided that  
24 information, about outages to the electric supply  
25 because when the electric supply goes out, that

1 will be the time of triggering emergency backup  
2 generator use.

3 MR. SARVEY: And SVP stated that when  
4 data centers turn on their backup generators,  
5 unless it's a power outage, they're not informed.  
6 Did you hear that testimony?

7 MR. BIRDSALL: Yes.

8 MR. SARVEY: Oh. Okay.

9 MR. BIRDSALL: I did.

10 MR. SARVEY: Exhibit 26 submitted by the  
11 Applicant, it's the Uptime Institute's Annual  
12 Survey, based on page 4 of 7 that a third of  
13 those tier data suffered some form of outage or  
14 serious service degradation in the past year.

15 It goes on later, on page 5 of 7, to  
16 state that power loss was the single biggest  
17 cause of outages, accounting for one-third, as in  
18 2018.

19 So if a third of the respondent's  
20 experienced an outage and 30 percent of those  
21 were due to power losses, what do you estimate  
22 the possibility of a data center losing power?

23 MS. RECORD: Hello. This is Jacquelyn  
24 Record.

25 Mr. Sarvey, so on page, of our Initial

1 Study, 5.3-31 --

2 MR. SARVEY: Um-hmm.

3 MS. RECORD: -- we actually give a  
4 probability of 1.6 percent of an outage per year.  
5 And that was based off of the outages to date  
6 that there have been on SVP's system and the  
7 number of data centers that experience an  
8 interruption, and then the amount of minutes each  
9 of those experience. So then we broke it down by  
10 doing a probability and we had 1.6 percent --

11 MR. SARVEY: And that was --

12 MS. RECORD: -- outage per year.

13 MR. SARVEY: -- and that was based solely  
14 on outages reported to you by SVP; right?

15 MS. RECORD: I believe this actually came  
16 off of a spreadsheet that was given to us in the  
17 application.

18 MR. SARVEY: And that was from Silicon  
19 Valley Power; correct?

20 MS. RECORD: Well, let me check.

21 MR. BIRDSALL: Ms. Record --

22 MS. RECORD: Yes.

23 MR. BIRDSALL: -- this is Brewster  
24 Birdsall.

25 MS. RECORD: Uh-huh. Go ahead.

1           MR. BIRDSALL: That information is  
2 gathered from SVP and it was gathered and  
3 assembled in the appendix to the Initial Study.  
4 So the information is specific to this utility  
5 service territory. And I think we can all  
6 recognize that in a different service territory  
7 in a different location that there would be  
8 different history.

9           MR. SARVEY: I see. Well, according to  
10 the ISMND, there are three major faults in the  
11 region, the Calaveras Fault, the San Andreas  
12 Fault, the Hayward-Rodgers Creek Fault, all  
13 within ten miles of this site.

14           Did Staff consider the probability of an  
15 earthquake disrupting power to the facility when  
16 it made its assessment of the probability of  
17 emergency operations?

18           MS. DECARLO: Mr. Sarvey, that --

19           MR. BIRDSALL: Speaking from an air  
20 quality --

21           MS. DECARLO: Oh. Sorry.

22           MR. BIRDSALL: No. Thank you.

23           MS. DECARLO: Go ahead, Brewster.

24           MR. BIRDSALL: Okay. This is Brewster  
25 from the Air Quality Team.



1           And we recognize that emergencies are  
2 emergencies. And what I mean by this, not to be  
3 cryptic, is that there may be reasons why an  
4 emergency in the region could trigger operation  
5 of the backup generators. We've explored the  
6 history of power outages as being, probably, the  
7 most likely reason for the backup generators to  
8 turn on in an emergency. And I'll leave it at  
9 that. Of course, the backup generators could  
10 turn on for some other kind of emergency that  
11 might be related to something else catastrophic.  
12 But I don't think anything in CEQA requires us to  
13 speculate on those kinds of exceptional events.

14           MR. SARVEY: So the Bay Area Air District  
15 chose 100 hours as the expected amount of hours  
16 emergency generators would operate in an  
17 emergency mode in the Air District.

18           Is it true that EPA guidance states to  
19 determine the potential to emit that sources  
20 emission should be calculated for 500 hours of  
21 emergency operation per year?

22           MS. RECORD: This is Jacquelyn Record.  
23 And that would be potentially to emit, so those  
24 are mass emissions. And when we talk about the  
25 modeling, we're talking about more of like a

1 micrograms per meters cubed, so like a modeled  
2 number, so a concentration over a one-hour period  
3 of time.

4 MR. SARVEY: Yeah. That's what I was  
5 addressing, the total.

6 MS. RECORD: So on an annual basis?

7 MR. SARVEY: Yeah.

8 MS. RECORD: Brewster, would you like to  
9 describe the annual modeling?

10 MR. BIRDSALL: The -- yes. Hi. This is  
11 Brewster again.

12 The consideration of numbers of hours per  
13 year in an emergency is really up to the lead  
14 agencies discretion. And if you go back to look  
15 at those different guidelines, you'll see that  
16 they are -- they were written from the  
17 perspective of the air quality permitting agency  
18 that may or may not have information on the site  
19 and the specific nature of how the site might  
20 encounter an emergency.

21 Here we've gone a little bit beyond this  
22 because we've explored the utilities reliability  
23 in order to get a sense of how frequently a power  
24 outage might occur. And we believe it to be --  
25 we believe it to be a very infrequent or a low

1 probability event, which we believe is consistent  
2 with a CEQA compliance approach.

3 MR. SARVEY: So, Brewster, you were the  
4 lead technology staff for the Humboldt Bay  
5 Repowering Project. That project included ten  
6 16.3 megawatt dual-fuel diesel natural gas-fired  
7 generators. In that proceeding, did the  
8 Commission determine that the generating capacity  
9 of the diesel-fired generators was 163 megawatts?

10 MR. BIRDSALL: So my recollection of  
11 Humboldt is, yes, those diesel-powered units were  
12 summed together or, rather, ten of them would be  
13 added together for their capacity. And then the  
14 power plant, it was a thermal power plant, was  
15 subject to the AFC process.

16 MR. SARVEY: Would it be possible for the  
17 Sequoia Project to use diesel and natural gas-  
18 fired generators?

19 MR. BIRDSALL: Well, as -- and I forget  
20 who answered this, maybe the Air District  
21 permitting engineer -- the role at the Energy  
22 Commission is to assess the project that is  
23 proposed. And there are alternative technologies  
24 that may be available to data center operators  
25 but it is the Applicant's job, really, to decide

1 on a technology that works and then propose it to  
2 us for review.

3 MR. SARVEY: Yeah. I understand. I was  
4 just asking you if you, in your professional  
5 opinion, do you think they could use diesel and  
6 natural gas-fired generators? I understand, they  
7 picked something else.

8 MR. BIRDSALL: I think, setting aside the  
9 proposal that is for diesel, I think there are  
10 some tradeoffs if natural gas would be used as  
11 the backup source of energy for generator  
12 engines. And one of the tradeoffs are that you,  
13 as a facility operator, then put your facility at  
14 the mercy of the natural gas system. And if that  
15 system is unavailable, then your backup genres  
16 might not be able to function, unless you store  
17 large quantities of natural gas on the project  
18 site, which I have not seen any -- I have not  
19 seen any developer offer to do.

20 MR. SARVEY: So when you analyzed the  
21 Humboldt Generating Station for localized  
22 cumulative air quality impacts, did you include  
23 sources within a six-mile radius or did you use a  
24 1,000-foot radius?

25 MR. BIRDSALL: This is quite a long time

1 ago. And in a large thermal power plant case,  
2 for ambient air quality standard compliance, you  
3 might go as far out as six miles to look for  
4 other large, major, stationary sources for  
5 compliance with the ambient air quality standards  
6 as they are implemented through the permitting  
7 process. And this is -- this process is a bit  
8 different because the Energy Commission is  
9 considering an exemption, rather than an AFC.  
10 And in an AFC the Energy Commission works much  
11 more closely with the Air District to determine  
12 the compliance of the project with Air District  
13 rules and regulations.

14 And that's why the air districts, for a  
15 larger power plant like that, will issue a  
16 determination of compliance. And, in this case,  
17 the Air District will issue more of a routine  
18 permit.

19 So it's really apples and oranges.

20 MR. SARVEY: Um-hmm. But for CEQA  
21 compliance, generally, the Energy Commission uses  
22 a six-mile radius; that's correct?

23 MR. BIRDSALL: I'll leave it to you to  
24 gather that information because, in this case, we  
25 have a project that emits less than the Air

1 Quality District's thresholds, and these are the  
2 thresholds that I described in my introduction.  
3 And because this project emits less than the  
4 thresholds that are recommended by the Air  
5 District, we've concluded that those emissions  
6 are less than significant. And it's really  
7 different from a large power plant that probably  
8 would emit at levels greater than the  
9 significance threshold at the local air district.

10 MR. SARVEY: So in Exhibit 200, page 5.3-  
11 22, Table 5.3-8, your modeling chose that with  
12 only one generator running the project's NO2  
13 impact is 98 percent of the state NO2 standard  
14 and 99 percent of the federal NO2 standard. Is  
15 that the reason that only one generator is  
16 allowed to operate at one time?

17 MR. BIRDSALL: The Applicant proposal is  
18 to operate one generator for testing or  
19 maintenance at a time and that is what we  
20 modeled.

21 MR. SARVEY: So you never modeled more  
22 than one generator at a time; that's correct?

23 MR. BIRDSALL: That's correct because it  
24 is not in the proposal.

25 MR. SARVEY: So I have another question

1 here that is confusing to me.

2           The maximum impact from Table 5.3-8,  
3 which I mentioned earlier, for 24-hour PM2.5  
4 impacts is 0.58 micrograms per cubic meter. But  
5 in a cumulative impact assessment in Exhibit 203,  
6 page 9, Staff lists the maximum 24-hour impact as  
7 0.04 micrograms per cubic meter.

8           Help me understand how the cumulative  
9 impact could be less than the individual impact  
10 from operating just one generator?

11           MR. BIRDSALL: Can you direct me to the  
12 page of the cumulative impacts? Because it's  
13 probably -- it sounds like a different receptor  
14 and so I just want to be sure I'm looking to the  
15 right number.

16           MR. SARVEY: It's Table 5.3-8, Exhibit  
17 200 -- wait, I'm sorry. I don't have a page  
18 here. I apologize. The other -- well, Exhibit  
19 203 is page 9. But I just want to understand how  
20 that could happen? I mean, this is not a tricky  
21 question. I just want to know how that happens.

