

**DOCKETED**

<b>Docket Number:</b>	19-SPPE-01
<b>Project Title:</b>	Laurelwood Data Center (MECP I Santa Clara I, LLC)
<b>TN #:</b>	228897
<b>Document Title:</b>	Transcript of 05-08-2019 Committee Conference
<b>Description:</b>	N/A
<b>Filer:</b>	Cody Goldthrite
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	7/3/2019 8:12:20 AM
<b>Docketed Date:</b>	7/3/2019

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF  
CALIFORNIA

In the Matter of: )  
)  
Application for a Small Power Plant )  
Exemption for the: )  
) Docket No. 19-SPPE-01  
LAURELWOOD DATA CENTER )  
\_\_\_\_\_)

COMMITTEE CONFERENCE

CALIFORNIA ENERGY COMMISSION  
THE WARREN-ALQUIST STATE ENERGY BUILDING  
ART ROSENFELD HEARING ROOM - FIRST FLOOR  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA 95814

Wednesday, May 8, 2019  
10:28 a.m.

Brittany Flores, CSR 13460

## 1 APPEARANCES

## 2 COMMISSIONERS

3 Karen Douglas, Commissioner, Presiding Member  
4 Janea Scott, Vice Chair, Associate Member

## 5 ADVISERS

6 Jennifer Nelson, Adviser to Commissioner Douglas  
7 Le-Quyen Nguyen, Adviser to Commissioner Douglas  
8 Rhetta deMesa, Adviser to Commissioner Scott  
9 Kristy Chew, Commissioners' Technical Adviser for Energy  
Facility Siting

## 10 HEARING OFFICER

11 Susan Cochran

## 12 Applicant:

13 Jeff Harris  
14 Samantha Neumyer  
15 Ellison Schneider Harrison Donlan  
2600 Capitol Avenue, Suite 400  
16 Sacramento CA 95816  
17 Brian Probst, Edgecore  
18 Jerry Salamy, principal project manager  
19 Jacobs

## 20 Staff:

21 Leonidas Payne, Project Manager  
22 515 Nick Oliver, Staff Counsel  
23 Kerry Willis, Staff Counsel  
24  
25

	INDEX	Page
1		
2	1. Introduction	4
3	2. Opening Comments	6
4	3. Applicant's Presentation,	
5	4. Overview of the Project	10
6	5. Staff's Presentation,	
7	6. Issues Identification Report	19
8	7. Public Advisor Presentation	21
9	8. Committee Discussion on Schedule	
10	and Other Matters	22
11	9. Public Comment	50
12	10. Adjournment	52
13	11. Reporter's Certificate	53
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 PROCEEDINGS:

2 May 8, 2019

3

4 COMMISSIONER DOUGLAS: All right. Good  
5 morning, everybody. This is a conference committee  
6 regarding the proposed small power plant exemption for  
7 the Laurelwood Data Center. The Energy Commission has  
8 defined a committee of two commissioners to conduct  
9 these proceedings. I'm Karen Douglas, the presiding  
10 member of the committee, and Janea Scott is the  
11 associate member for the committee on my right. And now  
12 I'll like to introduce some of the people here today.

13 So our hearing advisor, Susan Cochran, is right  
14 next to me. And Jennifer Nelson, my advisor, is walking  
15 into the room.

16 Hello, Jennifer.

17 And Le-Quen Nguyen, another -- my other advisor  
18 is sitting next to, um, Jennifer. And then Kristy Chew,  
19 technical advisor to the Commission members, is to their  
20 left, and then to my right, Rhetta deMesa, Commissioner  
21 Scott's advisor.

22 So with that, I'll ask the parties to please  
23 introduce themselves and their representatives starting  
24 with petitioner.

25 MR. HARRIS: Good morning, all. Jeff Harris

1 of Ellison, Schneider, Harris and Donlan on behalf of  
2 the applicant.

3 MR. PROBST: Brian Probst. I'm from  
4 Edgecore Internet Real Estate.

5 MR. HARRIS: I should probably introduce the  
6 rest of our team, too. So Sarah McAdams with Jacobs;  
7 Jerry Salamy; and my partner and colleague, Samantha  
8 Neumyer.

9 COMMISSIONER DOUGLAS: All right. Thank  
10 you.

11 MR. PAYNE: Good Morning. Lon Payne,  
12 project manager for the Energy Commission. And with me  
13 is the legal dream team of Nick Oliver and Kerry Willis.

14 COMMISSIONER DOUGLAS: Fantastic. Welcome,  
15 Lon. Welcome, dream team.

16 Now, let's see. Are there any public agencies in  
17 the room? Federal, State, or local?

18 Any public agencies on the phone? Federal,  
19 State, local?

20 City of Santa Clara? Bay Area Air Quality  
21 Management District?

22 All right. Any officials representing Native  
23 American tribes of the nation on the phone? In the  
24 room?

25 All right. Well, with that then, I'll turn over

1 the rest of the meeting to Hearing Officer Susan  
2 Cochran.

3 THE HEARING OFFICER: Thank you. And good  
4 morning. I would note that everybody who has called in  
5 has -- is muted. Did they mute themselves, or did we  
6 mute them?

7 So again, I would ask if there are any public  
8 agencies who have called in to please identify  
9 themselves if they wish. You don't have to, but  
10 especially any Federal or local governments, City of  
11 Santa Clara, Silicon Valley Power, Bay Area Air Quality  
12 Management District, any Native American tribes or  
13 nations?

14 Okay. So what I'm going to do is we will not  
15 mute you unless you decide to mute yourself so that if  
16 you have any questions or comments when it comes time to  
17 public comment, you may do so. However, I reserve the  
18 right to mute you if you're making noise in the  
19 background that is disruptive here in Sacramento.

20 With that, let's talk about the Laurelwood Data  
21 Center small power plant exemption. Notice of today's  
22 committee conference was provided on April 26, 2019. In  
23 the notice, the Commission directed the staff to file an  
24 issues identification report and schedule and invited  
25 the applicant to respond to staff's filing. Staff filed

1 its issues identification report on May 1st.

2 Thank you very much.

3 Applicant then filed its reply on May 6, 2019.

4 All of these documents are available electronically on  
5 the proceedings web page and in the Energy Commission's  
6 electronic docket. Robert Sarvey filed a motion to  
7 intervene on Monday May 6, and I'm looking for  
8 Mr. Sarvey.

9 I do not see him.

10 Parties have 14 days after service of the motion  
11 to respond to the petition to intervene according to our  
12 regulations. Therefore, any response is due on May 20,  
13 2019.

14 At this point, Mr. Sarvey is not a party but is  
15 welcome to participate when the time for public comment  
16 arises. So if he's on the phone and is just being shy  
17 this morning, we'll let him handle that accordingly.

18 At today's conference, I will review what a small  
19 power plant exemption is. I will sometimes refer to  
20 that as an SPPE and outline some of the rules applicable  
21 to the Energy Commission's proceedings for matters like  
22 an SPPE. The applicant will describe the project.  
23 Staff will then outline the issues they have identified,  
24 and the public advisor will discuss opportunities for  
25 public participation.

1 I notice that Jennifer Martin-Gallardo, our  
2 acting public advisor, is in the audience.

3 The committee and the parties will then discuss a  
4 schedule and any other topics regarding the SPPE.

5 The Energy Commission is responsible for  
6 reviewing and ultimately approving or denying all  
7 thermal electric power plants that generate 50 megawatts  
8 or more that are proposed for construction and operation  
9 in California.

