

**DOCKETED**

<b>Docket Number:</b>	20-SPPE-01
<b>Project Title:</b>	Great Oaks South Backup Generating Facility Small Power Plant Exemption
<b>TN #:</b>	234271
<b>Document Title:</b>	Staff's Status and Issues Identification Update and Updated Staff Proposed Schedule
<b>Description:</b>	For the Great Oaks Backup Generating Facility
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<b>Organization:</b>	California Energy Commission
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## M e m o r a n d u m

**To:** Commissioner Karen Douglas, Presiding Member  
Chair David Hochschild, Associate Member

**Date:** August 7, 2020

**From:** California Energy Commission  
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**Subject: STATUS AND ISSUES IDENTIFICATION UPDATE AND UPDATED STAFF  
PROPOSED SCHEDULE FOR THE GREAT OAKS SOUTH BACKUP  
GENERATING FACILITY SMALL POWER PLANT EXEMPTION (20-SPPE-01)**

**Status Update**

In Staff's Issues Identification Report, Status Report, and Proposed Schedule for the Great Oaks South Backup Generating Facility, filed on July 7, 2020, staff recommended a schedule assuming, among other things, that it would likely produce an initial study and proposed mitigated negative declaration (MND) similar to what has been done in prior small power plant exemption (SPPE) proceedings. While staff's analysis is generally more detailed than one would find in a traditional MND, and in fact, is more akin to an Environmental Impact Report (EIR), staff has not previously taken the few additional steps required of an EIR, deeming the extra analysis and time unnecessary after concluding all of the projects' impacts would be less than significant or less than significant with mitigation.

Staff, however, has reevaluated this approach and believes that preparation of an EIR for this project is prudent. Staff has reached this conclusion for a number of reasons. First, residents potentially affected by the Great Oaks South Backup Generating Facility and Great Oaks South Data Center have increasingly voiced concern over the project. This is different from previous SPPE proceedings and while public controversy, in and of itself, is insufficient to support a fair argument that there could be a significant impact, agencies are wise to consider producing an EIR when presented with such controversy. Second, as noted above, much of staff's analysis typically rises to the level of what would traditionally be included in an EIR, so it would not involve a large expenditure of time or resources to take the few additional steps to formally deem the product stemming from this analysis an EIR. In addition, multiple responsible agencies will likely need to use the resulting document for their permitting approvals. For these reasons and others, staff concludes the most appropriate document for this particular project is an EIR.

Staff has notified the applicant of this change and is hereby informing the Committee that staff will prepare an EIR for this project. This will require a few adjustments to the schedule and the addition of one section to the analysis. In regard to the schedule, a Notice of Preparation will be required to be issued, and 30 days must pass from this issuance before

the EIR may be published. Staff also expects to hold a scoping meeting to afford other agencies and the public an opportunity to help identify areas of concern for review. This meeting can occur at any point prior to publication of the EIR and should not drastically affect schedule. Additionally, the comment period on the environmental document will need to extend from 30 to 45 days. Staff has provided below an update to the previously proposed schedule to accommodate preparation of an EIR. Substantively, given staff's already robust analysis, little would need to change, with the exception of the addition of an analysis of alternatives, which can be focused on those impacts that are potentially significant. On the whole, staff believes this will be a positive move with few, if any, drawbacks. Staff understands that the Committee is thinking of hosting a public meeting within approximately three weeks. Staff could tee off this meeting to host a scoping meeting directly afterward, or the Committee could host the scoping meeting itself as part of the meeting it was originally considering.

Staff understands that the applicant intends to file responses to Data Request (DR) #49 (from Set 2) (cultural), a recalculation of construction (for the overlapping construction period) and operation emissions plus the modeling files (DR #4, Set 2), an updated Health Risk Assessment (DR #65-69, Set 3) due to the inclusion of diesel particulate filters, and an update to Section 5 (Alternatives) of the SPPE application to include project objectives for the data center and additional information on renewable and bio diesel and fuel cells. Staff also notes that we have not received detailed testing profile for DR #18 (Set 2). Staff also awaits the results of a cultural resources records search of the proposed project, the subject of DR #49. This data request was issued on April 16, 2020. Without having the applicant's response to DR #49, staff is unable to determine if the proposed 21-kilovolt (kV) supply lines have recently been surveyed for cultural resources. If they have not been recently surveyed, then the applicant will need to conduct a cultural resources survey and provide the results to staff. Additionally, the applicant has been largely unresponsive to DR #60 (transmission), which asked for a description of the 21-kV supply line route, length, and supporting structure configurations and measurements. The figure in response to DR #46 (cultural) is the only response staff has received so far and does not respond fully to the request. Staff is lacking a complete project description at this point for either supply line route. Staff is eagerly awaiting this information from the applicant that hopefully will resolve the outstanding data requests, resolve some of the issues identified below, and also assist staff with the identification of project alternatives. The updated proposed staff schedule is reflective of this.