22           MR. BIRDSALL: I think we may be looking  
23 at a different receptor because the Table 3 in  
24 the Staff Responses to Committee Questions are  
25 for very specific locations. If you look across

1 the top of that Table 3 --

2 MR. SARVEY: Um-hmm.

3 MR. BIRDSALL: -- and you'll see those  
4 are diesel particulate matter concentrations --

5 MR. SARVEY: Um-hmm.

6 MR. BIRDSALL: -- at exposed workers or  
7 residences or whatnot. And I'll say, that's an  
8 annual number. So it sounded like you were  
9 talking about the 24-hour concentration.

10 MR. SARVEY: Um-hmm.

11 MR. BIRDSALL: You just want to make  
12 sure -- you have to be sure that the receptors  
13 are exactly the same --

14 MR. SARVEY: Right.

15 MR. BIRDSALL: -- and that the averaging  
16 periods are exactly the same.

17 MR. SARVEY: Okay. I understand what  
18 you're saying. I'll move on. Thanks Brewster.

19 That's all I have, Brewster. Thanks for  
20 your answers. You did a good job as always.

21 MS. DECARLO: This is Lisa DeCarlo. I  
22 have one question on redirect.

23 HEARING OFFICER LEMEI: Okay. Yes. You  
24 may proceed.

25 MS. DECARLO: Thank you.



1           Mr. Birdsall, Mr. Sarvey asked you about  
2 the NO2 modeling showing one generator operating  
3 at either 98 percent of 99 percent of the current  
4 state and federal standards.

5           Does this result, necessarily imply, that  
6 if you add one more generator to the mix the  
7 standard would be violated?

8           MR. BIRDSALL: No, it doesn't.  
9 Obviously, this result is close to the standard.  
10 The Applicant found a lower impact for one-hour  
11 NO2 concentrations. And the Applicant's finding  
12 was lower than what Staff found.

13           So to explain what I did in my  
14 independent staff work, and what I did was I  
15 searched for the single worst-case concentration  
16 out of the five years of meteorological data, and  
17 also the worst-case concentration caused by any  
18 of the 54 engines at the 5 different engine load  
19 set points that the Applicant considered. And so  
20 that is, essentially, saying the worst of the  
21 worst of the worst in terms of the individual  
22 hour within five years, and then the individual  
23 engine, and then the individual load setting of  
24 that one engine.

25           The Applicant, as I said, found a lower

1 impact by using a five-year averaging period for  
2 comparison to the California Ambient Air Quality  
3 Standard. And I changed that part of the  
4 Applicant's work by focusing on the single  
5 highest one hour of that situation.

6 Now, if you add one more engine to the  
7 mix, chances are it would impact a different  
8 receptor, not the same receptor that experienced  
9 the elevated concentration of the one result.  
10 And, also, if you have two engines running, well,  
11 then the meteorological conditions might be  
12 different and might not be the actual worst-  
13 worst-worst. And if they are random engines  
14 within the 54, then chances are, I mean, it's  
15 almost -- it is, really, in all likelihood that  
16 it will be less than this number because, as I  
17 said, this number is handpicked to be the worst  
18 of all the hours of all the engines of all the  
19 load set points.

20 MS. DECARLO: Thank you, Mr. Birdsall. I  
21 have no further questions.

22 HEARING OFFICER LEMEI: Okay. Thank you  
23 all. That was a long session. And I do not  
24 believe the Committee -- I don't have any  
25 questions from any of these witnesses. And I'm

1 just checking my -- I do not -- I have not heard  
2 from any members of the Committee that they have  
3 questions of these witnesses, so I will thank you  
4 all for your testimony.

5 And moving on to Mr. Sarvey, would you  
6 like to present direct testimony?

7 MR. SARVEY: Yeah. I just have a little  
8 brief statement. It won't take but a second.

9 HEARING OFFICER LEMEI: So just a  
10 clarifying question. Is this -- since we are  
11 doing closing statements, that would be the time  
12 to sort of wrap up your position.

13 MR. SARVEY: No. This is just related to  
14 GHG emissions, some --

15 HEARING OFFICER LEMEI: Okay. Okay.  
16 This is a specific --

17 MR. SARVEY: This is --

18 HEARING OFFICER LEMEI: Okay.

19 MR. SARVEY: -- this is testimony related  
20 to the GHG emissions.

21 HEARING OFFICER LEMEI: All right.  
22 Then -- and this is testimony, so I will ask you  
23 to be sworn in. Oh, just a moment. I lost my --  
24 here we go.

25 (Robert Sarvey is sworn.)

1           MR. SARVEY: Absolutely, because if I  
2 don't, Mr. Galati will get me.

3           HEARING OFFICER LEMEI: No doubt. All  
4 right, Mr. Sarvey, you may proceed.

5           MR. SARVEY: Okay. Staff and Applicant  
6 propose not using the BAAQMD GHG threshold of  
7 significance for land use projects of 1,100  
8 metric --

9           HEARING OFFICER LEMEI: Mr. Sarvey, can I  
10 ask you to slow down a little bit? Your mike is  
11 cutting out and I want to make sure that we're  
12 able to get all your words.

13          MR. SARVEY: Sure. I'm sorry.

14          HEARING OFFICER LEMEI: It's not your  
15 fault, it's the technology, but we can get  
16 through with a little bit of, even, technology if  
17 you talk just a little bit slower, I think.

18          MR. SARVEY: Sure. The Staff and  
19 Applicant propose not using the BAAQMD GHG  
20 threshold of significance for land use projects  
21 of 1,100 metric tons of CO2 per year. In fact,  
22 Staff and Applicant propose no threshold of  
23 significance for GHG emissions from indirect  
24 energy use.

25          The Commission has the discretion to

1 adopt and GHG emission threshold they deem  
2 acceptable of appropriate. The Commission can  
3 use the 1,100 metric ton per year BAAQMD  
4 threshold. The Commission could use CARB's  
5 suggested 7,000 metric ton per year GHG threshold  
6 for industrial projects, which includes direct  
7 emissions from electricity use. The Commission  
8 can adopt a 25,000 metric ton per year threshold  
9 as provided by the greenhouse gas reporting  
10 requirement. So the Commission can and should  
11 adopt some threshold of significance in this  
12 proceeding. I know that the 2019 IEPR was  
13 supposed to resolve this issue but it did not.

14 Without some threshold, no project can be  
15 considered significant no matter how much GHG it  
16 emits and, therefore, mitigation measures cannot  
17 be required with regard to a project's GHG  
18 emissions for less than significant.

19 And that's all I have, all the testimony  
20 I have.

21 HEARING OFFICER LEMEI: Okay. Thank you.

22 I will ask, starting with Applicant, do  
23 you wish to cross-examine Mr. Sarvey on his  
24 testimony?

25 MR. GALATI: Yes, I do, if you could bear

1 with me for a moment? I just want to call a  
2 document up to make sure I have it correctly.

3 And can we put Exhibit 306 on the screen?

4 HEARING OFFICER LEMEI: Thank you, Liza.

5 MR. GALATI: Just the very cover page,  
6 that page right there, Liza. Thank you.

7 Mr. Sarvey, this is your Exhibit 306;  
8 correct?

9 MR. SARVEY: Yes, it is, Mr. Galati.

10 MR. GALATI: And that it from 2008;  
11 correct?

12 MR. SARVEY: That is correct, Mr. Galati.

13 MR. GALATI: Would you go to the next  
14 page? Keep going. I apologize. I don't know  
15 the page on this one. I think it's two more.  
16 Okay, yeah, I'm sorry. Can you go back one page?  
17 Thank you.

18 So here, Staff's making a presentation  
19 for use of thresholds; correct? That's why you  
20 put it in the record?

21 MR. SARVEY: I'm sorry. I don't  
22 understand that question.

23 MR. GALATI: This document shows the  
24 7,000 metric tons threshold; correct?

25 MR. SARVEY: It does. And the purpose I

1 put it in there was to give the Committee an  
2 opportunity to see that there was a statewide  
3 proposal. It was never adopted but it does give  
4 them the option of adopting 7,000 metric ton  
5 thresholds of significance for this project.

6 MR. GALATI: Okay. And this approach  
7 was, as the first bullet says, an interim  
8 approach for thresholds of significance; correct?

9 MR. SARVEY: Yes.

10 MR. GALATI: Did you know what interim  
11 meant?

12 MR. SARVEY: Yes, I do.

13 MR. GALATI: What does it mean?

14 MR. SARVEY: Interim means they're going  
15 to come up with a final approach which, to my  
16 knowledge, never happened.

17 MR. GALATI: Okay. Thank you. I would  
18 like -- no more questions on that document.

19 Mr. Sarvey, in order to make the record,  
20 I just need to ask you these questions.

21 Have you ever performed an air quality  
22 modeling analysis for submittal to a public  
23 agency?

24 MR. SARVEY: You asked me that question  
25 last week, Mr. Galati. No, I haven't. But I

1 have reviewed very, very many, and I can tell you  
2 of one particular one that I'm quite proud of.

3 In 2008, the Lawrence Livermore Lab --

4 MR. GALATI: That's great, Mr. Sarvey. I  
5 just want to know if you've ever performed one,  
6 submitting it to a public agency? If you had, my  
7 next question would be have you had it  
8 scrutinized and how did you resolve those issues?  
9 So the answer to that question --

10 MR. SARVEY: So do you mind if I finish  
11 or do you just want me to move on?

12 MR. GALATI: I'm now going to ask you  
13 if -- whether you have ever performed a health  
14 risk assessment and submitted that to a public  
15 agency for review?

16 MR. SARVEY: No, I haven't. But as I  
17 said before, I've evaluated quite a few. And one  
18 of the ones I'm particularly proud of is the  
19 health risk assessment that was done by Lawrence  
20 Livermore Lab for the San Joaquin Valley Air  
21 Pollution Control District, trying to increase  
22 the amount of their (indiscernible) from 100  
23 pounds per event to 1,000 pounds per event. But  
24 when they put in the health risk assessment, they  
25 forgot to put in the depleted uranium and



1 (indiscernible) that's included in the  
2 (indiscernible). I pointed that out to the  
3 district and the permit was pulled and the City  
4 of Tracey was saved a lot of grief.

5 MR. GALATI: Thank you for that.

6 Do you believe that the CEQA Guidelines  
7 require a threshold of significance to be a  
8 number?

9 MR. SARVEY: No, I don't think that's  
10 true at all. There's another way that you could  
11 evaluate it that doesn't require a number, no.