10 The law allows the Energy Commission to grant an  
11 exemption to this authority if a project is less than  
12 100 megawatts, known as a small power plant exemption,  
13 it is an expedited process designed to exempt small,  
14 efficient, and relatively benign power plants from the  
15 Energy Commission's application for certification  
16 process for jurisdiction. Importantly, once an SPPE is  
17 granted, the Energy Commission relinquishes jurisdiction  
18 over the power plant to responsible local land-use  
19 authorities and other agencies; most notably, any local  
20 air management or air pollution control districts.  
21 Those other agencies would conduct any necessary  
22 environmental review under the California Environmental  
23 Quality Act, CEQA.

24 To grant a request for an SPPE, the Energy  
25 Commission must first determine the proposed project's

1 generating capacity. If, if the Energy Commission  
2 determines that the project's generating capacity is  
3 less than 100 megawatts, then the Energy Commission  
4 must determine whether the construction or operation of  
5 the proposed project would result in substantial adverse  
6 impact on either, one, the environment or, two, energy  
7 resources. In making these determinations, the Energy  
8 Commission is the lead agency under CEQA and follows the  
9 substantive and procedural requirements of that law.

10 Today's hearing is the first in a series of  
11 formal committee events that will extend over the next  
12 several months. This committee will eventually hold  
13 evidentiary hearings and issue a committee proposed  
14 decision containing recommendations for the full Energy  
15 Commission to approve or deny the requested exemption.

16 The Energy Commission's regulations and State  
17 law require that we ensure a fair process for everyone  
18 who participates in the proceeding, whether that's the  
19 parties or the public. One of the ways we do that is  
20 through what we call the ex parte rule. What this  
21 means is that parties in a proceeding and interested  
22 persons outside of the Commission -- that is, the  
23 general  
24 public -- are prohibited from communicating with  
25 presiding officers about anything that might be in

1 controversy or in dispute. Communications include  
2 voicemail messages, text messages, emails, letters,  
3 telephone calls, and in-person discussion; essentially,  
4 any form of communication. In Laurelwood, the presiding  
5 officers are the commissioners, both Commissioner  
6 Douglas and Scott, as well as other commissioners, their  
7 advisors, the hearing officer --  
8 me -- and any attorney who's assisting the hearing  
9 officer or the committee. At this point, in Laurelwood,  
10 that's Ralph Lee, who's sitting over there.

11 The public advisor will discuss ways you may  
12 communicate with the Energy Commission that do not  
13 violate the ex parte rule.

14 At this point, I would like to call on the  
15 applicant to provide us with an overview of the project.

16 Mr. Harris.

17 MR. HARRIS: Good morning. Thank you very  
18 much.

19 If we could have Mr. Probst's presentation on the  
20 board there, that'd be very helpful.

21 I'm going to turn it over to Brian to give you an  
22 overview of the company and the project, and in the  
23 meantime, I'm going to be thinking of a nickname for our  
24 team. I didn't know there were nicknames involved, so  
25 we're going to need to caucus at some point.

1           So I'd like Brian to give you an overview of the  
2 project. Then I just have a couple words to say about  
3 legal issues in the process, and, and then I assume  
4 we'll get into the details of the issues identification  
5 report towards the end of -- after staff's presentation  
6 and otherwise.

7           So let me turn it over to Brian and let him  
8 introduce himself and then take you through the project.

9           MR. PROBST: Yeah. Thank you. Again, my  
10 name is Brian Probst, I represent Edgecore Internet Real  
11 Estate. I'm a senior project manager for them,  
12 overseeing the project in this process for, for  
13 Edgecore.

14           First and foremost, on behalf of our company, I  
15 want to thank the committee for this process coming  
16 together and helping out. I'd like to thank you for the  
17 quick response when it comes to the data request and the  
18 responsiveness of the Commission as a whole.

19           And with that, I'll give you a, a brief overview  
20 of Edgecore as a company if I can. And if I can get the  
21 next slide, please.

22           And just to forewarn you, Jeff has promised to  
23 kick me under the table if I bore you, so just give him  
24 the signal.

25           So Edgecore, we're based in Denver, Colorado.

1 We're US -- we're a US based company as that. We  
2 provide highly scalable cloud connected data center  
3 solutions to a myriad of customers in the tech industry.  
4 We have -- we're a very, very customer-focused company.  
5 Um, in fact, we have very, very high demand on our -- or  
6 our customers have very high demand, and as such, we  
7 have very high demands on each other as a company. Our  
8 promises made are promises kept. If you look at our  
9 executive team, they've work together for over ten years  
10 now. They were formerly with another data center  
11 platform that they grew throughout the US. They have a  
12 collective 65 years or more of history working together.  
13 With that, you know, they have managed and invested over  
14 \$10 billion of assets in the data center market, and  
15 they have overseen and managed them quite successfully.  
16 If I could get the next slide, please.

17           And the next slide, kind of, shows you our US  
18 platform as it sits today. We have five sites across  
19 the US that are currently under development if you will.  
20 You'll see the Bay Area there. Phoenix is our most  
21 advanced campus. We have a building standing there  
22 currently coming online. Most of the other sites -- in  
23 fact, all the other sites are through the design  
24 process. They're in pre-construction, meaning the  
25 building permits are ready to pick up and get to work on

1 them. The Ashburn campus is probably weeks away, just a  
2 week or two away from breaking ground.

3 Our main focus right now, though, is the Bay Area  
4 here as you well know. Santa Clara, San Jose, the whole  
5 Bay Area is, is really the epicenter of the tech  
6 industry. Has been for quite a while and will probably  
7 continue to be. So this is our, our focus right now,  
8 our key market, and we're ready to move as quickly as we  
9 can to get this underway. If I could get the next  
10 project -- or the next slide. Excuse me.

11 So this, kind of, gives an overview of the  
12 project, itself. The formal name is -- our project is  
13 MECPI Santa Clara 1 LLC. That's a whole 'nother  
14 subsidiary of Edgecore data centers. The project's  
15 located at 2201 Laurelwood Road in Santa Clara. That's  
16 the name, "Laurelwood Data Center." What we have done  
17 is we, we purchased just under 12 acres, 11.98 acres,  
18 that was formerly a heavy industrial site. It was owned  
19 by a company called Siliconnect, and they were a  
20 semiconductor manufacturer or they played the part in  
21 the process of producing semiconductors. So as to that,  
22 we bought the site. There are some buildings there  
23 currently that are coming down. They're under the  
24 demolition phase right now. So the, the site is  
25 probably set to be totally cleared of construction

1 debris mid June maybe.

2           So proposed building, we have about 572,000  
3 square feet of IT or white space. Those are the data  
4 center buildings. Those are two buildings, and it bears  
5 mentioning that's the aggregated total square footage  
6 above the building. And then we have a 36,000 square  
7 foot ancillary building that will house loading dock --  
8 a loading dock, you know. It will house some of the IT  
9 infrastructure to distribute to those buildings, itself.  
10 We're, we're going to or we propose the on site 99  
11 megawatt Silicon Valley substation. We carved out the  
12 land and working with Silicon Valley currently on design  
13 and what that looks like. Again, bears mentioning also  
14 with that being said, we will have no more than 99  
15 megawatts of demand, and when we say demand, that's  
16 building demand on that substation. We're limited  
17 through design. So through that, our design can never  
18 pull more than 99 megawatts between the aggregated total  
19 of all the buildings on site. So with that also, we  
20 plan to install 56 megawatt generators. That is, in a  
21 configuration that's redundant. We have generators that  
22 will be, basically, reserve generators, back-ups to  
23 back-ups if you will. Those -- again bears mentioning,  
24 that never more than 99 megawatts of emergency backup  
25 power will be generated at any one time. So again, just

1 to give you a little bit clear picture on that, not all  
2 56 generators will start up at one time and be running  
3 and generating a hundred percent. And even the  
4 aggregated total with the engine typically won't run at  
5 a hundred percent anyway even the ones that are running,  
6 but we do have backups to backups. So that's why the  
7 total is 5600 megawatts. So if I can get the next  
8 slide.

