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CALIFORNIA ENERGY COMMISSION

In the Matter of:

Sequoia Data Center )  
\_\_\_\_\_ ) Docket No. 19-SPPE-03

COMMITTEE CONFERENCE AND ORDERS ON HEARINGS

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

TUESDAY, DECEMBER 17, 2019

10:00 A.M.

Reported by:

Gigi Lastra

APPEARANCES

COMMITTEE MEMBERS

Karen Douglas, Lead Commissioner

Patty Monahan, Associate Member

Kourtney Vaccaro, Advisor to Commissioner Douglas

Ben De Alba, Advisor to Commissioner Monahan

Jana Romero, Advisor to Commissioner Monahan

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Galen Lemei, Hearing Advisor

CEC STAFF

Lon Payne, Project Manager

Lisa DeCarlo, Staff Counsel

Kristy Chew, Technical Advisor

Jana Romero

Eric Knight

PUBLIC ADVISOR

Rosemary Avalos

APPLICANT

Scott Gallati

Jeff Devine

AGENDA

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P R O C E E D I N G S

10:04 A.M.

SACRAMENTO, CALIFORNIA

TUESDAY, DECEMBER 17, 2019

COMMISSIONER DOUGLAS: All right. Good morning everybody. This is a Committee Conference regarding the Proposed Small Power Plant Exemption for the Sequoia Backup Generating Facility.

The Energy Commission has assigned a Committee of two Commissioners to conduct these proceedings. I'm Karen Douglas, the Presiding Member of this Committee. Patty Monahan, the Assistant Member of the Committee is to my left.

And I'd like to introduce the people here on the dais today. To my right is Courtney Vaccaro, my Advisor. And to my immediate left, our Hearing Advisor, Galen Lemei. Commissioner Monahan's Advisors, Ben De Alba, and Ben De Alba is here. Jana Romero is coming. And Kristy Chew, Technical Advisor to the Commissioners on siting matters is also here.

So I'll ask the parties to introduce themselves now, starting with the Applicant.

MR. GALLATI: Scott Gallati representing

1 C1-Santa Clara, which is a Sirius 1 (phonetic)  
2 entity on the Sequoia Backup Generating Facility.

3 MR. DEVINE: Good morning. My name is  
4 Jeff Devine. I am the Director of Design and  
5 Construction for  
6 Sirius 1, Western Region.

7 COMMISSIONER DOUGLAS: All right. Thank  
8 you very much.

9 And Staff?

10 MR. PAYNE: Lon Payne, Project Manager.  
11 And with me is Lisa DeCarlo from the Legal  
12 Counsel's Office.

13 COMMISSIONER DOUGLAS: Thank you very  
14 much.

15 And, let's see here, Public Advisor's  
16 Office, so Public Advisor's Office is  
17 represented.

18 And let me just ask, let's see, do we  
19 have any public agencies present, federal public  
20 agencies, state, local, tribes, in the room? All  
21 right.

22 We'll go on to WebEx then. And let me  
23 just ask, do we have any representatives of  
24 public agencies on the WebEx? It does not look  
25 like it. All right.

1 Well, then, I think we have concluded the  
2 introductions. I'll turn over the conduct of the  
3 rest of the Committee Conference to Hearing  
4 Officer Lemei.

5 HEARING OFFICER LEMEI: Hello everyone.  
6 I see almost entirely familiar faces in the room  
7 and that's nice. And I am, of course, here in a  
8 new role, so I'm doing my very best. And it's  
9 nice to have everyone here.

10 With respect to parties, I'll just note  
11 real quick that a Petition to Intervene was  
12 received from Robert Sarvey. That is pending  
13 before the Committee currently. And I don't  
14 believe I see Mr. Sarvey in the room. But if  
15 you're here and I'm missing you, then I  
16 apologize, or if you're on WebEx, welcome.

17 Okay, background discussion.

18 Notice of today's Committee Conference  
19 was provided on November 26th of 2019. In the  
20 November 26th, 2019 notice and order, the  
21 Committee directed Staff to file an Issues  
22 Identification Report, Staff Report, and Proposed  
23 Schedule, which I will collectively refer to as  
24 the Issues Identification Report or the Staff  
25 Report for simplicity.

1           The Committee also directed Applicant to  
2 respond to respond to Staff's report. Staff  
3 filed its Issue Identification Report on December  
4 4th and Applicant filed its reply on December  
5 11th, 2019. All these documents are available on  
6 the Energy Commission's website in the electronic  
7 docket for this proceeding. The Docket Number  
8 for this proceeding is 19-SPPE-03.