12 MR. GALATI: Okay. Thank you for the  
13 questions. Thank you.

14 HEARING OFFICER LEMEI: Thank you, Mr.  
15 Galati.

16 Ms. DeCarlo, do you have questions of Mr.  
17 Sarvey?

18 MS. DECARLO: I have no questions for Mr.  
19 Sarvey.

20 HEARING OFFICER LEMEI: Okay. Mr.  
21 Sarvey, do you have any redirection for yourself?

22 MR. SARVEY: No. That's fine. Thank  
23 you.

24 HEARING OFFICER LEMEI: Okay. I wanted  
25 to give you an opportunity to finish, if you

1 wanted to finish your response to the first  
2 question on --

3 MR. SARVEY: Well, it's kind of hard to  
4 redirect yourself, so I'll just let it go.  
5 Thanks.

6 HEARING OFFICER LEMEI: Okay. Thank you.  
7 Thank you for your testimony, Mr. Sarvey.

8 I believe that that concludes the  
9 evidence portion of this proceeding.

10 And now I'm just going to -- I'm going to  
11 take a moment, if you will, and just take stock  
12 and --

13 MS. DECARLO: Actually, Mr. Lemei, this  
14 is Lisa DeCarlo --

15 HEARING OFFICER LEMEI: Okay.

16 MS. DECARLO: -- we do have Staff to  
17 discuss, if the Committee is interested, energy  
18 and energy resources, including --

19 HEARING OFFICER LEMEI: Oh, of course.  
20 Oh, my goodness.

21 MS. DECARLO: -- (indiscernible).

22 HEARING OFFICER LEMEI: This was all  
23 just -- this was all just the first two -- right,  
24 of course. I forgot that we hadn't been through  
25 all the topics yet. Okay. Thank you for that

1 reminder.

2           So, yeah, I think that -- I was just  
3 contemplating whether I wanted to ask questions  
4 on the high-level topics that we just discuss4ed.  
5 But I think that because everything is  
6 interconnected in this proceeding, that it really  
7 makes sense to wait until we are through with the  
8 evidentiary portion to see if the Committee has  
9 questions.

10           So my apologies, Ms. DeCarlo. You have  
11 witnesses specifically on the topics of utility  
12 resources and energy resources at this time.

13           MS. DECARLO: Yes. And the  
14 jurisdictional component, which I can remember if  
15 it's folded into energy resources or separate  
16 entirely.

17           HEARING OFFICER LEMEI: Understood.  
18 Okay. I've made a note of that.

19           Okay, Ms. DeCarlo, you may proceed then  
20 to introduce your witnesses?

21           MS. DECARLO: And I don't know, I just  
22 want to confirm, the Applicant doesn't have any  
23 witnesses that they would like to put forward  
24 first?

25           MR. GALATI: Thank you, Lisa. This is

1 Scott Galati. I do not have any witnesses on  
2 this subject matter. We are relying on our  
3 written testimony.

4 HEARING OFFICER LEMEI: Right. I  
5 apologize. I thought that was the case but I  
6 should have checked myself.

7 MS. DECARLO: I apologize. I wasn't  
8 keeping track of things.

9 All right, we have a panel available for  
10 questions. And we have -- that will be consist  
11 of Kenneth Salyphone and Shahab Khoshmashrab.  
12 And Mr. Salyphone will be giving the -- a really  
13 quick opening statement

14 HEARING OFFICER LEMEI: Okay. So would -  
15 - for the benefit of the Court Reporter, would  
16 those witnesses -- and myself -- would those  
17 witnesses please spell their names for the record  
18 in the order that you introduced them?

19 MR. SALYPHONE: Hi. This is Kenneth  
20 Salyphone.

21 (Echo in audio.)

22 HEARING OFFICER LEMEI: Oh. Okay. We  
23 have quite an echo.

24 MR. SALYPHONE: So, yeah, this is Kenneth  
25 Salyphone. Can you hear me?

1 HEARING OFFICER LEMEI: Yes, much better.

2 MR. SALYPHONE: Okay. My name, first

3 name, Kenneth, K-E-N-N-E-T-H, last name

4 Salyphone, S-A-L-Y-P, as in Paul, -H-O-N-E.

5 HEARING OFFICER LEMEI: S-A-L-Y-P-H-O-N-E?

6 MR. SALYPHONE: Yes. That's correct.

7 HEARING OFFICER LEMEI: Perfect. Thank

8 you, Mr. Salyphone.

9 And the second individual whose name I  
10 did not get?

11 MR. KHOSHMASHRAB: Hello?

12 HEARING OFFICER LEMEI: Yes. We can hear  
13 you.

14 MR. KHOSHMASHRAB: Oh, okay. Very good.

15 HEARING OFFICER LEMEI: Do you mind  
16 spelling your name for the record?

17 MS. DECARLO: Shahab, are you there?

18 MS. LOPEZ: Shahab, you have to un-mute  
19 yourself.

20 MR. KHOSHMASHRAB: Hello?

21 HEARING OFFICER LEMEI: We can hear you  
22 now?

23 MR. KHOSHMASHRAB: Can you hear me?

24 HEARING OFFICER LEMEI: Yes, we can.

25 MR. KHOSHMASHRAB: Okay. So the problem

1 is -- I'm sorry, I'm trying to use my phone  
2 because when I use my computer voice, there is  
3 some kind of a background noise, so I'll try to  
4 do just one.

5 HEARING OFFICER LEMEI: Okay. Right now  
6 we're hearing you pretty well, as long as you  
7 speak slowly.

8 MR. KHOSHMAHRAB: Okay. Can you hear me  
9 now?

10 HEARING OFFICER LEMEI: Yes. Yes.

11 MR. KHOSHMAHRAB: Shahab --

12 HEARING OFFICER LEMEI: Do you mind --

13 MR. KHOSHMAHRAB: -- S-H --

14 HEARING OFFICER LEMEI: -- spelling your  
15 name?

16 MS. LOPEZ: Hi. (Indiscernible.) Can  
17 you go ahead and turn off one of the devices?  
18 The reason why you're having that feedback is  
19 because you have two devices going at once.

20 MR. KHOSHMAHRAB: Can you hear me now?

21

22 HEARING OFFICER LEMEI: Yes. That seems  
23 better.

24 MR. KHOSHMAHRAB: Can you hear me now?

25 HEARING OFFICER LEMEI: Yes. Can you

1 hear me?

2 MR. KHOSHMASHRAB: Yes. Yes. Okay. So  
3 Shahab, S-H-A-H-A-B.

4 HEARING OFFICER LEMEI: Um-hmm.

5 MR. KHOSHMASHRAB: Last name,  
6 K-H-O-S-H-M-A-S-H-R-A-B.

7 HEARING OFFICER LEMEI: I'm not sure I --  
8 can you say that one more time? I did not catch  
9 all the letters.

10 MR. KHOSHMASHRAB: For the last name?

11 HEARING OFFICER LEMEI: Yeah. Just the  
12 last name please.

13 MR. KHOSHMASHRAB: K-H-O-S-H-M, as in  
14 Michael, -A-S, as in Sam, -H-R-A-B, as in boy.

15 HEARING OFFICER LEMEI: And would you  
16 mind saying that as you pronounce it slowly?

17 MR. KHOSHMASHRAB: Khoshmashrab.

18 HEARING OFFICER LEMEI: Khoshmashrab.  
19 Khoshmashrab. Okay. Mr. Khoshmashrab, thank  
20 you.

21 Mr. Salyphone, thank you.

22 All right, I will ask you both to be  
23 sworn in.

24 (Mr. Salyphone and Mr. Khoshmashrab are  
25 sworn.)

1 HEARING OFFICER LEMEI: Okay. We have  
2 both affirmative, for the record, from both of  
3 you. Thank you very much.

4 Ms. DeCarlo, please proceed.

5 MS. DECARLO: All right. Thank you, Mr.  
6 Lemei.

7 Mr. Salyphone, would you please give your  
8 opening statement?

9 MR. SALYPHONE: Yes. Thank you. Thank  
10 you, Lisa.

11 So my name is Kenneth Salyphone. My area  
12 of expertise as it relates to my testimony and  
13 the hearing today includes energy and energy  
14 resource, and jurisdiction, and generating  
15 capacity. My statements today are the result of  
16 having to meet the projects SPPE application, the  
17 energy analysis in Staff's Initial Study,  
18 Responses to the Committee Questions, and  
19 testimonies related to energy resources.

20 (Background noise.)

21 HEARING OFFICER LEMEI: We're having some  
22 background noise.

23 MR. SALYPHONE: My declaration and  
24 qualifications were previously filed in this  
25 proceeding.



1           Okay, so the project's generating  
2 capacity would be below 100 megawatts and, thus,  
3 the project qualifies for an SPPE process. Staff  
4 includes this because jurisdictional analyses are  
5 based on the net megawatts that can be delivered  
6 for use and not simply based on the gross or  
7 nameplate rating.

8           Furthermore, a maximum load or use or,  
9 rather, load demand is determined, too, and not  
10 the summation of the combined capacity of the  
11 generators installed. Hence, the maximum  
12 facility-wide load demand requires for the SDC --  
13 requirements for the SDC would be 96.5 megawatts.

14           Also, restrictions on the facilities load  
15 demand are hardwired through various control  
16 systems. It would be physically impossible for  
17 the gen sets to generate more electricity than  
18 the facility load demand would require as  
19 designed today. Excess electricity would damage  
20 components or, at a minimum, isolate the SDC  
21 loads from the backup generators.

22           I'd also like to take the time to address  
23 the project's efficiency which resulted in  
24 Staff's conclusion that the project would have a  
25 less than significant impact on energy resources.

1 So the project would have a very efficient PUE of  
2 1.23, better than the industry average of 1.67,  
3 and a very efficient ramp power rating of 8 to 10  
4 kilowatts. The project would use energy-  
5 efficient technologies, such as lighting  
6 controls, to reduce energy usage for new exterior  
7 lighting, an air-side economizer to use outside  
8 for air building cooling, water-side economizers,  
9 and air-cooled chillers, as opposed to an  
10 evaporative cooling system to reduce water usage,  
11 and cool roof design reflective -- cool roof  
12 design reflecting surfaces to reduce heat gains.

13           Ultimately, SDC would be a state-of-the-  
14 art facility, operating very efficiently. With  
15 that said, Staff maintains its position in its  
16 Initial Study, that the project would have a less  
17 than significant impact on energy resources. And  
18 Staff did not determine that additional  
19 mitigation, such as alternative energy solutions,  
20 would be required.