9 This, kind of, gives you a 50,000-foot view, if  
10 you will, of where the data center is located in Santa  
11 Clara. The next one, I think, gives you a better  
12 picture. So if you can go to the next slide.

13 As you can see, this is a -- this is the site as  
14 it sat probably a month and a half, two months ago with  
15 the old Siliconconnect building sitting on it. But what I  
16 think this picture illustrates most or most clearly is  
17 that this is a -- this is a heavily developed urban  
18 corridor. This sits at, you know, the crossways or the  
19 crossroads of Montague Highway or US Highway 101 -- or I  
20 believe they may mark it as the Bay Shore Freeway now --  
21 again, heavily developed urban corridor. The former use  
22 of this site was, was for heavy industrial. Everything  
23 around it is, is industrial as it sits today. And with  
24 that being said, it's, it's -- you know, we believe that  
25 the zoning as, as industrial is suitable for the

1 proposed data center site.

2           So I talked a little bit about the existing  
3 structures. You know, those, like I said, are coming  
4 down. We're demo-ing to eight feet underneath the  
5 foundations. So, you know, total -- totally clean site  
6 wiped clean of construction debris. If we can go to the  
7 next side.

8           This is a conceptual site layout. You can see  
9 that we have our two data center buildings. One will be  
10 a four-story. One will be a three-story building. The  
11 four-story, which you would call an ECD-1 is a 40  
12 critical megawatt building. ECD-2 is just our second  
13 building. Won't be a 30 critical megawatt building.  
14 Yeah. So -- just if you can't see it, um, I guess what  
15 would be plan south would be building one. It's the one  
16 with the ancillary building connected to it on the upper  
17 right-hand side of the building to give you perspective.

18           That, too, will house our loading -- one of our  
19 loading docks is that ancillary building. Then building  
20 two will have its own loading dock or loading facility.  
21 And that's basically our layout.

22           Any, any questions so far or anything that, kind  
23 of, want a little more detail on or I've missed?

24           All right. If we can go to the next slide if  
25 that's good.

1           This is our project schedule, and I'll let Jeff  
2 speak a little more about this. But as it -- this, this  
3 table outlines the Commission's schedule as -- I don't  
4 know exactly how to turn that into 135 days.

5           MR. HARRIS: It's in the regulation.

6           MR. PROBST: Yeah. It's the regulated  
7 hundred and thirty-five days for the SPPE decision to be  
8 rendered. If you look at the staff's proposed schedule  
9 that's in column four, total. Right to the right of the  
10 date, then our applicant's proposed schedule, that's our  
11 proposed schedule to the far right. We're requesting  
12 that the process be finished by 9/11/2019, which is  
13 actually, I believe, 60 days longer than the -- you  
14 know, regulated hundred and thirty-five days. So with,  
15 with, kind of, that brief overview, I'll turn it over to  
16 Jeff to speak a little bit about this and also about the  
17 Public Resource Code.

18           MR. HARRIS: Thank you, Brian. That was  
19 very helpful. I won't spend too much time on the  
20 schedule. We can come back to that. I also had some  
21 other discussion I wanted to have. I wanted to clarify  
22 one thing. Brian said we are demo-ing the buildings.  
23 We are not demo-ing the buildings. The prior owner has  
24 an obligation to give us the land with those buildings  
25 demo-ed. They're going through a demolition process

1 with the City of Santa Clara, which is ministerial.  
2 It's underway. I guess the buildings are largely done  
3 at this point. I haven't been there for a while. I think  
4 the underground-ing is left to be done on that. So we  
5 will be receiving a clean site. And that demo process,  
6 like I said, it's a difficult City process by the board.  
7 We're not involved in that. So I don't mean to pick on  
8 your words.

9 MR. PROBST: No. Thanks for clarifying.  
10 Appreciate it.

11 MR. HARRIS: My other comments were, sort  
12 of, in the weeds and notwithstanding California's  
13 position on Canada, I think I'll wait, and we can deal  
14 with that later on when we can discuss the schedule. So  
15 thank you very much.

16 COMMISSIONER DOUGLAS: You know, Mr. Harris,  
17 you're giving us a lot of fodder for your team's name.

18 MR. HARRIS: I do know that I probably want  
19 to pick my own name and not let staff select it for me.

20 THE HEARING OFFICER: Okay. Thank you very  
21 much. Waiting for the team name.

22 Now staff will discuss their process for  
23 consideration of an SPPE as well as the issues that they  
24 identified in their issues identification report.

25 MR. PAYNE: Sure. I'm tempted to go with

1 "formidable opponent" except we're not really opponents.  
2 We're all working together for a greater energy  
3 tomorrow. So we're still open on the nicknames.

4 THE HEARING OFFICER: That will never fit on  
5 a shirt.

6 MR. HARRIS: With the right font, you can  
7 do anything.

8 MR. PAYNE: So, Susan, as you mentioned,  
9 staff docketed and we requested the issue ID report on  
10 May 1st. That report speaks for itself. We have no  
11 further presentation on it. Staff has seen and is  
12 continuing to evaluate the applicant's response.  
13 Staff's also continued to receive info back from the  
14 applicant to both -- mostly now at this stage, the  
15 informal data request email correspondence. So we'd  
16 really like to thank Jerry Salamy and his team for  
17 getting us info in a really prompt way. That's all  
18 working really well.

19 I'd also like to say how much I appreciate Jeff  
20 Harris for pointing out that we had an outdated SPPE  
21 model schedule still on our website from 2011. It  
22 actually -- the reason I hadn't noticed it is it's mixed  
23 in with a model 12-month AFC schedule, so it's an extra  
24 page. So we have looked at that schedule extensively in  
25 the context of the last two SPPEs. It does not reflect

1 CEQA comment deadlines. It doesn't reflect our agency  
2 internal noticing procedures. It's simply the  
3 individual dates or individual milestones can't work in  
4 the context of how we operate. So we don't rely on it  
5 and we don't -- we would encourage no one, neither  
6 committee nor developers, to rely on it. The hundred  
7 and thirty-five day schedule is still what we're  
8 shooting for and there are specific things in regs that  
9 we try to hit, but those much more detailed milestones  
10 that are reflected in that model don't match what we can  
11 do. And so we would ask that no one rely on that.  
12 We'll try to pull that off the website to prevent any  
13 further confusion by anyone else.

14 Let's see. One final courtesy I'd like to ask  
15 for if it's possible to move up the scheduling  
16 discussion prior to the public advisory presentation  
17 since we're already, kind of, talking about it. I'd  
18 appreciate that. I have a conflict and I'm trying -- I  
19 don't want to have to leave midway.

20 And with that, thanks, and we'd be happy to  
21 answer any questions you have.

22 THE HEARING OFFICER: I would like to  
23 accommodate you, Mr. Payne, but I have some questions  
24 about the substance that I think we'll talk -- that will  
25 also then impact the schedule. So we want to -- you

1 might want to hear some of that before we roll into  
2 schedule. So -- and I understand that the public  
3 advisory is going to be pretty quick. What is your  
4 deadline?

