

DOCKETED

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Project Title:	STACK Trade Zone Park
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Document Title:	Issues Identification Report, Status Report, and Proposed Schedule
Description:	For the STACK Trade Zone Park SPPE (21-SPPE-02)
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Memorandum

To: Commissioner Andrew McAllister, Presiding Member
Commissioner Kourtney Vaccaro, Associate Member

Date: July 20, 2022

From: California Energy Commission
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Subject: ISSUES IDENTIFICATION REPORT, STATUS REPORT, AND PROPOSED SCHEDULE FOR THE STACK TRADE ZONE PARK SMALL POWER PLANT EXEMPTION (21-SPPE-02)

In its *Notice of Committee Conference and Related Orders* filed July 14, 2022 (TN 244081), the STACK Trade Zone Park SPPE Committee ordered California Energy Commission (CEC) staff to file no later than July 20, 2022, an Issues Identification and Status Report that “summarizes the major issues identified to date, the status of activities conducted to date, and issues that require resolution before hearings can be conducted, and that proposes a schedule for the conduct of this proceeding”.

Project Description

The STACK Trade Zone Park would be located on two parcels of land encompassing approximately 9.8 acres at the corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive) in San Jose.

The proposed STACK Trade Zone Park would include one, four-story advanced manufacturing building (approximately 135,000 square feet), two, three-story data center buildings (approximately 527,000 square feet), a parking garage, related utility infrastructure, and a backup generating facility with a generation capacity of up to 90 megawatts (MW). The backup generating facility would consist of thirty-six 3-MW and two 1-MW Tier 4 compliant diesel-fired emergency backup generators (gensets) with add-on controls that consist of diesel particulate filter and the Miratech selective catalytic reduction control system arranged in two generation yards, each designed to serve one of the two data center buildings (SVYDC 05 and SVYDC 06). All the gensets would be dedicated to replacing the electricity needs (with redundancy) of the data center buildings in case of a loss of electrical power from the utility, Pacific Gas and Electric Company. For further project details on the utility infrastructure associated with the gensets (switchyard and linears), refer to Section 2 Project Description in the Small Power Plant Exemption (SPPE) application.

Staff Discovery Efforts and Issues Identification

To summarize, STACK Infrastructure (applicant) filed an incomplete SPPE application for the project on December 10, 2021. Since that time, four supplements were filed on March 8, March 30, April 4, and April 11, 2022. Staff has requested and received incomplete responses to the CEC staff Data Requests Set 1. Staff has recently filed Data Requests Set 2.

Concurrently with staff's information gathering activities, staff is drafting its environmental evaluation document. Staff has determined, and has informed the applicant, that its environmental document for this project will be an Environmental Impact Report (EIR).

Based on staff's analysis of the project as it is presently described in the applicant's materials filed in the docket, staff can report that there are no apparent issues at this time in the technical areas of Aesthetics, Agriculture/Forestry, Energy and Energy Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Wildfire, and Alternatives. For each of these technical areas, staff is drafting the corresponding technical section for internal review and quality control for later compilation into the EIR.

Given the present status of the discovery effort, staff is unable to make definitive statements for the technical areas of Air Quality (including Public Health), Biological Resources, Cultural and Tribal Cultural Resources, Environmental Justice, Land Use, Transportation, and Mandatory Findings of Significance.

Staff is aware of incomplete and/or in-process information for the following issue areas.

Air Quality (including Public Health). As staff has not received complete responses to the CEC staff Data Requests Set 1, which includes revised modeling results (including a revised Health Risk Assessment), staff cannot definitively say whether project impacts are less than significant or can be mitigated to a less than significant level.

Cultural and Tribal Cultural Resources. The application and supporting documents do not identify significant cultural or tribal cultural resource impacts that may be difficult to mitigate. However, the CEC staff has not yet received a revised cultural resources report in response to the CEC staff Data Requests Set 1. Staff's review of the complete cultural resources report could identify potentially significant impacts. At this point in time there are no areas of conflict between staff and the applicant's consultant, PaleoWest.

Land Use. For land use, a project may have a significant effect on the environment if it conflicts with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In its preliminary review letter dated July 2, 2021 (Appendix J of the SPPE application), the City of San Jose Planning,

Building, and Code Enforcement Department recommended that the applicant apply to rezone the project site from Industrial Park to Industrial Park Planned Development to be more consistent with the proposed use of the site. The City stated that as part of the application for the Planned Development rezoning, the applicant should provide a plan set with proposed allowed uses and draft development standards, including setbacks, heights, and parking requirements. The City also recommended that the applicant obtain a Planned Development Permit for the project in accordance with the rezone. The general purpose of zoning regulations is to ensure compatibility with land uses, avoid impacts on the environment, and preserve and protect health and safety. As explained above, if the project conflicts with a land use regulation, such as a zoning designation, a significant environmental impact could result.