21           Thank you for your time and I welcome any  
22 comments and questions.

23           MS. DECARLO: Thank you, Mr. Salyphone.

24           The witnesses are available for cross and  
25 any Committee questions.

1 HEARING OFFICER LEMEI: So that concludes  
2 the direct?

3 MS. DECARLO: Yes, it does.

4 HEARING OFFICER LEMEI: Okay. All right.

5 Applicant or Mr. Galati, do you have any  
6 questions for Ms. DeCarlo's witnesses on this  
7 panel?

8 MR. GALATI: Yes. I just have one  
9 question that either one of them could handle  
10 this.

11 HEARING OFFICER LEMEI: Proceed.

12 MR. GALATI: This is the same methodology  
13 that you've used to calculate generating capacity  
14 in McLaren, Laurelwood, Walsh, and Sequoia;  
15 correct?

16 MR. SALYPHONE: This is Kenneth. Yes.  
17 That's correct.

18 MR. KHOSHMAHRAB: This is Shahab  
19 Khoshmashrab. Yes.

20 MR. GALATI: No more questions.

21 HEARING OFFICER LEMEI: There was a  
22 little bit of crosstalk but I understood both  
23 witnesses to answer in the affirmative. Okay.

24 MR. GALATI: That was the only  
25 question --

1 HEARING OFFICER LEMEI: That was your --

2 MR. GALATI: -- Mr. Lemei.

3 HEARING OFFICER LEMEI: -- that was your  
4 only question, Mr. Galati?

5 MR. GALATI: That's correct.

6 HEARING OFFICER LEMEI: Okay. Thank you.

7 Mr. Sarvey, would you like to ask  
8 questions of this panel?

9 MR. SARVEY: Yeah. I have a couple of  
10 quick questions.

11 HEARING OFFICER LEMEI: Please proceed.

12 MR. SARVEY: So your testimony is that  
13 the backup generators can only generate 99  
14 megawatts because the data center servers are  
15 such and the air machine can only handle 99  
16 megawatts; is that what you're saying?

17 MR. SALYPHONE: In the case of Sequoia  
18 Data Center, it's 96.5.

19 MR. SARVEY: Okay.

20 MR. SALYPHONE: So, yeah, based on the  
21 equipment being designed into the facility for  
22 use, the load demand is that, as such, 96.5  
23 megawatts.

24 MR. SARVEY: And what's the gross rating  
25 of all the generators that they're planning to

1 install?

2 MR. SALYPHONE: So they're installing 54  
3 generators, right, as you --

4 MR. SARVEY: Right.

5 MR. SALYPHONE: -- read in their  
6 application. However, there are going to be nine  
7 that is redundant.

8 MR. SARVEY: Uh-huh.

9 MR. SALYPHONE: So you can only have 45,  
10 45 that's being used at one time --

11 MR. SARVEY: Um-hmm.

12 MR. SALYPHONE: In the event of a failure  
13 the redundant generator takes over.

14 MR. SARVEY: Um-hmm. Well --

15 MR. SALYPHONE: So you have those 45  
16 generators; right?

17 MR. SARVEY: Um-hmm.

18 MR. SALYPHONE: And at a maximum, based  
19 on the facility design --

20 MR. SARVEY: Um-hmm.

21 MR. SALYPHONE: -- all the hardware  
22 incorporated in it --

23 MR. SARVEY: Um-hmm.

24 MR. SALYPHONE: -- so the maximum power  
25 would be 96.5 megawatts.

1           MR. SARVEY:   Um-hmm.   So in your analysis  
2 did you consider the electrical loss from the  
3 transformation of electricity from DC to AC over  
4 three times?

5           MR. SALYPHONE:   That would be minimal, a  
6 minimal loss there.

7           MR. SARVEY:   Minimal loss?   Okay.

8           Can the energy from the diesel generators  
9 be stored in a battery when they're testing them?

10          MR. SALYPHONE:   How does this pertain to  
11 this project?   It wasn't something we evaluated  
12 for Sequoia.   The Applicant didn't propose it.

13          MR. SARVEY:   I'm asking you, can the  
14 energy from the diesel generators be stored in a  
15 be stored in a battery system?   Because,  
16 otherwise, that energy is just wasted.   And  
17 contrary to CEQA, we're not supposed to be  
18 wasting energy.   So if the energy from the diesel  
19 generators could be stored in the batteries, we  
20 can eliminate a lot of GHG emissions and a lot of  
21 our other issues.

22          And that's my question: Can the energy  
23 from the diesel generators be stored in a  
24 battery?

25          MR. SALYPHONE:   My personal opinion,

1 diesel generators can store the energy into a  
2 battery.

3 MR. SARVEY: Diesel generators can't? Is  
4 that --

5 MR. SALYPHONE: Can.

6 MR. SARVEY: Can?

7 MR. SALYPHONE: So like if you're running  
8 the generator, yeah, you can store the power  
9 directly into a battery.

10 MR. SARVEY: Thank you. That's all I  
11 have. I appreciate your answers.

12 MR. SALYPHONE: Okay. No problem.

13 MR. KHOSHMAHRAB: Can I add something?  
14 This is Shahab Khoshmashrab.

15 HEARING OFFICER LEMEI: Oh, sorry, I was  
16 muted. Yes. Yes, you may.

17 MR. KHOSHMAHRAB: That would be  
18 something that would have to be worked out  
19 through the design. And if the Applicant has the  
20 ability to design the project in that way, then  
21 that would be something that we would evaluate,  
22 but that's not the project.

23 And in addition, we didn't find any  
24 significant impacts in the area of energy  
25 resources to, basically, consider looking at

1 different technologies.

2 HEARING OFFICER LEMEI: All right. Thank  
3 you for that clarification.

4 Mr. Sarvey, that concludes your  
5 questions?

6 MR. SARVEY: Oh, yes. Thank you.

7 HEARING OFFICER LEMEI: Okay. All right.

8 Ms. DeCarlo, do you need to redirect  
9 these witnesses?

10 MS. DECARLO: I do not. Thank you.

11 HEARING OFFICER LEMEI: Okay. All right.  
12 Then, so unless I'm mistaken, that does, in fact,  
13 conclude the testimonial portion.

14 Does anyone else have testimony on  
15 something that I am overlooking?

16 MR. GALATI: Nothing from the Applicant.

17 HEARING OFFICER LEMEI: Ms. DeCarlo?

18 MS. DECARLO: Nothing more from Staff.

19 Thank you.

20 HEARING OFFICER LEMEI: Mr. Sarvey?

21 MR. SARVEY: Nothing further. Thank you.

22 HEARING OFFICER LEMEI: Okay. Moving  
23 along, so the Committee had -- or I had worked on  
24 a few questions to ask on behalf of the  
25 Committee. And I think that there needs to be a



1 little bit of modification to those questions  
2 based on the testimony that we received. So let  
3 me just take a moment to collect my thoughts, if  
4 you'll bear with me?

5           These questions are all focused on the  
6 issue of greenhouse gas emissions.

7           (Pause)

8           HEARING OFFICER LEMEY: Okay, so these  
9 are, in part, clarifying questions.

10           Just initially, in terms of -- and I  
11 think that to ask this, it would be helpful --  
12 Liza, can I ask you to please put -- I believe  
13 that the applicable analysis of the greenhouse  
14 gas emissions of the project are in Staff's  
15 Response to Comments on the Initial Study, which  
16 is identified as Exhibit 201. And I think that  
17 if you -- that if we go to page four of the .pdf,  
18 I'm looking for, yes, yeah, this, Table 5.8-10.

19           So just the first clarifying question,  
20 this is the applicable analysis of -- this table  
21 -- this is the right table, analyzing greenhouse  
22 gases, and this supersedes the table that was  
23 originally provided in the IS/PMND.

24           MS. RECORD: This is Jacquelyn Record.  
25 Yes. That's correct.

1 HEARING OFFICER LEMEI: Okay. Okay. And  
2 for the record, who was just speaking?

3 MS. RECORD: Sorry. That was Jacquelyn  
4 Record.

5 HEARING OFFICER LEMEI: Oh, thank you.  
6 Okay. Oh, okay. Thank you. Appreciate that.

7 MS. RECORD: Um-hmm. And there was,  
8 actually, a paragraph right before that, too, so  
9 starting at, "I have the following changes to the  
10 IS/PMND on page 5.8-10 should be made," and it  
11 starts out with, "Data center electricity usage."  
12 So those should also reflect changes in the  
13 Initial Study as well.

14 HEARING OFFICER LEMEI: Understood.

15 So to clarify, the -- I guess, rather  
16 than me trying to summarize, I will just ask for  
17 a concise summary. You know, there are some  
18 number of lines here, one, two, three, four,  
19 five, six lines, and a total. And, obviously,  
20 some of these are much, you know, larger in  
21 magnitude than some of the others in terms of the  
22 annual metric tons emissions.

23 But just for precision and clarifies  
24 sake, can Staff or Staff's witnesses, identifying  
25 when you're speaking for the record, please, just

1 clarify which -- what precise threshold of  
2 significance was used for each of these  
3 categories? Or if no threshold -- or if there  
4 was not an applicable threshold of significance  
5 the -- if there isn't an applicable threshold of  
6 significance, just a concise explanation of the  
7 approach used?

8 MS. RECORD: Sure. So the numbers that  
9 are in table -- the value that's in Table  
10 5.8-4 -- sorry, this is Jacquelyn Record --

11 HEARING OFFICER LEMEI: Um-hmm.

12 MS. RECORD: -- these are all indirect  
13 emissions, okay? And what we used for this is we  
14 used the various plan that, you know, the Air  
15 Resources Board has put out, Senate Bill 100, SB  
16 32, AB 32. It wasn't a numeric threshold. It's  
17 more a policy driving these indirect emissions.

18 Sorry. Was that your question?

19 HEARING OFFICER LEMEI: Okay.

20 MS. RECORD: So these are probably  
21 indirect emissions.

22 HEARING OFFICER LEMEI: Okay. So these  
23 are all indirect emissions. And for all of  
24 these, well, are all of these indirect emissions?  
25 I mean, I thought that some of these were direct.

1 Certainly, I mean, the energies we've been  
2 talking about as an indirect source but, okay. I  
3 hear you saying that for each of these, including  
4 the largest -- the one with the largest  
5 magnitude, which is energy use, would be the --  
6 you are saying that you did not use a numeric  
7 threshold of significance.

8 MS. RECORD: Correct.

9 HEARING OFFICER LEMEI: Focusing on the  
10 number that is the largest in magnitude, which is  
11 the energy usage -- and if you do not the answer  
12 to this question, please say that you don't know  
13 the answer -- is this project served by  
14 electricity sources that are -- and I'm not sure  
15 how best to phrase this.