5 MR. PAYNE: Oh, it's not specific. I'm just  
6 trying to get out. I don't want to have to leave  
7 midway.

8 THE HEARING OFFICER: Okay.

9 MR. PAYNE: So at this stage, it's all going  
10 pretty quickly, so I think we're probably going to be  
11 fine.

12 THE HEARING OFFICER: Okay. I talk fast.  
13 Court reporters tell me to slow down all the time. So  
14 as long as I'm doing the talking, it'll probably be  
15 fast. So thank you for that, staff.

16 At this point, I would like to call on the public  
17 advisor who will outline how her office can help members  
18 of the public participate in this proceeding. Ms.  
19 Martin-Gallardo.

20 MS. MARTIN-GALLARDO: Good morning and thank  
21 you. I will be quick. I wanted to introduce myself.  
22 Again, my name is Jennifer Martin-Gallardo and I'm the  
23 acting public advisor and I wanted to make sure that the  
24 public, anyone who may be in the room, or on --  
25 participating on the telephone knew of my existence and

1 that I'm available and my office is available to help  
2 with any questions about how to participate in this  
3 proceeding.

4 Oh, I have my own controller. Very nice.

5 All right. So just a brief introduction to what  
6 the public advisor does. I'm independently appointed.  
7 I'm not independently appointed. I'm acting but I am an  
8 attorney who helps the public understand the process,  
9 recognize the best way to be involved, and assist in  
10 successful participation in proceedings.

11 This is not what I thought I had.

12 Anyway, I wanted the public to understand that  
13 there is a public website and -- at the California  
14 Energy Commission's website for the Laurelwood Data  
15 Center. And here is the area which you can submit  
16 comments or documents to the proceeding. And here is my  
17 contact information. Any, any method of contact works,  
18 but email is the quickest way to reach me because you  
19 can reach me anywhere I might be. Thank you very much.

20 THE HEARING OFFICER: Thank you. And so now  
21 let's turn to a discussion of the issues that will  
22 probably bleed then into a discussion of the schedule.

23 As I stated before, staff filed an issues  
24 identification report, and applicant filed a response to  
25 that document. What we're going to do now is discuss

1 some of the issues identified by staff and responses  
2 from the applicant. I will also highlight some of the  
3 issues the committee has identified. The purpose of  
4 this discussion is not to decide these issues today but  
5 to make sure that as we move forward toward evidentiary  
6 hearing, the record will contain the information  
7 necessary to support the committee and ultimately the  
8 Commission's decision on the Laurelwood SPPE.

9 So I'm going to first start with what staff has  
10 identified in their issues identification report, and  
11 I'm going to go in the order that they were in that  
12 staff report. And so the first is about air quality,  
13 and there were some questions about modeling. In  
14 applicant's committee conference statement, you -- there  
15 were discussed changes to making changes to the  
16 conceptual site plan and that that could lead up to  
17 updated modeling.

18 Do you have any idea about what the timing for  
19 that is?

20 And then for staff, how long it will take for you  
21 to incorporate that into your analysis for the SPPE.

22 So that you understand, staff is in the process  
23 of preparing an initial study, and I don't know if it's  
24 going to be a negative declaration or a mitigated  
25 declaration or what flavor of the environmental

1 document's going to be. But they're preparing an  
2 initial study at this point. So the information, the  
3 inputs for that, are what we're talking about now.

4 Mr. Salamy, are you going to answer how long it's  
5 going to take for the conceptual site plan and modeling?

6 MR. HARRIS: Mr. Salamy is here in case the  
7 questions get hard. So let me provide, kind of, an  
8 overview on this air quality issue and, sort of, tying  
9 into overall schedule. You know, strictly speaking, the  
10 dispersion modeling is not required by the Bay Area  
11 district backup generators. It's not required by any  
12 applicable LORS that we're aware. It's not required by  
13 any applicant LORS or laws, but staff has asked for this  
14 information. We think it's in our interest to provide  
15 it for them if it'll take the issues off the table. So  
16 rather than fighting the staff on the question of  
17 modeling, we've agreed to do that modeling. And like I  
18 said, that's, obviously, in our own long-term best  
19 interest.

20 Modeling takes some additional time. We've  
21 reflected that in our proposed schedule, and if we get  
22 into those weeds, we can talk about that as well.

23 THE HEARING OFFICER: Okay.

24 MR. HARRIS: But I knew I'd use the weeds  
25 metaphor at some point. We don't want a new nickname.

1           So, um, in any event, um, so that you know,  
2 bottom line, we're doing something extra here, and I  
3 really don't want that to adversely affect the schedule.  
4 We can work closely with the staff on this. My  
5 understanding is that we will be turning that modeling  
6 over to staff in about 15 days' time. Staff will need  
7 some time, obviously, to review that. They'll  
8 probably -- I don't -- I don't know if they'll just look  
9 at it and bless it or if they'll rerun the model or what  
10 they'll do. But it shouldn't take them -- and I'll  
11 speak for them. Shouldn't take them a long time to look  
12 at it once we get them. That's broken into our  
13 schedule. So please understand that we think we're  
14 being cooperative, doing something extra here that  
15 obviously benefits us. So we have self interest in  
16 that, and I think it does fit into our schedule to do it  
17 this way.

18           THE HEARING OFFICER: Okay. One thing I  
19 want to -- you made a comment, Mr. Harris, in terms of  
20 staff is that LORS doesn't require this analysis, and,  
21 um, what I noticed in -- and what this committee has  
22 noticed -- in looking through the applicant's  
23 application and the reports is that I -- I'm seeing a  
24 disconnect between LORS compliance versus what CEQA  
25 requires. And so while it -- it's both in air quality

1 and a little bit in noise and maybe even in land use.  
2 So I think what the committee is looking for is a  
3 resolution of when LORS compliance is sufficient for  
4 environmental impact analysis. And so because we are  
5 doing CEQA as CEQA as opposed to our certified  
6 regulatory program, we take all of that. And while  
7 local LORS, ordinances, resolutions, or regulations and  
8 standards may provide thresholds of significance, I  
9 don't think that the mere fact that we are compliant  
10 with one of those laws is the same as the analysis  
11 required by CEQA for whether there's an environmental  
12 impact as a result of that.

13 To further heighten that point, one of the other  
14 issues that we see in the air quality analysis,  
15 particularly as it relates to operating, is how is  
16 operating generators being defined. What is throughout  
17 the application -- and obviously, we're a little bit  
18 constrained because we haven't seen staff's analysis  
19 yet, but in the application, it talks as though  
20 operating for purposes of our CEQA analysis is the  
21 testing protocol necessary for these standby  
22 generators. And the question is; is that sufficient for  
23 operating for CEQA? In other words, should we also be  
24 looking at, in the event that these generators are  
25 called upon to actually work that there's a -- excuse me

-- a power

1 failure such that the emergency generators are used,  
2 should we be looking at what the use of these generators  
3 would be during such a power failure. How long would  
4 that last for? This is particularly true because, on a  
5 cumulative basis, there are a number of data centers in  
6 the area. This is the third such data center SPPE that  
7 this Commission has been looking at. And if all of  
8 those generators start up at the same time because of a  
9 failure of the electrical loop system, then what are  
10 those impacts going to look like, and I have not seen  
11 that analysis yet.

12 So again, I'm not saying that we're going to  
13 resolve this today. We're talking about issues that the  
14 committee has identified for the long-term decision  
15 necessary on this SPPE.

