

DOCKETED

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Project Title:	Laurelwood Data Center (MECP I Santa Clara I, LLC)
TN #:	229581
Document Title:	Motion to Adopt Staff Schedule and Conduct Site Visit and Informational Hearing
Description:	Motion to adopt Staff Schedule
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of
Laurelwood Data Center

Docket Number 19-SPPE-01

MOTION OF ROBERT SARVEY TO ADOPT CEC STAFF'S PROPOSED SCHEDULE AND
CONDUCT A SITE VISIT AND INFORMATIONAL HEARING

CEC staff proposed a reasonable and orderly schedule to conclude this proceeding. *“Staff proposed releasing a draft staff initial study on August 16, 2019, to highlight areas of agreement and areas on which disagreement about impacts and mitigation measures still existed. Staff would then hold a public workshop on August 27, 2019, to “solicit comments, resolve or narrow issues of disagreement between the parties and agree on mitigation for potentially significant effects. Staff would then file a final staff initial study that would serve as its testimony for the evidentiary hearing. Staff then states the Committee Proposed Decision would function as the Initial Study and be circulated through the State Clearinghouse.”*¹

The committee has rejected staff's proposal and is now ordering, *“Staff to prepare and file a single, integrated document containing its environmental analysis on the SPPE, as set forth in the attached Revised Scheduling Order schedule, and submit the appropriate notice to the State Clearinghouse to commence the public review and comment process.”*²

Staff functioning as an independent party had scheduled a workshop in Santa Clara on August 27 to discuss the project with the intervenors and the public and identify and narrow areas of disagreement. The committee order essentially canceled the workshop.³ This workshop would be the public's first opportunity to be introduced to the project since the CEC failed to hold

¹ **ORDERS AFTER JULY 23, 2019 STATUS CONFERENCE AND REVISED SCHEDULING ORDER**
Page 3,4

² **ORDERS AFTER JULY 23, 2019 STATUS CONFERENCE AND REVISED SCHEDULING ORDER**
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³ Is CEC Staff really an independent party if the committee can cancel a scheduled workshop?

an Informational Hearing and Site Visit or any workshops in the affected community. This would also be the intervenors first chance to interact with the staff and the applicant and identify and discuss areas of disagreement. According to the project proponent's application the project area itself, "is considered an EJ population based on low income as defined in Guidance on Considering Environmental Justice During the Development of Regulatory Actions (EPA, 2015)." ⁴ None of the Energy Commission customary procedures for public participation nor any of the EPA's recommendations defined in Guidance on Considering Environmental Justice During the Development of Regulatory Actions have taken place in this proceeding.

According to the Committees August 13 order all parties except the applicant support Staff's schedule. The committee notes the Applicant questioned whether Staff's proposed approach would be consistent with CEQA. Neither the applicant nor the Committee or any party has presented any evidence that Staff's proposed processing of the SPPE is not CEQA compliant. Past practice in the handling of SPPE proceedings indicates that Staff's approach is CEQA compliant. Only judicial review will determine if the committees proposed handling of the SPPE is CEQA compliant

According to the Committees August 13, 2019 order, "*The Committee is not persuaded that we should deviate from past practice and process. We therefore **ORDER** Staff to prepare and file a single, integrated document containing its environmental analysis on the SPPE, as set forth in the attached Revised Scheduling Order schedule, and submit the appropriate notice to the State Clearinghouse to commence the public review and comment process.*"

Past practice in SPPE proceedings has been for CEC Staff to issue a draft initial study as staff is proposing. In addition, almost all previous SPPE proceedings have included site visits and workshops so the public and the parties could participate in the development of the MND before it is submitted to the state clearinghouse. In the MID Ripon proceeding 03-SPPE-01 an initial study was presented before an MND was submitted to the clearing house.⁵ A site visit and informational hearing was also conducted for the MID Ripon proceeding.⁶ In the Niland Gas Turbine Proceeding 06-SPPE-01 the CEC staff filed a draft initial study before filing an

⁴ TN 227273 Laurelwood SPPE Application Page 166 of 172

⁵ [Staff's Draft Initial Report \(03-SPPE-01\) https://ww2.energy.ca.gov/sitingcases/ripon/documents/index.html](https://ww2.energy.ca.gov/sitingcases/ripon/documents/index.html)
Draft Initial Study Staff evaluation of MID ELECTRICT GENERATING STATION. Uploaded: June 29, 2003.
(Adobe Acrobat PDF file, 325 pages, 3.06 megabytes.) notice file size...!!!

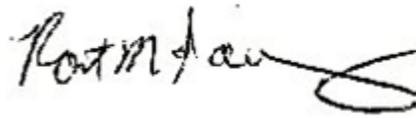
⁶ TN 28608 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=03-SPPE-01>

MND.⁷ A site visit and informational hearing was also conducted.⁸ In the MID Woodland Case 01-SPPE-01 a draft initial⁹ study was completed and a site visit was conducted.¹⁰ In the Riverside Resource Center Project 04-SPPE-01 a draft initial study was provided¹¹ and a site visit and informational hearing was conducted.¹² In the Malaga Power Plant Proceeding 03-SPPE-02 and informational hearing and site visit was conducted¹³ and a Draft Staff initial study was presented.¹⁴

Past practice supports the CEC Staff's proposed schedule and indicates that its proposal is CEQA compliant. Considering this has been the CEC's process for many years it is likely CEQA complaint unless the agency now considers all these previous SPPE proceedings non-compliant with CEQA.

Intervenor Sarvey moves that the committee adopt CEC Staff's Schedule and conduct a site visit and informational hearing for the affected environmental justice community before a mitigated negative declaration is submitted to the Department of Resources.

Respectfully Submitted,



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⁷ TN 37504 **Draft Initial Study - Staff Report**

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=06-SPPE-01>

⁸ TN 36769 Notice of Public informational hearing and Site Visit.

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=06-SPPE-01>

⁹ TN 21584 Draft Initial Study, TN 21359 Site Visit Mailing List

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=01-SPPE-01>

¹⁰ TN 36769 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=06-SPPE-01>

¹¹ TN 31890 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=04-SPPE-01>

¹² TN 31448 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=04-SPPE-01>

¹³ TN 30716 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=03-SPPE-02>

¹⁴ TN 30891 Draft Initial Study <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=03-SPPE-02> n