16 Is this project served by sources of  
17 electricity that are subject to the Cap and Trade  
18 Program?

19 MS. RECORD: I can look that up for you.

20 HEARING OFFICER LEMEI: Okay. That's  
21 fine, if you don't know the answer.

22 MR. BIRDSALL: Hearing Officer and Ms.  
23 Record, this is Brewster Birdsall.

24 HEARING OFFICER LEMEI: Yes.

25 MR. BIRDSALL: May I jump in?

1 HEARING OFFICER LEMEI: You may, if you  
2 have --

3 MR. BIRDSALL: I believe --

4 HEARING OFFICER LEMEI: -- answer to the  
5 question.

6 MR. BIRDSALL: -- I believe your question  
7 is about the energy use?

8 HEARING OFFICER LEMEI: Yes. I'm asking  
9 about the energy use specifically.

10 MR. BIRDSALL: Okay. And the energy use  
11 would be produced by power plants in California,  
12 maybe even outside California, that are  
13 delivering electricity to the grid and then  
14 received at that point where the data center  
15 would receive the electricity. And just broadly,  
16 in general, the power plants that operate in  
17 California are directly subject to the Cap and  
18 Trade Rules and Regulations and, therefore,  
19 covered entities in the Cap and Trade Program.  
20 And, also, deliveries of electricity by SVP to  
21 its customers are also accounted for in the Cap  
22 and Trade Program.

23 Does that answer your question?

24 HEARING OFFICER LEMEI: Yes, that does  
25 answer my question.

1           MR. SARVEY: This is Bob Sarvey. Could I  
2 give my opinion on that please?

3           HEARING OFFICER LEMEI: You may.

4           MR. SARVEY: I would say a portion of it  
5 would be subject to the Cap and Trade and a  
6 portion of it wouldn't. Like there are Cogen and  
7 there are other small power plants that are under  
8 10,000 -- that are under 25,000 metric tons. And  
9 some of their other -- and all of the other  
10 unspecified sources of power, it would be --  
11 which is 23 percent of the nonresidential power  
12 usage, it would be impossible to tell whether it  
13 came from out of state or whether it had been  
14 mitigated through the Cap and Trade Program or  
15 not.

16           But I would say, in general, that the  
17 majority, probably at least half of those  
18 emissions, are coming from their Donald Von  
19 Raesfeld Plant, and that's definitely subject to  
20 Cap and Trade.

21           HEARING OFFICER LEMEI: Okay. You just,  
22 you put out a number of half. Do you have a  
23 basis for that estimate?

24           MR. SARVEY: Yes. If you look at the  
25 2018 Integrated Resource Plan, it shows you

1 exactly how many megawatts that the Donald Von  
2 Raesfeld Plant has generated and all their other  
3 natural gas-fired resources. I'm sure the  
4 Northern California Power Authority resources  
5 that come from the Lodi Energy Center are  
6 certainly part of the Cap and Trade, so maybe  
7 more than 50 percent. But for the --

8 HEARING OFFICER LEMEI: So --

9 MR. SARVEY: -- for the unspecified  
10 resources, there's no way you could tell whether  
11 that's subject to Cap and Trade or not.

12 HEARING OFFICER LEMEI: Okay. So you're  
13 saying at least, based on what you know about the  
14 Silicon Valley Power, your opinion is that  
15 they're at least half and maybe more and couldn't  
16 speculate what the upper bound is; is that what  
17 you're saying?

18 MR. SARVEY: I would say it's at least  
19 half and maybe more.

20 HEARING OFFICER LEMEI: Okay. Do any of  
21 the other parties or witnesses want to offer an  
22 opinion on this or -- and if --

23 MR. GALATI: This is Scott Galati.

24 HEARING OFFICER LEMEI: Yes.

25 MR. GALATI: I think it might be best to

1 get Mr. Kolnowski back on the phone, if it is  
2 possible to do so?

3 HEARING OFFICER LEMEI: That's a good  
4 point. Maybe I -- okay.

5 So I will -- Ms. DeCarlo, do you know, it  
6 may not be possible to get Mr. Kolnowski back.  
7 Is there a possibility of reaching out to him?  
8 We could also ask for a subsequent response on  
9 the record if we wanted to go that way.

10 MS. DECARLO: I will send him an email.  
11 I do not have any other contact information for  
12 him. Oh, I see Mr. Layton has sent him an email  
13 asking him if he's available, so --

14 HEARING OFFICER LEMEI: Okay.

15 MS. DECARLO: -- hopefully he will see  
16 that and be able to respond.

17 HEARING OFFICER LEMEI: Okay. Those were  
18 the only questions that I had at this time.

19 I will ask --

20 MS. DECARLO: I will -- sorry, Mr. Lemei.  
21 I would just -- let's see. There might need to  
22 be some narrowing of the question you're asking,  
23 though, because some facilities might be subject  
24 to the Cap and Trade and some might not be  
25 because they fall under a certain GHG emitting



1 threshold. So I'm not sure if there needs to be  
2 some nuance in the response, perhaps.

3 HEARING OFFICER LEMEI: Yes. Yes.  
4 Right. At this time, I am not asking for a  
5 response on the record of that. If we're able to  
6 get Mr. Kolnowski back, if he is available, then  
7 I will clarify the question for him based on the  
8 discussion that we just had. Okay. So we'll see  
9 if we're so fortunate that he's able to return  
10 and --

11 MS. DECARLO: Oh, really quickly, I'm  
12 sorry. This is Lisa DeCarlo again.

13 Mr. Birdsall would like to speak to this  
14 question about unspecified power and the Cap and  
15 Trade system, I believe.

16 HEARING OFFICER LEMEI: Sure.

17 Mr. Birdsall, go ahead.

18 MR. BIRDSALL: Hi, Hearing Officer.  
19 Thanks for taking a little extra time on this.

20 Mister -- Intervenor Sarvey was raising  
21 the question about unspecified electricity as it  
22 has been shown earlier in this record of today's  
23 hearing has a carbon intensity factor that is  
24 assigned to it.

25 And if there is a concern about

1 unspecified sources of electricity being  
2 delivered through the transmission system to the  
3 data center and then being assigned that carbon  
4 intensity factor, I want to point out that that  
5 carbon intensity factor that we've already talked  
6 about today is defined in the Air Resources Board  
7 Rule called the Mandatory Reporting of Greenhouse  
8 Gas Emissions or, rather, the Regulatory for the  
9 Mandatory -- Regulation for the Mandatory  
10 Reporting of Greenhouse Gas Emissions. And so  
11 the ARB rule for reporting GHG emissions is where  
12 this factor comes from.

13 HEARING OFFICER LEMEI: Um-hmm.

14 MR. BIRDSALL: And that means that when  
15 the unspecified electricity is accounted for in  
16 the carbon footprint of a utility that delivers  
17 electricity, the carbon emissions of that  
18 unspecified electricity are accounted for by  
19 using that factor. And then that compliance  
20 obligation of carbon emissions is then within the  
21 utilities overall Cap and Trade compliance  
22 obligation.

23 So that factor itself comes from the ARB  
24 rule that is the underpinning of the Cap and  
25 Trade quantities that must be subject to the

1 (indiscernible).

2 HEARING OFFICER LEMEI: Thank you.

3 That's helpful.

4 MR. SARVEY: If I could add just one more  
5 thing to that, if Brewster doesn't mind?

6 HEARING OFFICER LEMEI: You, of course,  
7 may, Mr. Sarvey.

8 MR. SARVEY: That number is 0.428 pounds  
9 per megawatt hour -- or, excuse me, 0.428 metric  
10 tons per megawatt hour. But SVP doesn't use that  
11 figure when they evaluate their carbon emissions  
12 because what they do, instead of using that  
13 number, they use the average carbon content  
14 that's reported on the ISO website that day,  
15 which is why their IRP states that if they use  
16 the 0.428 metric tons per megawatt hour, they  
17 will not meet their carbon emission targets, and  
18 that's where that falls in.

19 HEARING OFFICER LEMEI: Okay. Thank you  
20 for that, Mr. Sarvey.

21 Does anyone have anything else to offer  
22 on the question or Mr. Sarvey's clarification  
23 from his perspective?

24 MS. RECORD: Mr. Lemei, this is Jacquelyn  
25 Record again. I just wanted to clarify

1 something.

2 So Cap and Trade regulation, it's  
3 established for major sources --

4 HEARING OFFICER LEMEI: Um-hmm.

5 MS. RECORD: -- the greenhouse gas  
6 emissions. And this project itself -- and that  
7 would be for direct emissions, okay, permitted  
8 direct emissions.

9 HEARING OFFICER LEMEI: Um-hmm.

10 MS. RECORD: This project is -- would be  
11 a minor source.

12 HEARING OFFICER LEMEI: Um-hmm.

13 MS. RECORD: So wasn't that question --

14 HEARING OFFICER LEMEI: (Indiscernible.)

15 MS. RECORD: -- (indiscernible) that they  
16 were going to be subject to Cap and Trade or if  
17 the power --

18 HEARING OFFICER LEMEI: (Indiscernible.)

19 MS. RECORD: -- the other power plants  
20 from -- that are -- use indirect emissions, where  
21 they are coming from would be subject to it.

22 HEARING OFFICER LEMEI: Right. I  
23 apologize for interrupting you. I did not mean  
24 to.

25 The question I was asking was not about

1 the Sequoia Data Center's obligation to Cap and  
2 Trade for its direct emissions, it was for the  
3 electricity consumed by the project, the extent  
4 to which that electricity was, in one way or  
5 another, covered by the -- any associated  
6 emissions with that electricity would be  
7 accounted for, in some way or another, within the  
8 Cap and Trade Program? That was the question I  
9 was --

10 MS. RECORD: Okay.

11 HEARING OFFICER LEMEI: -- attempting to  
12 ask.

13 MR. KOLNOWSKI: This is Kevin Kolnowski  
14 from SVP.

15 HEARING OFFICER LEMEI: Oh, hello. Thank  
16 you for rejoining us and I really appreciate you  
17 being able to rejoin us. And I will just say for  
18 the record that even though you briefly stepped  
19 away, from my perspective, you are still sworn  
20 in.