16 MR. HARRIS: Okay. I took notes. There's a  
17 lot of issues here, so let me see if I can, sort of,  
18 unfold them. On question of LORS and CEQA, I mean, you  
19 are absolutely correct. You're familiar with the CEB  
20 case that says mere compliance with LORS is not enough  
21 for CEQA. We're familiar with that case as well.  
22 That's a correct statement. There is a contention  
23 between LORS and CEQA now since obviously the LORS of  
24 the -- again, Laws, Ordinances, Regulations, and  
25 Standards for people in the room who may not know that.

1 It's a complex issue that relates to environmental  
2 analysis. We always start with LORS issue, and there  
3 aren't any applicable LORS that require this kind of  
4 modeling. So the next question becomes what's enough  
5 for CEQA, and I think rather than fighting over what's  
6 enough for CEQA, we decided, "Well, if staff wants a  
7 dispersion modeling, we can do that." So we're going to  
8 provide that answer, and I think the dispersion modeling  
9 satisfies that CEQA question. We've worked very well  
10 with staff, and that's why I think we're willing to go  
11 the extra step and do that modeling.

12 In terms of the CEQA issue, too, I also want to  
13 point something out I think gets lost in the shuffle and  
14 it ties back to LORS that the Bay Area Air Quality  
15 Management District has a set of rules and regulations.  
16 Those rules and regulations are LORS of course. They  
17 are also promulgated consistent with CEQA. There's an  
18 environmental impact report that stands behind right  
19 to -- or Rule 2, Reg 2. Sorry. I screwed it up.

20 MR. SALAMY: Reg 2, Rule 2.

21 MR. HARRIS: Reg 2, Rule 2. And I see that  
22 Jerry would come in handy soon enough.

23 There's an environmental document behind that as  
24 well. So there is CEQA analysis that goes into those  
25 LORS as well. And so you can't stand alone on the LORS.

1 You can't stand alone on a CEQA document, but I do want  
2 to show the Commission that there is CEQA analysis that  
3 goes into questions like exemptions. Certainly, you  
4 know, engines of the Bay Area which are exempt, and that  
5 exemption is lawfully promulgated and consistent with  
6 LORS and consistent with CEQA.

7 In terms of the operation, you know, I would look  
8 to your decision in the McLaren case, the issue that you  
9 raised about, you know, how much is operation and  
10 testing enough. Those issues are addressed in that  
11 proceeding. I don't want to characterize it because I  
12 don't fully remember them, but we're looking for similar  
13 treatment there as well. It is different with a backup  
14 generator. You don't have an operating profile like you  
15 do with a power plant. The dispersion modeling is  
16 intended to show there wouldn't be any significant  
17 public health effect. If all of these backup generators  
18 are running at the same time -- I know you talked about  
19 the cumulative impact -- there's probably Thunderdome  
20 in the Bay Area, and we should be worried about having  
21 water and safety as opposed to electricity. So, you  
22 know, I don't know what kind of assumptions you want to  
23 make about when these might run. Brian's hope is that  
24 these things never run because that's the model that  
25 they want to provide.

1 THE HEARING OFFICER: Understood.

2 MR. HARRIS: But the reason that they are  
3 there is in case something happens. The nine nines of  
4 reliability or six nines of reliability, whatever the  
5 Silicon Valley standard is. That's why the backup  
6 generators are there, and that's the first instance.  
7 You know, as I said, if they're running a lot, there  
8 are -- there are no airplanes in the sky for example,  
9 and there are bigger issues going on in the Bay Area.

10 THE HEARING OFFICER: Staff, did you have  
11 anything you wanted to add to the discussion?

12 MR. PAYNE: Just with respect to the  
13 schedule aspects, you'll note that on our proposed  
14 schedule, we actually did provide a date based on what  
15 we heard from Jerry of May 20 to the 24th of when we  
16 would expect the initial monitoring to come in. Today,  
17 when Jeff mentioned these would be coming in around 15  
18 days -- it's May 8th -- that would be the 23rd. I  
19 conservatively estimated that if it were to come in, I  
20 should set my schedule based on the 24th as opposed to  
21 the 20th. Our air quality staff has given me a time  
22 that they feel they need to turn that info around and  
23 complete their technical section. Other technical areas  
24 depend on this information to be completed as well. And  
25 then we have time that we needed internally for review,

1 briefings, and publication of the document, which, as  
2 you know, can be complicated sometimes. So the schedule  
3 reflects our giving a hard look of what we can do  
4 assuming we do get information by May 24th and we can't  
5 turn it around any quicker without there being some  
6 limitation on what we could do.

7 THE HEARING OFFICER: Okay. Mr. Hong, could  
8 pull up the schedule. It is in the tray. I think it's  
9 the Word document if that's correct. That's the one.

10 So this is my take on the schedule. What the  
11 green highlights mean are absolute deadlines as set by  
12 State law or the Commission's regulations. And I took  
13 Mr. Payne's suggestion to heart even though he hadn't  
14 made it to me in that the Commission's schedule that has  
15 previously been published didn't reflect reality. And  
16 so what I tried to do here was to fill in the dates. I  
17 left staff's proposed schedule and applicant's proposed  
18 schedules as they were. You can see that I have a  
19 committee schedule column that we'll fill in eventually,  
20 but in terms of Commission's schedule, we definitely  
21 have a State requirement for evidentiary hearing within  
22 a hundred days and a decision. A final adopting hearing  
23 by the Commission within a hundred and thirty-five days.  
24 We also have a 30-day review period for the initial  
25 study mitigating negative declarations required by CEQA.

1 And the cutoff for data request was Monday because  
2 that's 60 days.

3 So this is, sort of, the schedule that we're  
4 trying to build around as well. And so, I did not leave  
5 in some of the interim dates. These are the dates for  
6 things like when the initial study, whatever that  
7 initial study shows and when that's going to be filed.  
8 So, so in there, you know, we'll have a public comment  
9 period. We'll have opening testimony due. We'll have  
10 reply testimony. So there's no deadline in our regs for  
11 opening testimony, but there is for when the last  
12 evidence is required to be in.

13 So just be keeping these deadlines in mind, and I  
14 have separated out the prehearing conference and the  
15 evidentiary hearing so that we have a, a better chance  
16 of, again, having this robust discussion, because this  
17 isn't an AFC, where we will have, sort of, regular staff  
18 conferences. We're looking at having a separate  
19 prehearing conference so that we know what -- we know  
20 what the issues actually are as we go into the  
21 evidentiary hearing. Frequently, this Commission has  
22 been having the prehearing conference and evidentiary  
23 hearing on the same day and that has become unwieldy.  
24 So the plan at this point is to have those on separate  
25 dates so that everyone knows what's going to be

1 happening later.

2           So that's the schedule discussion that we're  
3 having right now. I noted, too, that staff had filed a  
4 data request about other data centers using the  
5 Silicon Valley Power line proposed to interconnect to  
6 Laurelwood and that the application didn't know about  
7 that. Again, that's a significant issue that staff  
8 will want to have nailed down as we move closer to  
9 evidentiary hearing. So it may be necessary to contact  
10 Silicon Valley Power and find out some answers to those  
11 questions.

12           MR. HARRIS: If -- can I have a second.

13           Okay. I don't want to debate the merits here,  
14 but, but we'll ask again about privacy laws, customers,  
15 that kind of stuff, infrastructure. At the end of the  
16 day, I would argue that it's not relevant, you know,  
17 we're going to be served by the local provider, and  
18 Commission shouldn't be second guessing Silicon Valley's  
19 robust system.