9           The agenda for today's conference will be  
10 as follows, which is a slight modification to the  
11 agenda published in the notice.

12           First, I will provide an overview of what  
13 a Small Power Plant Exemption, or SPPE, is and  
14 rules applicable to this proceeding. Second, the  
15 Applicant will give an overview of the proposed  
16 project. Third, Staff will provide an overview  
17 of its role and review it will conduct of this  
18 application. Fourth, there will be a discussion  
19 of the status of the application, issues  
20 identified in Staff's Report, and the Proposed  
21 Schedule for the Proceeding. Fifth, a  
22 representative of the Public Advisor will discuss  
23 opportunities for public participation, followed  
24 by public comment. And finally, the Committee  
25 may adjourn to closed session to discuss this



1 proceeding, at the conclusion of which we will  
2 adjourn the hearing.

3           A quick overview of the Small Power Plant  
4 Exemption.

5           The Energy Commission has exclusive  
6 authority to consider and ultimately approve or  
7 deny applications for the construction and  
8 operation of thermal power plants that will  
9 generate 50 megawatts or more of electricity.  
10 However, the law allows the Energy Commission to  
11 grant and exemption from this authority for a  
12 project that will generate between 50 and 100  
13 megawatts if the Energy Commission finds that  
14 construction and operation of the proposed  
15 project will not result in substantial adverse  
16 impacts on the environment or energy resources.  
17 This process is commonly referred to as a Small  
18 Power Plant Exemption or SPPE for short.

19           As required by the Environmental Quality  
20 Act, or CEQA, the Energy Commission evaluates the  
21 whole of a project to determine whether the  
22 construction or operation of the project will  
23 result in a substantial adverse impact on the  
24 environment. In considering a Small Power Plant  
25 Exemption, the Energy Commission is the CEQA lead

1 agency under the Warren-Alquist Act.

2           If the Energy Commission grants a Small  
3 Power Plant Exemption, the responsible local land  
4 use authorities and other agencies, such as the  
5 local air management district, will assume  
6 jurisdiction over the project under their  
7 respective permitting processes and conduct any  
8 other necessary environmental review as  
9 responsible agencies under CEQA.

10           If the Energy Commission does not grant a  
11 Small Power Plant Exemption for a proposed power  
12 plant that is otherwise within its jurisdiction,  
13 then the project proponent would need to file an  
14 Application for Certification with the Energy  
15 Commission to obtain a permit. The Small Power  
16 Plant Exemption process is expedited compared to  
17 the Application for Certification process.

18           Today's Committee Conference is the first  
19 in a series of Committee events that will extend  
20 over the next several months. This Committee  
21 will hold evidentiary hearings. Following  
22 evidentiary hearings and any briefing offered by  
23 the Committee, a Committee Proposed Decision  
24 containing recommendations for the full Energy  
25 Commission to approve or deny the requested

1 exemption will be issued.

2           A quick note on ex parte rules. Pursuant  
3 to the Energy Commission's recommendations, this  
4 proceeding will be conducted as an adjudicative  
5 proceeding. The Energy Commission's regulations  
6 and state law require that we ensure a fair  
7 process for everyone who participates in such  
8 proceedings. One of the ways we do this is  
9 through the ex parte rule.

10           The ex parte rule requires that parties  
11 in an adjudicative proceeding, as well as any  
12 interested persons inside and outside of the  
13 Commission, including the general public, are  
14 prohibited from communicating with presiding  
15 officers outside of a noticed meeting about  
16 anything that may be in controversy or dispute.  
17 Communications, including voicemail --  
18 communications includes voicemail messages, text  
19 messages, emails, letters, telephone calls, in-  
20 person discussions, essentially any form of  
21 communication, unless all parties have notice and  
22 opportunity to participate in the communication.  
23           In this proceeding the Presiding Officers  
24 are the Commissioners of the Energy Commission,  
25 which includes both Commissioner Douglas and

1 Commissioner Monahan, as well as the three other  
2 members of the Energy Commission, and me, the  
3 Hearing Officer. Ex parte communications are  
4 also prohibited with individuals assisting the  
5 Presiding Officers, which in this proceeding  
6 includes anyone serving as an advisor to  
7 Commissioners, including everyone you see here on  
8 the dais, and any attorneys assisting the  
9 Committee and the Commission in this proceeding.

