

DOCKETED

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Memorandum

To: Commissioner Karen Douglas, Presiding Member
Commissioner Patty Monahan, Associate Member

Date: December 4, 2019

From: **California Energy Commission**
1516 Ninth Street
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Leonidas Payne
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Subject: ISSUES IDENTIFICATION, STATUS REPORT, AND PROPOSED SCHEDULE FOR THE SEQUOIA SMALL POWER PLANT EXEMPTION (19-SPPE-03)

In its November 26, 2019 order ("Notice of Committee Conference and Orders on Hearings"), the Sequoia Backup Generating Facility SPPE Committee ordered Energy Commission staff to "file an Issues Identification Report, Status Report, and Proposed Schedule, summarizing the major issues identified to date, status on activities conducted to date and issues that require resolution before hearings can be conducted, and proposing a schedule for the conduct of this proceeding."

Staff issued data requests on September 13, 2019 and follow-up data requests on October 11, 2019. The applicant submitted partial responses on October 2, 2019 and October 25, 2019. On December 2, 2019, the applicant submitted a design revision drawing for below-grade generator fuel tanks to address a project conformance issue with a Santa Clara County Airport Land Use Commission (ALUC) Comprehensive Land Use Plan (CLUP) policy, which prohibits above ground storage of fuel or other hazardous materials at the project site.

Data requests (DRs) that have not been responded to or have not received complete responses include the following:

DR 10 – CalEEMod output files missing emissions from hauling trips

DR 37 – Missing meteorological files

DR 42 – Incomplete NO2 modeling

DR 69 – Records search map with the locations of previously recorded cultural resources and previous cultural resource studies indicated

DRs 81-88 – Information related to the substation, transmission line route, pole structures

DR 89 – The City of Santa Clara's comments and analysis of the project's conformance with the Comprehensive Land Use Plan for the San Jose Airport

Staff is working diligently with the applicant to resolve these data gaps and/or gather the necessary information independently with the assistance of our agency partners. Staff will continue consultation with partner agencies including the ALUC, City of San Jose Airport Department, and City of Santa Clara to confirm that the project as revised would definitively conform with the CLUP and not result in a safety hazard for people using the San Jose International Airport or for people residing or working in the project area. Staff will update the Committee on its progress in addressing these data gaps at the December 17, 2019 status conference, including whether the new tank design raises any issues or requires follow-up data requests. At this time staff is unaware of any other issues the Sequoia project presents that require resolution before the staff's Initial Study can be published and hearings conducted.

Because staff is still completing the discovery phase, a definitive schedule for publication of the Initial Study is difficult to determine at this point. Our experience on this project is consistent with prior SPPE evaluation efforts. Delays can occur when applicants require additional time to respond to data requests, as has been the case here. Delays can also occur when the project description is altered, either the result of project changes made by the applicant after filing, or in response to data requests made by staff. The proposed schedule provided below reflects this inherent uncertainty in the evaluation process. At this point, staff can only offer several scheduling considerations. First, that the committee establish the same deadline for opening testimony and public comment on the Initial Study. Secondly, staff's responses to any substantive comments on the Initial Study will be included in its reply testimony. Lastly, the committee allots staff with at least 10 working days following the CEQA commenting deadline for preparing its reply testimony/response to comments document.

Staff's Proposed Schedule

Application materials docketed	8/14/19
Notice of Receipt and agency coordination letters docketed	8/30/19
Tribal consultation letters docketed	9/6/19
Committee named at Business Meeting	9/11/19
Staff Data Requests Set 1 docketed	9/13/19
Partial Data Requests Set 1 responses received	10/2/19
Staff Data Requests Set 2 docketed	10/11/19
Partial Data Requests Set 2 responses received	10/25/19
Cultural Resources Technical Report received	10/30/19
Burrowing Owl Impact Analysis received	11/5/19
Below-grade fuel tanks revision submitted	12/2/19
Status Conference	12/17/19
Mitigation resolution workshop (if needed)	TBD
Initial Study publication	TBD
Deadline for comments on the Initial Study (30 days per CEQA)	TBD
Opening Testimony/Public Comments due	TBD
Reply Testimony/Response to Public Comments due	TBD
Prehearing Conference	TBD
Evidentiary Hearing	TBD
Committee Proposed Decision	TBD
Commission Decision at Business Meeting	TBD