20           THE HEARING OFFICER: It's not a -- just to  
21 briefly answer. Again, we're not going to resolve this  
22 today but my response -- I'm not going to respond to  
23 that today. We'll respond to that when it -- we get  
24 closer to evidentiary hearings.

25           MR. HARRIS: Thank you.

1           THE HEARING OFFICER: There was discussion  
2 about biological resources. I note that the project  
3 already has a certain number of project design measures  
4 for biological resources and that staff anticipates  
5 adding more detail to those. So as we move forward  
6 again, we need to be conscious of the fact that this  
7 will require a mitigation monitoring reporting program  
8 most likely and how that's going to be structured and  
9 enforceable.

10           MR. PAYNE: The only thing I would add to  
11 that is we can't condition the exemption. So all we do  
12 is propose mitigation measures for later CEQA permitting  
13 authorities to adopt.

14           MR. HARRIS: Can I ask if there's specific  
15 concerns the committee has about biological places? I  
16 thought that issues identification response are the  
17 issues. Are there additional things you're concerned  
18 about?

19           THE HEARING OFFICER: No. What I'm doing is  
20 I'm going through the issues that they had identified,  
21 saying that if there are additional mitigation measures  
22 necessary. I know that there is a few -- between the  
23 parties as to whether there's actual nitrogen deposition  
24 on the Santa Montecito Creek and other facilities  
25 habitat within two miles. We're not going to try to

1 resolve that today. That's, again, something that's  
2 going to have to be resolved and because staff has not  
3 put out their analysis -- we have applicant's analysis.  
4 We don't have the other part. We don't have staff's  
5 analysis yet. So I just want to -- I'm just  
6 highlighting that. Those are issues moving forward.

7           The, the next is -- relate to demolition as  
8 Mr. Harris talked about as we -- the prior owner is  
9 demolishing the existing structures through the City of  
10 Santa Clara's administrative process. Staff, I think,  
11 asked the question of whether that demolition should  
12 be part of the project description for the Laurelwood  
13 project. And so as we move forward, again, we're going  
14 to be looking for analysis as why or why not demolition  
15 should be included in the CEQA analysis and also, what  
16 effect would including demolition have on the schedule.  
17 So just be thinking about that as we move forward.

18           Okay. Turning now to the water supply  
19 assessment. Thank you. This is my personal favorite  
20 part of CEQA. I note that there is a water demand of  
21 approximately three acre feet per day. I'm assuming  
22 that's for cooling of the data centers, themselves. And  
23 I note that the applicant has stated that they have  
24 requested a water supply assessment from the City of  
25 Santa Clara.

1           Do we know when that will be received, and how  
2 long staff will need to analyze?

3           MR. PROBST: So, so you're correct. We have  
4 requested a water supply analysis. We are expecting  
5 that -- I'll call it -- any day now. We have been  
6 following up. In fact, a email just as recently as  
7 Friday went out following up on when are we going to see  
8 that from the City. So as soon as we get it, we'll turn  
9 it around and head it your way.

10           THE HEARING OFFICER: I read in one of the  
11 documents that it required City Council approval. Do  
12 you know if that has been on the agenda yet?

13           MR. HARRIS: I'm not sure it does require --

14           THE HEARING OFFICER: Okay.

15           MR. HARRIS: -- council but we can look for  
16 you.

17           THE HEARING OFFICER: I would also note that  
18 Water Section 13550 states that the use of potable water  
19 for industrial use is a waste for unreasonable use of  
20 water within the meaning of Water Code 10, section 2 of  
21 the California Constitution. Where is the analysis of  
22 the use of recycled water included in the installation  
23 of a .3-mile long recycled water pipeline? Again, I'm  
24 highlighting issues for the future that I don't want  
25 anyone to be caught flat-footed on as we move closer to

1 evidentiary hearing.

2 MR. HARRIS: If I may, my understanding is  
3 that issue will also be part of the water supply  
4 assessment. So the assessment will look at the  
5 availability of water generally. So if it's not the  
6 case, we hear you. We understand the Commission's  
7 position on recycled water is not ambiguous. So we will  
8 act accordingly.

9 THE HEARING OFFICER: Also, I -- again, this  
10 is an issue where it's appearing as though compliance  
11 with the Water Code water supply assessment is being  
12 translated into a less than significant impact, and I  
13 want to make sure that is, in fact, the case that the  
14 mere fact that we have the water supply assessment also  
15 indicates that we're not having a significant impact on  
16 water supply or ground water quality or any of those  
17 things that are necessary under CEQA.

18 MR. HARRIS: Yeah. I think it will  
19 demonstrate that. At the end of the day, we're a  
20 customer. We're not in the water business. There was a  
21 prior industrial use here that was more water invested  
22 than our use and -- but we need to document that for  
23 you. That's what we need to do.

24 THE HEARING OFFICER: Now -- so those are  
25 all of the issues that staff had identified in their

1 issues statement. The committee has issues of its own  
2 that it wants to highlight again. I think that was  
3 answered today, but I just want to make sure that we  
4 actually have this in the record and that is that  
5 there's, there's one generator for fire and emergency  
6 use. And so I'm trying to figure out is it 55 plus the  
7 one dedicated to fire emergency use, or is it 56 and one  
8 dedicated to fire emergency use? You don't have to  
9 answer that today. Just be ready to respond to that.

10 Also, in -- oh, you do have an answer. Okay.

11 MR. HARRIS: Brian can answer that.

12 MR. PROBST: Yeah. It would be 55 plus one.

13 THE HEARING OFFICER: Okay. And this then  
14 feeds into the 99 megawatt demand capacity that is --  
15 that is talked about, making sure that the load for the  
16 emergency generator is included and accounted for in  
17 that 99 megawatt.

18 MR. PROBST: Absolutely.

19 THE HEARING OFFICER: That, that we're  
20 saying that the outer boundaries of generation for this  
21 plan.

22 I also want to make sure that we have the, the  
23 demand of the facility really nailed down. In McLaren as  
24 you mentioned, that was a contested issue, and it was  
25 difficult to sometimes understand how that was being

1 calculated because it arose, sort of, late in the  
2 proceeding about the 99 megawatts. And so we're -- the  
3 committee is going to be looking for some good evidence  
4 on that, that has not being presented at the last  
5 meeting. We were trying to figure out how all these  
6 different multipliers work to determine building load.

7 MR. HARRIS: On that point, we, we are aware  
8 of the discussion of the McLaren decision or the three  
9 different methods used there. We will use that  
10 precedent -- or we'll use that to make the demonstration  
11 to you.

12 Just FYI, just to the 99 megawatt number presents  
13 about a ten percent cushion if you will. I think the  
14 real number is probably closer to 90, but we wanted to  
15 -- for environment, CEQA, and LORS purposes -- use the  
16 largest number possible.

17 THE HEARING OFFICER: Right. Understood,  
18 but we did have a lot of fun with that in McLaren and  
19 Mr. Layton and I became really good friends about that.

20 So I note in the land-use section that the  
21 application shows that the project will exceed the  
22 City's zoning limit for height. And under CEQA, when  
23 there is a land-use law that is intended to avoid or  
24 mitigate an environmental effect, that is considered to  
25 be a significant effect. So the question is: is the

1 height limit in the zoning code designed to avoid or  
2 mitigate an environment effect? How has the City dealt  
3 with this issue in the past? Because unlike our AFC  
4 proceedings, where we stand in the shoes of all  
5 permitting agencies and could grant the variance or  
6 the site review, whatever it is that we're talking  
7 about, we don't have those ruby slippers in an SPPE.  
8 So it's, it's important to analyze whether that is done  
9 as significant effect. We cannot mitigate because we don't  
10 have land-use authority in this context.

