| DOCKETED | |
|---|---|
| **Docket Number:** | 20-SPPE-02 |
| **Project Title:** | Lafayette Backup Generating Facility |
| **TN #:** | 249558 |
| **Document Title:** | Notice of Availability of a Draft Environmental Impact Report |
| **Description:** | N/A |
| **Filer:** | Marichka Haws |
| **Organization:** | California Energy Commission |
| **Submitter Role:** | Commission Staff |
| **Submission Date:** | 4/6/2023 4:08:30 PM |
| **Docketed Date:** | 4/6/2023 |

# NOTICE OF AVAILABILITY
# OF A DRAFT ENVIRONMENTAL IMPACT REPORT

The California Energy Commission (CEC) has prepared a Draft Environmental Impact Report (DEIR) in accordance with the California Environmental Quality Act (CEQA) for the proposed Lafayette Data Center (LDC or project).

Digital Realty, LLC is seeking a Small Power Plant Exemption (SPPE) from the CEC's jurisdiction to proceed with local permitting rather than requiring certification by the CEC for the project. The DEIR also may be used by the city of Santa Clara and Bay Area Air Quality Management District (BAAQMD), as responsible agencies defined by CEQA, in their respective permitting processes for the project. The DEIR describes the proposed project and evaluates the potential environmental impacts associated with its construction and operation. The DEIR also analyzes one project alternative in addition to a "no project" alternative.

The CEC has the exclusive authority to certify all thermal power plants (50 megawatts [MW] and greater) and related facilities proposed for construction in California. The SPPE process allows applicants proposing thermal power plants between 50 and 100 MW to obtain an exemption from CEC's jurisdiction and proceed with local permitting rather than requiring CEC certification. The CEC can grant an exemption if it finds that proposed facility would not create a substantial adverse impact on the environment or energy resources. Public Resources Code section 25519(c) designates CEC as the lead agency, in accordance with CEQA, for all facilities seeking an SPPE.

The DEIR was released for public review on April 6, 2023. The DEIR will be available on the CEC project webpage, as listed below in this notice. In accordance with Section 15205(d) of the State CEQA Guidelines, comments on the DEIR will be received for a 45-day period, commencing on April 7, 2023, and ending on Monday, May 22, 2023.

## PROJECT LOCATION AND DESCRIPTION

The project includes (renewable) diesel-fired generators (to provide emergency backup power) that would constitute a thermal power plant with a generating capacity more than 50 MW, but not in excess of 100 MW. The Lafayette Backup Generating Facility (LBGF) would be part of the Lafayette Data Center (LDC), both comprising the project, and would be constructed on an industrial site with a pre-existing use in the city of Santa Clara.

Existing structures would be demolished to construct a three-story 575,401 square foot data center building, generator equipment yard, surface parking, and landscaping. The proposed three-level LDC building would have approximately 575,400 square feet of space; Level 1 and Level 2 would contain four data center suites and corresponding electrical/Uninterruptible Power Supply (UPS) rooms, and Level 3 would contain three more data center suites and corresponding electrical/UPS rooms. The LBGF would consist of 44 3.0-MW emergency backup generators (gensets), plus one 1.0-MW genset for the power base building for administrative and life safety purposes, all with a total generating capacity of 99.8 megawatts.

The LDC would be supplied electricity by Silicon Valley Power (SVP) through a new distribution substation to be constructed on the project site as part of the LDC. The substation would be owned and operated by SVP.

## HAZARDOUS WASTE SITES

The project parcels are not listed on the California Hazardous Waste and Substances Sites List (also known as the Cortese List), published under Government Code section 65962.5.

## ANTICIPATED ENVIRONMENTAL EFFECTS

Typical of projects proposing to use large amounts of fossil fuel, the project's potential impacts of concern largely center on the proposed burning of diesel fuel and the resulting potential harmful emissions as well as the potential indirect effects of the project's electricity use. The project would emit greenhouse gases (GHGs); criteria air pollutants, including nitrogen oxides (NOx) and particulate matter; and non-criteria air pollutants, including ammonia and diesel particulates. The operation of the engines during periodic maintenance and testing also may produce noise impacts with the potential to affect nearby workers or businesses. The construction phase of the project also has the potential to affect biological, cultural, geological (including paleontological), and tribal cultural resources, hazardous materials, hydrology, and transportation. Staff considered all these potential impacts in its evaluation.

The proposed project would result in no impacts to agricultural and forestry resources, mineral resources, and wildfire. The project would have less than significant impacts without mitigation to aesthetics, energy and energy resources, land use, population and housing, public services, recreation, and utilities and service systems.

The DEIR evaluates potentially significant impacts requiring mitigation in the following technical areas:

- **Air Quality.** The DEIR analyzes two primary types of air emissions: criteria air pollutants (which have health-based ambient air quality standards) and toxic air contaminants (which are identified as potentially harmful even at low levels and have no established safe levels or health-based ambient air quality standards). With the implementation of mitigation measure **AQ-1** and NOx emissions fully offset through the BAAQMD permitting process, criteria air pollutant emissions from the

project would not exceed any BAAQMD CEQA Guidelines significance threshold, cause a cumulatively considerable net increase of any criteria pollutant, conflict with or obstruct any applicable air quality plan, or expose sensitive receptors to substantial criteria air pollutant concentrations. Thus, the project would not have a significant impact on air quality.