In the recently filed CEC staff Data Request Set 2, the CEC staff asked the applicant for the most recent site plan with draft development standards and allowed uses, as well as an update on the current status of the City's review of the proposed plan. The applicant intends to work with the City to ultimately obtain the rezoning and Planned Development Permit. This would ensure the project would not conflict with the City zoning ordinance.

Transportation. In response to the CEC staff Data Requests Set 1 (#59), the applicant retained Hexagon Consultants to conduct a vehicle miles traveled (VMT) analysis for the project. The applicant and consultants are working with the City of San Jose to identify the appropriate scope of work for the project and will file the VMT analysis in the project's docket under separate cover once it is complete. Staff is confident that project generated VMT could be reduced to a level below the industrial VMT threshold of 14.37 with the incorporation of transportation demand management (TDM) measures.

Noticing Activities

On May 6, 2022, staff filed the Notice of Receipt of the SPPE application in the project's docket and mailed the Notice of Receipt to owners and occupants of properties contiguous with the project site and project linears, and to property owners within 1,000 feet of the project site and 500 feet of project linears. Residents on the mailing list received the Notice of Receipt in English, traditional Chinese, Spanish, and Vietnamese. The Notice of Receipt was published in newspapers of general circulation in four languages: English and traditional Chinese, both on May 10, 2022, Spanish on May 6, 2022, and Vietnamese on May 12, 2022.

On May 11, 2022, the CEC's Tribal Liaison sent tribal consultation letters to the following tribal entities: Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, North Valley Yokuts Tribe, The Ohlone Indian Tribe, Wuksache Indian Tribe/Eshom Valley Band (consultation per AB 52 amendments to CEQA), the Confederated Villages of Lisjan, and Tamien Nation (consultation per AB 52 amendments to CEQA).

Pursuant to California Code of Regulations, title 14, section 15082 and title 20, section 1714, staff prepared a combination Notice of Preparation/Agency Request for Participation (NOP) document that was distributed to the State Clearinghouse and Agency Distribution List, including the City of San Jose, City of Milpitas, Bay Area Air Quality Management District, California Air Resources Board, Santa Clara Valley Transportation Authority, Santa Clara Valley Habitat Agency, Santa Clara Valley Water District, Native American Heritage Commission, California Department of Fish and Wildlife, California Public Utilities Commission, California Independent System Operator, County of Santa Clara Recreation Department, California Department of Transportation, and California Department of Toxic Substance Control. The NOP comment period was from June 6, 2022, to July 7, 2022. Upon request of the Santa Clara Valley Water District, staff extended the comment period for this agency to July 15, 2022. Comments were received from three agencies: Department of Toxic Substances Control, Native American Heritage Commission, and the Santa Clara Valley Water District. One public comment was received from Claire A. Warshaw.

Project Schedule

As staff is currently gathering information, it is not possible for staff to produce a definitive estimate for publication of the EIR. As staff receives the forthcoming information, staff will communicate schedule updates in future status reports. Staff recommends that the Scheduling Order state that publication of the EIR will occur no later than 60 days after staff notifies the Committee in a status report that staff has received completed answers to its data requests. This proposed schedule is consistent with recent similar proceedings. Staff proposes the following schedule:

Incomplete Application materials filed	12/10/2021
Supplemental Application materials filed	3/8/2022
Second Supplemental Application materials filed	3/30/2022
Third Supplemental Application materials filed	4/4/2022
Fourth Supplemental Application materials filed	4/11/2022
Notice of Receipt filed	5/6/2022
SPPE Committee appointed	5/11/2022
Tribal Consultation Letters sent	5/11/2022
Data Requests Set 1 filed	5/16/2022
Notice of Preparation filed	6/7/2022
Incomplete Responses to Data Requests Set 1 filed	6/7/2022
Data Requests Set 2 filed	7/20/2022
Staff Memo re: Issue ID and Schedule filed	7/20/2022
Committee Status Conference (scheduled)	8/2/2022

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Responses to Data Requests Set 2 filed	TBD
Potential future Data Requests filed	TBD
Staff's Draft EIR published (60 days after staff acknowledgement that no further project information is needed)	TBD
Deadline for comments on staff's Draft EIR (45 days per CEQA)	TBD
Staff files responses to comments and Final EIR (30 days after comment deadline)	TBD
SPPE hearing related testimony and activities	TBD
Committee proposed decision	TBD
Commission Decision at Business Meeting	TBD