11 MR. HARRIS: If we could, Mr. Salamy can  
12 provide some insight.

13 MR. SALAMY: During the project clearance  
14 committee meeting with the City of Santa Clara, they  
15 indicated that they routinely allow a ten percent  
16 exceedance of the height LORS for this particular  
17 zoning. So in that meeting, they indicated they would  
18 employ that ten percent allowance for the Laurelwood  
19 Data Center.

20 THE HEARING OFFICER: Okay. Thank you.

21 MR. SALAMY: So --

22 THE HEARING OFFICER: Again, again, though,  
23 compliance with the law does not necessarily equate to  
24 lack of significance under CEQA. And that's why I  
25 keep -- I'm, I'm -- I feel like I'm harping on that

1 point, but I think it's really important for this  
2 discussion that we all understand that the mere fact  
3 that we may be compliant with LORS or that there is no  
4 law that says you have to have a permit for these  
5 generators does not necessarily mean that they are not  
6 impacting the environment. And so we have to draw a  
7 very bright line between complying with the law and  
8 making sure that we have analyzed all of the potential  
9 environmental effects under CEQA.

10 MR. HARRIS: If I could, the exceedance  
11 relates really to our potential structure. It's the  
12 facade for design purposes. Apparently, it's important  
13 that the people driving on the 101 and Montague  
14 Expressway have a nice building to look at. If it  
15 became necessary, we could lose that architectural  
16 detail. That's definitely not our preference. It's not  
17 within the company's ethic principles. We want the  
18 building to look very nice, but just so you know, it's  
19 not the entire structure. It's the, the pretty part of  
20 the building. So --

21 THE HEARING OFFICER: Understood. Getting  
22 back to my reoccurring refrain today about compliance  
23 with the law versus environmental effect is noise. The  
24 applicant -- the application states that emergency  
25 operations are exempt from the City's noise ordinance,

1 but the fact that it's not exempt does not mean that it  
2 does not create an environmental effect. And one of the  
3 concerns that I have is that there was confusion -- at  
4 least on my part -- about a three decibel difference  
5 being noticeable versus a five decibel difference being  
6 distinct. I know that we're trying to use those as our  
7 threshold of significance. And so we need to be very  
8 clear about what the threshold of significant is in  
9 analyzing the noise impacts of this even though they may  
10 not fall squarely within the City's zoning ordinance or  
11 noise ordinance for general plan whatever the document.  
12 So we have to be consistent for what we say the  
13 threshold of significance is for noise.

14 Finally, as identified and Mr. Probst said, this  
15 is a heavily developed urban corridor. It is -- it  
16 falls within the definition of CEQA guideline section  
17 15072 subdivision E. So we need to make sure that the  
18 appropriate transportation planning agencies are  
19 properly notified of our environmental review of this so  
20 that they can weigh in on any impacts to US 101 or to,  
21 um, the Parkway and Expressway. In, I think, the County  
22 of Santa Clara is a transportation planning agency for  
23 those facilities.

24 Um, also, the project is located near Mineta Airport,  
25 and I want to make sure that you properly

1 discuss that as required by guideline section 15074  
2 subdivision E.

3 Now, turning to schedule, as Mr. Harris pointed  
4 out and as the schedule points out -- can we have the  
5 schedule back up on the screen for just a moment.

6 Thank you.

7 The regulations require that we have an  
8 evidentiary hearing within 100 days of the filing of the  
9 application as reflected on this schedule. That would  
10 be June 13, 2019. So a little over a month from now.  
11 The final adoption hearing by the Commission must be  
12 held within a hundred and thirty-five days or July -- or  
13 no later than July 18, 2019, business meeting July 15.  
14 As we sit here today, we do not have enough time to do a  
15 30 -- if the initial study was released today, we would  
16 barely have 30 days for that comment period. The  
17 regulations provide that the applicant may, at any time,  
18 stipulate to a more lengthy time schedule than is  
19 provided in these regulations in order to permit full  
20 and fair exploration. Such a stipulation shall be made  
21 in writing to the committee.

22 So, Mr. Harris, what is your client's contention  
23 regarding schedule and stipulating to deadlines beyond  
24 the 100 days and hundred and thirty-five?

25 MR. HARRIS: Our intention is to continue to

1 work with the staff cooperatively. I can't remember  
2 ever presenting to a committee as scheduled that  
3 exceeded a regulatory deadline. I've never done that.  
4 This is the first time. You'll see dates up there of  
5 nine of -- 9/11/19 for us, which is about 60 days beyond  
6 the regulatory requirement. We've done that  
7 specifically because the work we're doing with staff was  
8 going very well. We decided to provide some additional  
9 information in terms of dispersion modeling that's not  
10 available to staff yet. We think that giving it to the  
11 end of the month will allow them to meet our, our 6/11  
12 date for their publication.

13 So, you know, like I said, you can certainly  
14 calendar today as we brought you a schedule that was  
15 longer than the absolute minimum required by regulation.  
16 We want to be realistic. We're not looking to, to -- I  
17 was going to use a dead metaphor. We're not looking to  
18 kill the staff's summer vacation or anything else here.  
19 We want to be reasonable in the timeframes. We do also  
20 think, though, that things can go quicker than McLaren.  
21 You have a good model in front of you. That, that  
22 decision is well reasoned and well, well argued and, and  
23 well documented, and we're not going to get very far  
24 from that at all. We don't think the staff should  
25 either, which is why we think we can get through

1 reasonably quick here. Being second is good sometimes.  
2 So we want to follow that schedule.

3 We pushed the date out to the September business  
4 meeting because that's the date your business meeting is  
5 published for currently. One way that -- to gain back  
6 some time would have been to propose a special business  
7 meeting. We just didn't do that either. Although,  
8 we -- you know, we have to consider that as a  
9 possibility. We are, as you have heard from pretty much  
10 every applicant, ready to go. We had some ideas of  
11 where this project is headed, and entitlement process is  
12 a critical path. We definitely need to get this done  
13 sooner than later. So that's why we proposed some days  
14 that we think will work. We recognize that your model  
15 is a little goofy. The old one on the website, to use  
16 the technical legal term, Jennifer, goofy. So we did  
17 insist that staff publish the initial study today. It's  
18 really odd it's the last day of discovery and the date  
19 of the inspection of the initial study are the same day.  
20 So I thought that would be a long day for staff if we do  
21 follow that.

22 So, you know, we'll be willing to talk about each  
23 one of these dates moving forward, but what we think we  
24 put together is very reasonable. My partner, Ms.  
25 Neumyer, worked very hard on the dates as I'm dyslexic

1    apparently or otherwise.  So those are well thought out.  
2    If you can find ways to make them more expedited, we  
3    certainly take that, but we think in every case, we have  
4    been pretty reasonable with the dates.  So we think our  
5    schedule works.  Things you highlighted in green are  
6    reflected in our schedule.  Those are the -- those are  
7    the regulatory requirements.  So that's why we think you  
8    ought to look very hard at our schedule, and all we ask  
9    is that staff to act, you know, 30 days quicker than  
10   they want to act.  But, you know, knowing this isn't an  
11   SPPE, SPPE is not an AFC, I think matters.