- **Biological Resources.** The project would not have a substantial adverse effect on any species identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service, with mitigation incorporated. Staff proposes mitigation measures **BIO-1**, which requires nesting bird pre-construction surveys and implementation of appropriate nest buffers.

  With mitigation, the project would not conflict with tree preservation policies or ordinances or tree replacement policies. To avoid conflict with city of Santa Clara General Plan policies regarding tree removal and the protection of trees, staff proposes mitigation measures **BIO-2**, which provides detailed requirements for the replacement of trees removed as part of the project, and tree protection measures, not limited to tree protection zones to avoid and minimize impacts to trees remaining on site.

- **Cultural and Tribal Cultural Resources.** The project would not impact any known resources that could meet CEQA's criteria for historical resources, unique archaeological resources, or tribal cultural resources. However, previous cultural resources studies in the project area indicate that buried archaeological or ethnographic resources could be encountered during ground disturbing activities at the site. Staff recommends two mitigation measures, **CUL-1** and **CUL-2**, to address the discovery of previously unknown buried cultural resources, including human remains. **CUL-1** proposes to require monitoring by both a qualified archaeological resources specialist and a Native American monitor and implement a Workforce Environmental Awareness Program. **CUL-2** proposes measures to be taken in the event human remains are discovered during ground disturbance. With the implementation of these mitigation measures, potential impacts on cultural and tribal cultural resources would be reduced to a less than significant level.

- **Geology and Soils.** Construction would temporarily increase sedimentation and erosion by exposing soils to wind and runoff until construction is complete and new vegetation is established. The city's National Pollutant Discharge Elimination System Municipal Permit, urban runoff policies, and the municipal code are the primary means of enforcing erosion control measures through the grading and building permit process. In accordance with city of Santa Clara General Plan policies, the implementation of the regulatory programs and policies in place would reduce the possible impacts of accelerated erosion during construction to a less than significant level. Continuous operation and maintenance work would not result in increased erosion or topsoil loss. The probability that the construction, operation, or maintenance of the proposed project would have an impact on the risk of loss,

injury, or death involving the rupture of an earthquake fault during operation is remote. As the project site is relatively flat with no open faces or slopes near the site, there is a low potential for landslides.

A project-specific geotechnical engineering report, along with the final project design, would be required to address, as needed, any issues arising from expansive soils, liquefaction, unstable geologic or soil units that could result from the construction of this project. With the implementation of the applicable design criteria per the California Building Standards Code, as well as the incorporation of the anticipated project-specific mitigation recommendations in the final geotechnical engineering report, seismic hazards would be minimized, to the extent feasible with conformance to the applicable seismic design criteria of the California Building Standards Code. Also, adherence to these standards would ensure that impacts from expansive soils would be less than significant. Earth moving during project construction has the potential to disturb paleontological resources. Staff proposes mitigation measure **GEO-1** to ensure the project design conforms to the requirements of a final geotechnical engineering investigation and California and local building standards and codes for monitoring and handling. Staff concludes that, with the implementation of **GEO-1**, the impacts of any geologic hazards and the impacts to unique paleontological resources would be reduced to a less-than-significant levels.

- **Greenhouse Gas Emissions.** The DEIR incorporates both quantitative and qualitative analyses of the project's three categories of GHG emissions: (1) emissions related to the construction/demolition phase of the project; (2) direct "stationary source" emissions from the operation of the emergency backup generators; and (3) indirect and "non-stationary source" emissions from the operation of the project, the vast majority of which are indirect emissions from the electricity consumed by the project.

  Staff proposes mitigation measure **GHG-1** to require the applicant to use renewable diesel for 100 percent of total energy use by the gensets. Ultra-low sulfur diesel would only be allowed as a back-up fuel in the event renewable diesel is unavailable or unobtainable. Mitigation Measure **GHG-1** would ensure that the operation of the emergency backup generators would not hinder California's efforts to achieve statewide 2045 GHG emissions reduction goals. Staff also recommends mitigation measure **GHG-2** to require the project applicant to participate in SVP's Large Customer Renewable Energy program for 100-percent carbon-free electricity or purchase carbon offsets or similar instruments that accomplish the same goals of 100-percent carbon-free electricity.

  With mitigation measures **GHG-1** and **GHG-2**, the project's direct GHG emissions from stationary sources would not have a significant direct or indirect impact on the environment. Further, the GHG emissions from the project operation would occur in a manner consistent with the BAAQMD CEQA Guidelines, the city of Santa Clara Climate Action Plan, policies reflected in Executive Order B-55-18, California Air

Resources Board's scoping plan, and later programs to implement Senate Bill (SB) 350 and SB 100 to achieve the statewide 2030 and other future GHG emissions reduction targets. The GHG emissions of the project would not result in a "cumulatively considerable" contribution under CEQA because they would conform with all applicable plans, policies, and regulations adopted for the purpose of GHG emissions reductions, including a Qualified Greenhouse Gas Emissions Reduction Strategy. Therefore, the GHG emissions from the project are determined to have less-than-significant GHG impacts.