### **Issues Identification Update**

**Transmission Line.** Staff is in the process of organizing a meeting with staff from PG&E and possibly the applicant and staff from the City of San Jose to clarify project description information related to the transmission interconnection. As discussed in staff's July 7th Issues Identification Report, staff noted that the applicant's response to DR #62 (in part I of Set 2), reconductoring or a line re-rate of the two 115 kV transmission lines supplying the Santa Teresa Substation (substation) may be required in the future for each line to meet the full demand of the data center independently.

Staff needs to ensure that design of the substation is adequate to service the project load without needing to operate the project's backup generators during PG&E's maintenance and system testing. Ensuring an adequate substation design for servicing the project is necessary because if the full load of the data center cannot be supplied from the PG&E grid, depending upon data center occupancy and cooling load some of the backup generators may need to operate to make up that difference in load. This would be inconsistent with how operation and testing of the backup generators have been described in the SPPE application and subsequent applicant filings. Determining whether reconductoring would be required is necessary to ensure that staff's environmental document assesses the potential environmental impacts of the "whole of the action".

In response to the applicant's response to DR #62, staff posed a set of questions to PG&E regarding their system design, the design of the Santa Teresa Substation and its interconnection with the project, and the reliability of the PG&E system. PG&E is preparing responses to staff's questions and staff will make them available to the applicant, public, and Committee when staff receives them. Meanwhile, staff has received from PG&E a one-line diagram of the Santa Teresa Substation planned and ultimate designs. Staff needs clarification of these one-line diagrams as they are not consistent with the current project design.

**Air Quality/Public Health.** Staff's air quality and public health concerns about the project seem to be resolving. Staff recently received notification that diesel particulate filters will be added to the project's engines. The applicant will revise the Health Risk Assessment and include updated emissions estimates and impacts analysis for overlapping periods of construction and operation.

**Biological Resources.** Staff has estimated the extent of nitrogen deposition impact from point source emissions and is finalizing the draft Biological Resources section of the EIR for coordination with the U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and the Santa Clara Valley Habitat Agency. Staff will work with these agencies to ensure appropriate mitigation is incorporated to mitigate potential cumulatively considerable impacts to federally-listed species and other special-status species affected by nitrogen deposition.

**Staff's Updated Proposed Schedule**

Staff has incorporated the extra tasks and comment period that the California Environmental Quality Act requires for an EIR and updated staff's previously-proposed schedule accordingly. (Items shaded in green have already occurred).

<b>EVENT</b>	<b>DATE</b>
Application materials filed	3/19/2020
Committee appointed at Business Meeting	5/13/2020
Staff Data Requests Set 1 filed	4/7/2020
Application for Confidential Materials filed	4/13/2020
Tribal consultation letters mailed	4/15/2020
Staff Data Requests Set 2 filed	4/16/2020
Applicant Responses to Data Requests Set 2 filed	5/18/2020
Data Requests Set 3 filed	5/18/2020
60-day discovery period closed	5/18/2020
Agency coordination letters mailed	6/15/2020
Applicant Responses to Data Requests Set 3 filed (incomplete responses)	6/24/2020
Applicant Supplemental Responses to Data Requests Set 2 (#18 & 56) filed	6/30/2020
Notice of Receipt filed (mailed 7/1/2020)	6/30/2020
Memo re: Issues Identification, Status, and Schedule filed	7/7/2020
Committee Conference	7/13/2020
Applicant Responses to Data Requests Set 1 filed	7/23/2020
Complete Responses to Data Requests Set 2 (#58) filed	7/15/2020
Complete Responses to Data Requests Set 3 (#65-69) filed	7/17/2020
Complete Responses to Data Requests Set 2 (#4, #18, #49)	TBD
Updated Responses to Data Requests Set 3 (#65-69)	TBD
Notice of Preparation of an Environmental Impact Report (EIR) mailed and docketed	August 2020
Scoping Meeting	TBD
Staff publishes the Draft EIR (Within 60 days of receipt of last information from applicant and no sooner than 30 days after issuance of Notice of Preparation)	TBD

Status and Issues Identification Update and Updated Staff Proposed Schedule  
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<b>EVENT</b>	<b>DATE</b>
Last Day to File Petition to Intervene (prior to opening testimony deadline)	TBD
Public Comment Period on the Draft EIR closes (45 days per CEQA) Deadline to file Opening Testimony (same date)	TBD
Staff publishes responses to comments on the Draft EIR (minimum 10 business days following close of public comment period)	TBD
Deadline to File Rebuttal/Reply testimony (7 days prior to evidentiary hearing, minimum 10 business days after opening testimony is due)	TBD
All Parties File Prehearing Conference Statements	TBD
Prehearing Conference	TBD
Evidentiary Hearing	TBD
Staff publishes Final EIR, including staff's responses to comments on the Draft EIR (per CEQA section 15202, after hearing)	TBD
Committee Proposed Decision	TBD
Commission Decision at Business Meeting	TBD
Notice of Determination published	Within 5 working days of Commission Decision