21 MR. KOLNOWSKI: Okay. I understand.

22 HEARING OFFICER LEMEI: Thank you. So  
23 the question that was asked, and I admit that the  
24 question may not have been asked as artfully as  
25 it might have been with somebody with more

1 expertise, the extent to which the electricity  
2 that will be consumed by the Sequoia Data Center  
3 as served by Silicon Valley Power, the extent to  
4 which that electricity is -- and any associated  
5 emissions of that electricity are subject to the  
6 Cap and Trade system in one way or another? I  
7 don't know if you're able to speak to that or if  
8 you understand that question?

9 MR. KOLNOWSKI: I think I understand your  
10 question. I'll try and answer it the best I can.

11 Our power plants are subject to the Cap  
12 and Trade. The power plants that we -- or our  
13 fossil power plants, my understanding is  
14 renewable plants are not included in the Cap and  
15 Trade Program because they have no greenhouse gas  
16 emissions. And the resources from NCPA are  
17 included in that. And my understanding is that  
18 anybody that is selling into the California CAISO  
19 market, they are also subject to the Cap and  
20 Trade Program.

21 So I think the answer to your question  
22 is, yes.

23 HEARING OFFICER LEMEI: So what I think  
24 you're saying is that there was some discussion  
25 about the extent to which it would be covered.

1           Are you saying that you think  
2 substantially all of the emissions associated  
3 with the electricity consumption would, one way  
4 or another, be accounted for by the Cap and Trade  
5 Program?

6           MR. KOLNOWSKI: All the fossil emissions  
7 would be included. And if -- and Mr. Sarvey was  
8 talking about the unspecified. If somebody is  
9 selling into the California market, we take from  
10 the market, that they have to have those  
11 attributes. You know, they've got to be  
12 participating in the Cap and Trade Program if  
13 they're putting the greenhouse gas emission into  
14 the air --

15           HEARING OFFICER LEMEI: Right.

16           MR. KOLNOWSKI: -- from my understanding.

17           HEARING OFFICER LEMEI: Right. And I  
18 understand that the -- you know, that, in some  
19 cases, it wouldn't be Silicon Valley Power that  
20 has the compliance obligation.

21           MR. KOLNOWSKI: Correct, but somebody has  
22 it.

23           HEARING OFFICER LEMEI: Okay. But that  
24 answers my question. And I apologize for  
25 springing that question on you. And I apologize

1 for having to ask you to step back into the  
2 proceeding and very much appreciate you stepping  
3 back in.

4 Does anyone wish to ask a follow-up  
5 question of Mr. Kolnowski based on his response  
6 to the questions that I asked, starting with Mr.  
7 Galati?

8 MR. GALATI: No, I do not.

9 HEARING OFFICER LEMEI: Ms. DeCarlo?

10 MS. DECARLO: I do not.

11 HEARING OFFICER LEMEI: Mr. Sarvey?

12 MR. SARVEY: I would just say that not  
13 all of SVP's natural gas-fired emissions are  
14 subject to Cap and Trade if they're under a  
15 certain level, and that would be their generating  
16 station at it's Cogeneration.

17 But I would agree with Mr. Kolnowski that  
18 most of the GHG emissions would be covered under  
19 the Cap and Trade because as I look at their  
20 Integrated Resource Plan the majority of their  
21 GHG emissions are coming from two power plants,  
22 the Donald Von Raesfeld and the Lodi Energy  
23 Center. And those would both, certainly, be  
24 under the Cap and Trade Program.

25 HEARING OFFICER LEMEI: Mr. Kolnowski, do



1 you have a response to the specific thing that  
2 Mr. Sarvey just said?

3 MR. KOLNOWSKI: I agree.

4 HEARING OFFICER LEMEI: Okay. I  
5 understood you to be saying something about  
6 cogeneration and I'm not sure I fully understood  
7 what --

8 MR. KOLNOWSKI: That is another facility  
9 we have in our territory. It's a very small  
10 power plant that provides steam to a thermal  
11 house that processes waste paper for cardboard.

12 HEARING OFFICER LEMEI: Understood. So  
13 it's a very small facility that's a small  
14 fraction of the --

15 MR. KOLNOWSKI: Correct.

16 HEARING OFFICER LEMEI: Understood.  
17 Okay. This was very, very helpful. Thank you  
18 for coming back to answer those question.

19 Before I let you go, again, I'll just --  
20 I'm going to turn to my Committee Members and I  
21 will ask them, starting with the Presiding  
22 Member, Commissioner Douglas, do you have any  
23 questions for the -- for anyone that's testified  
24 or, in this case, Mr. Kolnowski, although we  
25 don't have the BAAQMD witnesses still present?

1           PRESIDING MEMBER DOUGLAS: No questions.

2 Thank you.

3           HEARING OFFICER LEMEI: Commissioner  
4 Monahan, do you have questions for any of the  
5 witnesses?

6           ASSOCIATE MEMBER MONAHAN: I don't have  
7 any. I don't have any questions. Thank you.

8           HEARING OFFICER LEMEI: Okay. Well, with  
9 that, I can say with confidence that I thank you  
10 for your participation, not once but twice, in  
11 this proceeding, Mr. Kolnowski, and please have a  
12 lovely afternoon.

13          MR. KOLNOWSKI: Thank you.

14          HEARING OFFICER LEMEI: Okay, at this  
15 time, we are to the closing statements.

16          I will -- Applicant, you expressed the  
17 strongest desire to make a closing statement, so  
18 it's fitting that we would be starting with you.

19          I will say that each of you have up to  
20 ten minutes. However, I will say, the day is  
21 running long and, please, don't feel like you  
22 need to use the full 20 minutes if you don't feel  
23 that you need to use the full 20 minutes. We do,  
24 of course, have a lot of information in the  
25 record already.

1           MR. GALATI:  You bet.  So what I'm going  
2 to do is -- this is Scott Galati, representing  
3 the Applicant.  I'm not going to go through every  
4 issue.  I think the Committee has heard them  
5 before.  But I would like to put up a couple of  
6 exhibits on the screen and I'd like to go through  
7 them with you -- they are admitted into  
8 evidence -- because I think they're going to shed  
9 some light on how and what an appropriate  
10 greenhouse gas emission analysis should look like  
11 in this day where we have the electricity sector  
12 under its own set of rules.

13           So could we please pull up Exhibit 33?

14           MS. LOPEZ:  This is Liza, the host.  Are  
15 we starting with closing session?  Should I start  
16 timing it now?

17           HEARING OFFICER LEMEI:  No, no, no.  
18 We're doing closing statements.  Sorry.

19           MS. LOPEZ:  Closing statements?  Okay.  
20 Thank you.

21           HEARING OFFICER LEMEI:  It sounds like  
22 closed session but --

23           MR. GALATI:  All right.

24           MS. LOPEZ:  So for closing statements,  
25 are we doing ten minutes?

1 HEARING OFFICER LEMEI: We're doing ten  
2 minutes, yes.

3 MS. LOPEZ: Okay. So I'm going to go  
4 ahead and start the clock then?

5 HEARING OFFICER LEMEI: Yes.

6 MS. LOPEZ: Okay.

7 HEARING OFFICER LEMEI: Correct.

8 MS. LOPEZ: I just wanted to make sure.  
9 Thank you.

10 HEARING OFFICER LEMEI: Yeah.

11 MR. GALATI: So, Liza, I'm going to use  
12 Exhibit 33, Exhibit 34 and 35.

13 And I will go quickly, Commissioners. I  
14 know it's a late day.

15 This is the CARB Resolution 1826. The  
16 Commission should be familiar with it. It's the  
17 one that was adopted for Senate Bill 350 which  
18 created the Integrated Resource Planning  
19 Electricity Sector Greenhouse Gas Plan targets.  
20 It was adopted in 2018. Some thresholds that  
21 look like they might affect a project that is a  
22 high electricity user really shouldn't be used  
23 now that we have this document and I'll walk you  
24 through that.

25 So the wherases in the beginning of the

1 sentence, they talk about how the project is  
2 necessary to execute, to implement SB 350, and  
3 it's been done under AB 32.

4           And so, Liza, if you could please go to  
5 page two, paragraph one?

6           The purpose of just pointing you to hear  
7 is to see that SB 350 literally says we're going  
8 to establish reduction planning targets, and the  
9 way you implement them is through the Integrated  
10 Resource Plans of Electricity Sector. That is  
11 the guiding principle on how the state has chosen  
12 to address greenhouse gas emissions for the  
13 electricity sector.

14           Liza, if you could please go to  
15 section -- page four, the second paragraph?

16           So just to remind the Commission that you  
17 participated in the Scoping Plan process. And a  
18 GHG planning target of 30 to 53 million metric  
19 tons have been set for the electricity sector.

20           If you go to the ninth paragraph of this  
21 page, you will see, right there, that this is  
22 going to result in a 51 to 72 percent reduction  
23 in the electricity sector's GHG emissions  
24 relative to 1990 levels. So if we're planning  
25 for 30 to 53 million metric tons for the

1 electricity sector by 2030, we will create a 51  
2 to 72 percent reduction to GHG below 1990 levels.

3           If you would then go to paragraph -- page  
4 five -- one, two, three four -- just, again, that  
5 small little paragraph there at four, "The  
6 publicly-owned utilities will update their IRPs  
7 every five years." The second paragraph  
8 describes that you're going to be looking every  
9 five years to see how those load-serving  
10 entities, specifically Silicon Valley Power, will  
11 be meeting those GHG planning target ranges.

12           And if you then go to page six, the third  
13 paragraph, the third full paragraph, this  
14 basically says, whereas, in the first indented  
15 paragraph says, "The proposed targets for the  
16 electricity sector," and it refers to an  
17 Attachment A, which I'm going to get to in a  
18 minute. But the proposed -- the third -- I  
19 apologize. I'm trying to follow my notes and  
20 look at the screen but my notes are on the  
21 screen, so --

22           HEARING OFFICER LEMEI: I've had the same  
23 difficulty.

24           MR. GALATI: Yeah. So if -- what this is  
25 saying here,

1       “The proposed targets for the electricity  
2       sector, individual load-serving entities, and  
3       publicly-owned utilities in Attachment A to  
4       this resolution meet the statutory  
5       requirements of SB 350.”

6               So if we go to Attachment A, and this is  
7 where I’m going to ask you, please, Liza, to call  
8 up Exhibit 34.

9               By the way, Attachment A is an attachment  
10 to Exhibit 33. And, please, you can read that.  
11 It’s the Staff Report.