The majority of the project's operational GHG emissions would occur from electricity use or during the readiness testing and maintenance of the emergency backup generators. The project's likelihood of operating for unplanned circumstances or emergency purposes is low and if such operation did occur it would be infrequent and of short duration. Staff, therefore, concludes that these emissions would be less than significant.

**Hazards and Hazardous Materials.** Ground disturbing activities associated with the grading and construction of the project would have the potential to encounter impacted soil and/or groundwater. Staff proposes mitigation measure **HAZ-1** requiring the preparation of a site management plan to establish proper procedures to be taken when contaminated soil is found and how to dispose of the contaminated soil properly. Staff concludes that with the implementation of mitigation measure **HAZ-1,** impacts to the public or the environment due to contaminated soils would be reduced to a less-than-significant level.

**Hydrology and Water Quality.** Project construction activity would have the potential to increase stormwater runoff from the project site. Staff proposes mitigation measure **HYD-1** requiring implementation of best management practices to reduce potential impacts to water quality. Staff concludes that with the implementation of mitigation measure **HYD-1,** the project would not be expected to violate water quality standards or waste discharge requirements during construction and operation, and impacts would be less than significant.

- **Noise.** The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans or if project noise levels would substantially increase existing noise levels on a permanent or temporary basis. Noise due to construction activities is considered to be less than significant if the construction activity is temporary and is limited to daytime hours. The noise levels from construction activities can be a perceived as noisy, but not necessarily noisier than other common ambient noises, such as passing trains. There is the possibility that some temporary construction noise could be perceived by the public as untimely or outside of norms; therefore, staff proposes mitigation measure **NOI-1**, requiring a complaint and redress process be implemented to ensure construction noise impacts would not be significant, as perceived by the community. With the implementation of mitigation measure **NOI-1**, the project's construction noise impact would be less than significant.

- **Transportation.** To meet the target vehicle miles traveled (VMT) for the project, the applicant has proposed an alternative work schedule for employees reflecting a 4-40 workweek (40 hours in 4 days) so that the project's VMT would be below the city's threshold. The commitment to 4-40 work schedule would be a transportation demand management (TDM) measure. Staff evaluated the measure in the context of impacts to VMT and concludes that the requirement defined in this TDM measure is sufficient. This TDM measure would reduce the project's VMT to 13.34 per employee, causing the project's VMT to fall below the city-approved threshold of 14.14. The city requires a TDM annual report, which would allow it to obtain confirmation that the 4-day, 40-hour work schedule has been complied with. Staff proposes mitigation measure **TRANS-1**, which would require the implementation of a TDM program that incorporates the 4-40 work schedule TDM measure.

  The applicant has agreed to the above project changes to improve emergency vehicle access and proposed a TDM measure (i.e., an alternative work schedule for reducing VMT). For consistency with the city, staff is recommending that mitigation measure **TRANS-1**, which requires the implementation and verification of the 4-40 work schedule per the TDM, be adopted. Staff concludes that all potential impacts from the project would be less than significant with the implementation of identified mitigation measures.

## PUBLIC REVIEW PROCESS

This Notice is being provided consistent with Sections 15086 and 15087 of the State CEQA Guidelines to request comments from agencies, organizations, and the public regarding the environmental analyses presented in the DEIR. All comments on the DEIR are due by May 22, 2023.

To access the DEIR and all documents incorporated by reference in the DEIR please go to the CEC's project docket website at: https://www.energy.ca.gov/powerplant/backup-generating-system/lafayette-backup-generating-facility or access the document at the State Clearinghouse through the CEQANet Database at: https://ceqanet.opr.ca.gov/.

This Notice of Availability of a Draft Environmental Impact Report has been mailed to owners and occupants of property contiguous to the project parcel, responsible and trustee agencies, organizations and individuals who have requested notification, the county clerk, and sent to the State Clearinghouse. Persons who cannot access the materials through the links above are encouraged to email the CEC at: eric.veerkamp@energy.ca.gov with a subject line "Lafayette Data Center" or call 916-661-8458 to arrange for alternative means of access to project materials.

The preferable method to submit responses is via the CEC's electronic commenting (e-commenting) system. To access this system, go to the CEC's webpage for this proceeding: https://www.energy.ca.gov/powerplant/backup-generating-system/lafayette-backup-generating-facility. Click on the "Submit e-comment" link

and follow the instructions in the online form. Please be sure to include the project name in your comments. Once filed, the comments will become part of the proceeding's public record. Alternatively, comments may be submitted to: eric.veerkamp@energy.ca.gov.

Subscribe to receive updates when documents and notices are posted to the project webpage, using the CEC's email subscription service at: https://www.energy.ca.gov/powerplant/backup-generating-system/lafayette-backup-generating-facility.