12           I mean, you know, your point about very clear  
13   difference between LORS and CEQA, you know, the  
14   Commission's decision under this is under 25541, and it  
15   basically says that you can approve it if the Commission  
16   finds no substantial adverse impacts on the environment  
17   or energy resources will result from the construction or  
18   operation of the facility.  That's a, a higher standard  
19   in the sense that I think it's an easier standard for an  
20   applicant to meet because there is a fall on City  
21   process, you know, our actual entitlement produced from  
22   the City through that process.  And so no substantial  
23   adverse impact on the environment or energy resources,  
24   you know, I think that the legislature chose the words  
25   very carefully there.  Those words, we should focus on,

1 and we can do that on briefing. I don't want to bore  
2 you with details here. It is a standard that I think  
3 allows you to act more expeditiously and allows staff to  
4 act more expeditiously.

5 THE HEARING OFFICER: Staff, this is your  
6 first public opportunity to respond to the applicant's  
7 proposed schedule. Do you have --

8 MR. PAYNE: Sure.

9 THE HEARING OFFICER: -- any comments this  
10 morning?

11 MR. PAYNE: I'll do that very briefly. We  
12 appreciate Jeff's enthusiasm for belief in our ability  
13 to act quicker. As the project manager, I have been  
14 moving folks along absolutely as quick as possible in  
15 making estimates of what we can do based on changes  
16 including the fact that we're going to get some design  
17 changes here on the late end and are still getting  
18 information. I would not predict we could get  
19 additional study out before July 11th. We will  
20 certainly try, but I would not want to make any sort of  
21 promises that we could and probably take something  
22 extraordinary like getting information from the  
23 applicant quicker than we expected. So I can't change  
24 the 30-day comment period. So the days that are, kind  
25 of, hardwired in for us are July 11 for publication

1 assuming nothing goes wrong, in which case, it would be  
2 further. August 12th for comments, and we're giving  
3 ourselves 90 days to then turn around comments.  
4 Responses to the comments we get, which based on the  
5 McLaren experience and now knowing that we may have an  
6 intervener, we would expect to get comments and that was  
7 actually a pretty lengthy process that I, as the PM, and  
8 Jen with staff to get through that in nine days.

9           So, to me, the schedule that I can control or at  
10 least attempt to affect is solid through the 21st, and  
11 I'm always weary about suggesting to a committee that it  
12 be available on a particular week for a prehearing  
13 conference or evidentiary hearing because your schedules  
14 are more complicated than ours are, but I, I set it for  
15 very quickly after we would get comments in on our CEQA  
16 document. And the only real way we could possibly make  
17 the, the applicant's proposed schedule would be to have  
18 everything, sort of, prewritten; to forget the  
19 evidentiary prehearing conference that comes the day  
20 after staff provides comments on our CEQA document; and  
21 for you to do a special business meeting to make a  
22 decision. And that's just not the sort of thing I, as  
23 the project manager, feel comfortable suggesting that  
24 you do. I prefer to let you set the schedule that works  
25 for the committee.

1                   THE HEARING OFFICER: Thank you because I  
2 note that Mr. Harris gave us eight days to create our  
3 proposed decision.

4                   MR. HARRIS: On that point, I would note  
5 that comes directly out of McLaren schedule, directly,  
6 and I think there's a reason for that. I think there's  
7 a reason for that. You're not going to be writing a PMPD  
8 like you do in a AFC proceeding. It's a lot more  
9 reliant on the staff document. Change its form a little  
10 bit and is attached to the introduction. So -- and I  
11 would highly encourage you to use prior Microsoft Word  
12 documents and do a search and destroy and change  
13 "McLaren" to "Laurelwood" because the projects are  
14 nearly identical in most respect. They're obviously are  
15 locational issues but -- reinventing the wheel seems  
16 like a strange metaphor. But I think let's not reinvent  
17 the wheel. I think some of these things can be  
18 expedited. The things that staff -- they're waiting  
19 for, again, the extra things that we're doing and we're  
20 going to do as soon as possible. Again, let's not have  
21 one lagging item driving the entire schedule if we can.

22                   THE HEARING OFFICER: Okay. Anything else  
23 on the schedule?

24                   I'm looking at the legal dream team, too. So --  
25 on that? On staff side, Mr. Oliver?

1 MR. OLIVER: Nothing further from us.

2 THE HEARING OFFICER: Is there anything else  
3 that I should have talked about that we didn't talk  
4 about? I know that there are a number of things that we  
5 did talk about that you didn't want me to talk about,  
6 but is there anything else?

7 At this point, do you -- oh, last call.

8 At this point, it's time for public comment. If  
9 anyone is on the public -- or on the phone, let's make  
10 sure everybody's un-muted if they wish to be un-muted.

11 MR. HARRIS: Could we ask again if  
12 Mr. Sarvey is on the line. I just want to have a good  
13 record.

14 THE HEARING OFFICER: Mr. Sarvey, are you on  
15 the line?

16 MR. HARRIS: The phones are un-muted?

17 THE HEARING OFFICER: There are only two  
18 folks who are not -- that don't have a name attached to  
19 them.

20 MR. HARRIS: I think Mr. Hong can handle  
21 this so -- no.

22 MR. HONG: I don't see Mr. Sarvey.

23 THE HEARING OFFICER: Okay. Anybody in the  
24 room that wishes to make a comment?

25 Did anyone give a blue card to the public

1 advisor?

2 She's shaking her head, "no."

3 No one's on the WebEx.

4 Going once. Going twice. Fair warning.

5 Public comment is closed.

6 The committee will now adjourn to a closed  
7 session in accordance with California Government Code  
8 section 11126 subdivision C-3, which allows a State  
9 body, including a delegated committee, to hold a closed  
10 session to deliberate on a decision to be reached in a  
11 proceeding the State body was required by law to  
12 conduct.

13 I don't know whether there will be reportable  
14 action after this. You don't necessarily need to stick  
15 around if you don't wish to.

16 So with this, we are adjourned to closed session.  
17 The meeting, though, needs to stay open. We need to put  
18 up the sign that says we're in closed session. Don't  
19 turn off anything in here because we continue to record  
20 and we will be back -- no. Considering it's 11:40 right  
21 now. It's going to take more than five minutes. I  
22 would say, "Will not return before noon." 12:30 or --

23 COMMISSIONER DOUGLAS: That quick?

24 THE HEARING OFFICER: Well, I still have to  
25 come out and report.

1           So it's probably going to be after lunch. So say  
2 2:00 p.m., and we will dismiss the court reporter. I'll  
3 let you know when we come back from closed session, and  
4 so you don't need to stay. And, um, I believe the  
5 committee will intend to issue a scheduling order and  
6 orders after this conference some time in the next week  
7 or so.

8           So with that, we're adjourned to closed session.

9

10

11           (Whereupon the proceeding concluded at 11:38 a.m.)

12

13

--o0o -

14

15

16

17

18

19

20

21

22

23

24

25

1 I, Brittany Flores, a Certified Shorthand Reporter of  
2 the State of California, duly authorized to administer  
3 oaths, do hereby certify:

4 That the foregoing proceedings were taken before me  
5 at the time and place herein set forth; that a record of  
6 the proceedings was made by me using machine shorthand  
7 which was thereafter transcribed under my direction;  
8 that the foregoing transcript is a true record of the  
9 testimony given.

10 I further certify I am neither financially interested  
11 in the action nor a relative or employee of any attorney  
12 of party to this action.

13 IN WITNESS WHEREOF, I have this date subscribed my  
14 name.

15

16 Dated:

17

18

19

-----  
Brittany Flores CSR 13460

20

21

22

23

24

25