12               HEARING OFFICER LEMEI: Um-hmm.

13               MR. GALATI: If you go to page 30 of  
14 40 -- so, Liza, that’s 31 of the .pdf, it was  
15 Table 2 -- you will see that these proposed GHG  
16 planning target ranges for the publicly-owned  
17 utilities are outlined for the Silicon Valley  
18 Power, third from the bottom, they are  
19 responsible for 0.195 percent of the electricity  
20 sector emissions, and these are the ranges,  
21 275,000 metric tons low and 485,000 tons high.  
22 That is what SB 50 [sic], to comply with SB 50,  
23 if the Silicon Valley Power can meet these goals  
24 between this range, they will be complying with  
25 SB 350.

1 I'd like you now to go to Exhibit 35,  
2 Liza, and I promise that's the last exhibit. I'm  
3 not going to do this to you anymore. And,  
4 specifically, page 25 of the .pdf, which is page  
5 2-9. In between the tables, there's a paragraph.  
6 So if you could go down to where I could see  
7 that?

8 It shows that that is what the Integrated  
9 Waste Resource Plan -- sorry, used to do  
10 Integrated Waste Management Plans a long time  
11 ago -- Integrated Resource Plan for 2030, it  
12 shows that they're -- that Silicon Valley Power  
13 acknowledges and is using the 275,000 to 485,000  
14 range.

15 If you then go to page 8-10, which is  
16 page 100 of the .pdf? Okay. The third paragraph  
17 and the second sentence.

18 Based on the portfolio currently owned by  
19 SVP, the GHG emissions in 2030 are projected to  
20 be 404 metric tons, which is within the range.  
21 This is just under the high target. That is if  
22 they do not procure additional renewable energy.  
23 That is based on what they have now.

24 So I'm trying to take you full circle to  
25 explain to you that the threshold of significance



1 for CEQA purposes ought to be for the electricity  
2 sector specifically since it is under its own  
3 mandate and since compliance with SB 350 would  
4 result in a 51 to 72 percent reduction, that if  
5 Silicon Valley Power meets its portion of that,  
6 greenhouse gas emissions are less than  
7 significant because the state would have met its  
8 goals. And as those goals change, this  
9 Integrated Resource Plan will change, as it's  
10 updated every five years.

11           So the pertinent question, as we've been  
12 saying and Staff did, is the IS/MND asks the  
13 question: Does the Sequoia Data Center prevent or  
14 inhibit in any way, shape, or form Silicon Valley  
15 Power from implementing its Resource Plan and  
16 meeting its goals? And you've heard the only  
17 person that you should listen to, the authority,  
18 Mr. Kolnowski, that he says the Sequoia Data  
19 Center will not affect their ability to hit these  
20 goals.

21           You also have seen over time that their  
22 carbon intensity factor has gone down, so they  
23 have a track record of cleaning up and reducing  
24 greenhouse gas emissions. But please don't be  
25 confused by all of this other data. This is what

1 you need. And I believe that this is the  
2 threshold that we've been identifying. It's not  
3 a numeric threshold. It's a compliance with  
4 state goals. And we do.

5 And I have finished just in time.

6 HEARING OFFICER LEMEI: Good timing.

7 Thank you for that statement. Appreciate it.

8 HEARING OFFICER LEMEI: Ms. DeCarlo, you  
9 said that you had a closing statement prepared as  
10 well?

11 MS. DECARLO: Yes, Mr. Lemei. Thank you.  
12 I just want to quickly summarize and put into  
13 context Staff's testimony and evaluation of the  
14 proposed project.

15 Staff's analysis is unequivocal and  
16 uncontroverted. The project qualifies for a  
17 small power plant exemption and Staff recommends  
18 the Energy Commission grant it.

19 At its absolute maximum capacity the  
20 project would be capable of generating 96.5  
21 megawatts, which is clearly within the 50 to 100  
22 megawatt range required to qualify for a small  
23 power plant exemption under Public Resources Code  
24 section 25541.

25 As the Commission has concluded

1 previously, Mr. Sarvey's reliance on Section 2003  
2 of our Regulations is ill-founded for data center  
3 projects such as this which don't use turbine  
4 generators and are not capable of delivering  
5 electricity to the grid.

6           Here, the building load is the limiting  
7 factor for how much electricity the backup  
8 generators are physically capable of producing.  
9 And it is reasonable to rely on that limiting  
10 factor to determine whether a project qualifies  
11 for an SPPE. The evidence shows that this  
12 project qualifies.

13           With that addressed, we turn to the  
14 second prong of 25541, whether the Commission can  
15 make a finding that no substantial adverse impact  
16 on the environment or energy resources will  
17 result from construction or operation of the  
18 proposed facility? Both Staff and the Applicant  
19 have provided copious evidence to support such a  
20 finding for the Sequoia Backup Generating  
21 Facility, aided by the testimony of SVP and  
22 BAAQMD.

23           While Mr. Sarvey attempts to call into  
24 question this evidence, he produces no original  
25 evidence of his own, showing that such a finding

1 could not be made. Stated in the CEQA context,  
2 he does not provide substantial evidence to  
3 support a fair argument that this project has the  
4 potential to result in a significant adverse  
5 impact to the environment or energy resources.

6           Staff's testimony shows that time and  
7 again Staff relies on reasonable but extremely  
8 conservative assumptions in quantifying the  
9 projects potential impacts, concluding that they  
10 are less than significant. Without evidence to  
11 support a finding of significance, the CEC cannot  
12 require additional mitigation measures or the  
13 exploration of alternative technologies.

14           Before I get into a little bit more  
15 detail of the testimony you heard today, I would  
16 like to take a minute to put a plug in for the  
17 concept of expertise, something that is  
18 increasingly under attack from certain sectors of  
19 our society. This concept of expertise should  
20 play no small role in how the Committee weighs  
21 the evidence and testimony it has been provided.  
22 Staff and the Applicant have provided experts in  
23 their fields to produce the evidence submitted,  
24 experts with decades of education and training in  
25 the very technical issues presented in their

1 subject areas.

2           Despite his congeniality and enthusiasm  
3 for the material, Mr. Sarvey is not a technical  
4 expert and often misstates the law and the  
5 evidence and mischaracterizes the import of what  
6 he provides. He produces documents out of  
7 context. And the bulk of his efforts are aimed  
8 at trying to dissect very detailed analyses from  
9 a layperson's perspective. And that is certainly  
10 his right. And the Energy Commission has been  
11 purposely structured to afford him the time and  
12 space to do that. But the quantity and  
13 persistence of his efforts should not be mistaken  
14 for actual evidence of impacts or a deficiency in  
15 the record. As Staff's testimony has shown,  
16 neither are present here.

17           I'll now briefly summarize some of the  
18 main highlights that we heard today.

19           At the beginning, we heard from Silicon  
20 Valley Power and Bay Area Air Quality Management  
21 District. Mr. Kolnowski testified that SVP has  
22 sufficient resources to accommodate the Sequoia  
23 Data Center, even in light of the other data  
24 centers proposed in its territory, and that  
25 serving Sequoia will not impede its trajectory of

1 meeting SB 100 and other GHG reduction and  
2 renewable energy goals.

3           Mr. Kolnowski also affirmed that Staff's  
4 analysis relies on an appropriate GHG emissions  
5 rate to adequately capture the potential worst-  
6 case GHG emissions that could be attributable to  
7 Sequoia's indirect use of electricity.

8           Not only did Staff use a number far in  
9 excess of what SVP's own documents show they  
10 anticipate emitting, but this number was then  
11 coupled with the assumption that the project  
12 would operate at full capacity all the time,  
13 when, in reality, it will, on average, operate at  
14 between 40 and 60 percent of maximum capacity.

15           Lastly, Mr. Kolnowski testified that  
16 while the PG&E public safety power shutoffs might  
17 have some tangential affects on SVP, they are  
18 unlikely to significantly increase the potential  
19 for data centers to operate their backup  
20 generators.

21           Mr. Hilken, Director of Planning and  
22 Climate Protection at BAAQMD testified that  
23 Staff's air quality, public health, and  
24 greenhouse gas emissions analyses met the  
25 requirements contained in BAAQMD's 2017 CEQA

1 Guidelines and addressed their stated concerns.

2           Staff then summarized its own testimony,  
3 encapsulating the highlights of months of  
4 analysis on this project. Staff testified that  
5 the project would not result in any significant  
6 unmitigable impacts to air quality, public  
7 health, greenhouse gas emissions, and energy and  
8 energy resources, along with all the other  
9 technical sections that weren't the focus of  
10 today's hearing.

11           Staff testified that the project's  
12 emissions are under the significance threshold  
13 for NO2 and all other criteria pollutants, and  
14 under the threshold for PM2.5, maximum cancer,  
15 and chronic health impacts. Staff testified that  
16 the Air Districts do not model emergency  
17 operations when permitting similar facilities and  
18 it would be speculative to do so here.

19           Staff also testified that the potential  
20 for public health impacts of the project were  
21 modeled based on 50 hours of testing per engine,  
22 with all engines operating simultaneously, even  
23 though it's likely each engine will only run 10  
24 to 12 hours per year and only ever one at a time  
25 for testing and maintenance.

1           Staff also testified that it conducted a  
2 health risk assessment, even though one wasn't  
3 required because the incremental of the project  
4 alone was below any threshold of significance.  
5 The addition of other sources could not change  
6 this fact. And the health risk assessment  
7 confirmed this.

8           Finally, Staff testified that the  
9 project's GHG emissions would be less than  
10 significant.

11           I'll just note here that the GHG analysis  
12 is one of the most complex areas of CEQA from a  
13 legal perspective. Court direction is constantly  
14 evolving. And even the Supreme Court has been  
15 somewhat opaque in its guidance. Nevertheless,  
16 Staff is confident in its conclusion.

17           This facility involved three different  
18 aspects of GHG emissions that were analyzed. You  
19 heard Mr. Galati speak to some of that.

20           First was construction impacts. The  
21 project is proposing to use best management  
22 practices to ensure that any of the emissions  
23 resulting from construction are less than  
24 significant. The project has been designed as  
25 efficient as possible and meets all the specified



1 requests of the Santa Clara Climate Action Plan.  
2 And then, thirdly, the indirect impacts from  
3 energy consumption were analyzed.

4           Without a specific document from which to  
5 tier under section 15183.5 for these indirect  
6 impacts, under section 15183.5, sorry, of the  
7 CEQA Guidelines, Staff has focused its analysis  
8 utilizing section 15064.4, quantifying the  
9 potential emissions and evaluating the project's  
10 consistency with the state's long-term climate  
11 goals and regional plans to implement those  
12 goals. Staff testified that the project complies  
13 with and would not impede the attainment of goals  
14 specified in state and regional GHG plans and  
15 policies, including the City of Santa Clara's  
16 Climate Action Plan, SB 100, SB 350, and AB and  
17 SB 32 which include the Cap and Trade Program,  
18 among other statewide goals and policies. And  
19 SVP confirmed Staff's conclusions with this  
20 regard.

21           As I previously noted, this summary is  
22 just the tip of the iceberg of what went into  
23 analyzing the proposed project. Certainly,  
24 diesel generators are not without controversy. I  
25 don't doubt that everyone at this hearing hopes

1 that California can become fossil-fuel-free in  
2 the near future, including replacing diesel  
3 generators with some alternative. Unfortunately,  
4 at this point, no such alternative seems  
5 inherently viable.

6 And it is not the role of the Commission  
7 staff here to opine about what it would like to  
8 see. It is to objectively evaluate the project  
9 as prescribed by the laws and regulations  
10 currently in effect.

11 And under those laws and regulations,  
12 Staff has concluded that the impacts resulting  
13 from this project would be less than significant  
14 under CEQA. And, therefore, we recommend that  
15 the Commission grant an exemption.

16 Thank you.

17 HEARING OFFICER LEMEI: Thank you, Ms.  
18 DeCarlo.

19 Mr. Sarvey?

20 MR. SARVEY: Thank you.

21 Without denigrating Staff and Applicant's  
22 witnesses, I'm going to ask you to look at the  
23 evidence. In utilities and service systems,  
24 Staff's testimony has been in four data center  
25 proceedings that the data centers being permitted

1 by the CEC are not responsible for requiring SVP  
2 utility upgrades. Exhibit 307 shows that,  
3 publicly, SVP has stated. However, SVP's current  
4 infrastructure will not be able to carry the  
5 high-power demands of these new data centers.

6           According to research conducted by SVP's  
7 Engineering Team, the current system could  
8 overload by 2021 without any upgrades or  
9 investments to meet this higher demand for  
10 electricity. The SDC is part of a cumulative  
11 impact to utilities and service systems of  
12 Silicon Valley Power.

13           In air quality and public health, it's  
14 reasonably foreseeable that at some point in the  
15 life of this data center, this project will  
16 operate in emergency mode. Since 2016, SVP  
17 outages have impacted six data centers in two  
18 separate outages over a four-year span. SVP's  
19 resources were already impacted by PG&E's 2019  
20 PSPS, as seen in Exhibit 311. Wildfires and PSPS  
21 events would be expected to increase in the  
22 coming years due to climate change brought on,  
23 partially, by large consumers of electricity.

24           The project is sandwiched between the San  
25 Andreas Fault and the Calaveras Fault. They're

1 the most dangerous faults in the state of  
2 California. The staff ignores all of those  
3 reasonably foreseeable outcomes.

4 A fair argument has been made that during  
5 a major earthquake the SDC will have to resort to  
6 operating its emergency generators. And all  
7 these other events, it's very possible they could  
8 operate them, too, just from human error, UPS  
9 failure, or other issues.

10 Exhibit Number 26, the Uptime Institute's  
11 Annual Report, states on page 4 of 7 that a third  
12 of the data centers surveyed had suffered some  
13 form of outage or serious service degradation in  
14 the past year. Exhibit 26, page 7 further states  
15 that power loss was the single biggest cause of  
16 outages, accounting for one-third as of 2018.  
17 Looking at the annual survey suggests that there  
18 is a probability of about nine percent that any  
19 data center will experience an electrical outage.

20 Washington State models the emergency  
21 operation of every data center. It's not  
22 complicated -- it is complicated but it's not  
23 impossible. Washington State Air Quality Agency  
24 does this to ensure that air quality and public  
25 health standards are not exceeded.

1           Now I'm going to remind Staff that this  
2 is an environmental justice neighborhood.

3           GHG emissions. The evidence shows the  
4 project's individual and cumulative impacts are  
5 significant with respect to GHG emissions.  
6 Exhibit 308, the Santa Clara General Plan EIR  
7 makes the finding, on page 24 of 594, that  
8 implementation of the proposed 2010 through 2035  
9 General Plan will result in GHG emissions in 2035  
10 that are projected to exceed efficiency standards  
11 to maintain a trajectory to meet long-term 2050  
12 state climate reduction goals, which is a  
13 significant and unavoidable impact. That's the  
14 same General Plan that Staff relies on throughout  
15 its analysis.

16           The project could store the energy from  
17 the diesel generators in a battery-energy storage  
18 system and avoid the waste of thousands of  
19 megawatt hours and avoid the waste of burning  
20 diesel fuel without capturing the energy, which  
21 is a violation of CEQA.

22           As I stated before, Silicon Valley's 2018  
23 Integrated Resource Plan states, on page 98 of  
24 109, that SVP finds the generic emission rate of  
25 0.428 metric CO2 per megawatt hour for spot

1 market purchases per CEC guidelines as to be too  
2 high. I know Silicon Valley took that out --  
3 well, they didn't take it out but they claimed  
4 that they were going to take it out in their  
5 revised integrated plan, but I'm sure that would  
6 have to be approved by the Santa Clara City  
7 Council.

8           Individually, the project represents a  
9 significant impact to GHG emissions. The  
10 Applicant estimated typical energy use of 655,633  
11 megawatt hours per year, which is equivalent to a  
12 75 percent occupancy factor for the data servers  
13 at the Sequoia Data Center. You heard last week  
14 that experts predicted that 70 percent is  
15 probably where most data centers will be  
16 operating at.

17           Staff estimated the project's GHG  
18 emissions based on the electrical use in the  
19 project with 75 percent occupancy to be 170,865  
20 metric tons per year. According to SVP's  
21 Integrated Resource Plan, Exhibit 27, it states  
22 on page 107 of 109, "SVP's GHG emissions in 2030  
23 are projected to be 448,797 metric tons. This is  
24 just under SVP's high target of 485,000 metric  
25 tons.

1           Exhibit 34, page 31 of 41, shows that  
2 SVP's load required is 275,000 metric tons of  
3 CO2. The SVP emissions reported by Staff,  
4 unadjusted, would be 35 percent of the high GH  
5 target of 485,000 metric tons a year. When  
6 adjusted for SVP's expected carbon intensity in  
7 2030 from Exhibit 31, 219,000 pounds per megawatt  
8 hour, SDC's indirect emissions from electrical  
9 use will still be, approximately, 65,000 metric  
10 tons of CO2 per year in 2030, which represents 13  
11 percent of SVP's GH high target of 485,000 metric  
12 tons of CO2 per year and 23 percent of SVP's low  
13 GH target for 2013.

14           (Indiscernible) will be when you consider  
15 only five of the current data centers being  
16 permitted by the CEC in SVP's territory, the  
17 combined electrical usage is 3,764,276 megawatt  
18 hours, as reported in Exhibit 300, page 5 of 32.  
19 When adjusted to SVP's 2030 carbon factor of 219  
20 pounds per megawatt, the combined estimated total  
21 of GHG emissions is approximately 374,000 metric  
22 tons of CO2 per year in 2030, which represents 77  
23 percent of SVP's high target of 485,000 metric  
24 tons per year, and 136 percent of SVP's low  
25 target for GH emissions in 2030.

1           The numbers don't lie, they don't  
2 speculate, they simply demonstrate that SDC's GH  
3 emissions are individually and cumulatively  
4 considerable, a significant impact.

5           Finally, I just want to thank Mr. Galati  
6 for his demeanor today. I really appreciated it.

7           And I want to thank Staff and all the  
8 Applicant's witnesses.

9           And I want to thank the Committee and I  
10 appreciate you guys listening to me.

11          Thank you.

12          HEARING OFFICER LEMEI: Well, thank you,  
13 Mr. Sarvey. Appreciate your closing statement  
14 and everyone else's.

15          At this time, I think we need to check in  
16 with the public for public comment. I have --  
17 I'm new to Zoom here, so I'm not sure how to  
18 find.

19          But, Liza, do we have any raised hands?  
20 Otherwise, we should -- I will check with the  
21 Public Advisor.

22          MS. LOPEZ: I see no raised hands.

23          HEARING OFFICER LEMEI: Ms. Avalos, are  
24 you still with us?

25          PUBLIC ADVISOR AVALOS: Yes. This is



1 RoseMary Avalos with the Public Advisors Office  
2 and there are no public comments at this time.

3 HEARING OFFICER LEMEI: Okay. Thank you  
4 for that.

5 So then at this time the -- I will just,  
6 I guess, I'll just check in.

7 Commissioners, we are still planning to  
8 convene to closed session?

9 PRESIDING MEMBER DOUGLAS: Yes. That's  
10 correct.

11 HEARING OFFICER LEMEI: Okay. Then I  
12 will -- then the Committee will now adjourn to  
13 closed session in accordance with California  
14 Government Code section 11126(c)(3), which allows  
15 a state body to hold a closed session to  
16 deliberate on a decision to be reached in a  
17 proceeding that state body was required by law to  
18 conduct.

19 It's hard for me to anticipate a return  
20 time because we're already so late in the day.  
21 I'm expecting that the closed session go short.  
22 It may be that we come back and need to adjourn  
23 it to a later time. I believe we'll be back  
24 sometime between 5:00 -- I can't imagine us being  
25 later than 5:30 or much later than 5:30. I do

1 not believe we plan to report out anything  
2 substantively, so I don't -- I want to encourage  
3 the parties to -- and folks to get on with their  
4 weekend.

5 But I really do appreciate everyone's  
6 participation today. It's been a long day and I  
7 think it's been a very productive day, so thank  
8 you all.

9 I am going to mute my line and we'll be  
10 back in somewhere between 30 and 60 minutes is my  
11 best guess.

12 MS. DECARLO: So, Mr. Lemei --

13 HEARING OFFICER LEMEI: Oh. Yes?

14 MS. DECARLO: -- I just want to confirm,  
15 sorry, that you do or do not expect the parties  
16 to return when you report out?

17 HEARING OFFICER LEMEI: We do not expect  
18 the parties to return.

19 MS. DECARLO: Okay. Great. Thank you.

20 HEARING OFFICER LEMEI: We do not plan to  
21 report out substantively.

22 MS. DECARLO: Great. Thank you.

23 HEARING OFFICER LEMEI: All right. Thank  
24 you.

25 (Whereupon, the Committee recessed into closed

1 session at 4:40 p.m., and the evidentiary hearing  
2 was later adjourned at 5:10 p.m.)

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CERTIFICATE OF REPORTER

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 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 10th day of June, 2020.



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MARTHA L. NELSON, CERT\*\*367

CERTIFICATE OF TRANSCRIBER

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.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



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MARTHA L. NELSON, CERT\*\*367

June 10, 2020