10 We'll now move on to a discussion of the  
11 project, issues, and schedule.

12 Applicant, could you please present an  
13 overview of the proposed project?

14 MR. DEVINE: Okay. Good morning again.  
15 As you can see from the first slide, this is one  
16 of the proposed -- the location of our building  
17 is actually on -- in Santa Clara off of De La  
18 Cruz Boulevard. This vantage point is taken from  
19 the perspective of heading south on De La Cruz  
20 Boulevard with the airport being on your left and  
21 our building being on the right. It shows the  
22 front half of the building -- or, actually, this  
23 is about the front quarter of our building which  
24 is, essentially, the office structure. We have  
25 about 60,000 square foot of office space, and

1 then other ancillary spaces that support the data  
2 center, which is towards the back of the  
3 building.

4           Next slide please.

5           This is from a different perspective.  
6 This is actually heading north on De La Cruz with  
7 the airport being on your right and the building  
8 being on your left. The Sirius 1 logo, that part  
9 of the structure is actually the freight elevator  
10 which extends beyond the top of the building for  
11 elevator overrun purposes. And that allows us to  
12 get equipment, materials and whatnot to the roof  
13 deck, should something fail, a piece of equipment  
14 on one of the A/C units, whatnot, so that's what  
15 we're going to be basically using that for.

16           The wall -- oh, not yet, just really  
17 quickly, the wall that you see down toward the  
18 bottom left-hand corner is actually the wall that  
19 hides our loading dock and our trash receptacles  
20 as required by the City of Santa Clara.

21           Next slide please. Can you expand the  
22 third one please? Yes, sir. Okay.

23           This kind of gives you a better  
24 perspective. The next slide will, as well, it  
25 will explain a little bit better. But the

1 building itself is just slightly over 700,000  
2 square feet under roof. We have four stories,  
3 again, of office space, as well as data center.  
4 The lion's share of that 703,000 is data center  
5 space. We have a total of 11 data centers within  
6 the structure. I forget what the breakdown is.  
7 I think it's four on the fourth floor, four on  
8 the third, and three, I believe, on the second  
9 floor.

10           As you can see, this is De La Cruz  
11 Boulevard off to the left of the photo.

12           Can you expand that a little bit bigger  
13 please? That's better.

14           You can see De La Cruz Boulevard off to  
15 the bottom left-hand side of that particular  
16 photo. And beyond us is a company called One  
17 Workplace, that's the south of us. And just to  
18 the north of us, where the parking lot, that's  
19 the existing Enterprise Rent-A-Car space.

20           Let me see here.

21           As you can see from this photo, and will  
22 see from the next one, as well, it shows, this  
23 one shows the A/C units that are resting on top  
24 of the structure. We're getting better here,  
25 kind of. Well, if the picture in the middle --

1 there we go -- you'd be able to see the A/C units  
2 that are resting on top of the building. Okay.

3 And next, sir, please. You're going to  
4 have to size it down a little bit.

5 This is a bird's eye view of the -- of  
6 our property, as well as the building, and all  
7 the other items that we have on our property to  
8 support the building.

9 That's fine right there. Perfect. Thank  
10 you very much.

11 As you can see, I mentioned earlier that  
12 the San Jose International Airport was directly  
13 adjacent or across from De La Cruz Boulevard.  
14 Here, it gives a good representation of that and  
15 how -- it shows you how close we are to that  
16 property.

17 The data center again, 702. This shows  
18 702. It's actually 703,000 square feet. Off to  
19 the left-hand side of the building, actually,  
20 we'll do this, we'll say Plant West for that  
21 purposes, we have a new substation which we're  
22 constructing which is -- we're in relation to or  
23 in conjunction with the SVP's (phonetic)  
24 requirements and direction.

25 We also have the diesel generators which

1 are located to the south of the building and to  
2 the west side of the building. And we have  
3 exits, both on the Martin side, which is the  
4 south end, and entrance and exits on the De La  
5 Cruz side of the property.

6 That space you see up north, basically in  
7 the upper left-hand corner of the property, is  
8 going to be vacant. We're leaving that,  
9 basically, undeveloped, so it will be green  
10 space.

11 We, again, this building has seen several  
12 different design iterations in it and, basically,  
13 to conform to different requirements from  
14 different organizations. So we've been able to -  
15 - we've had the luxury of having the time to do  
16 that, so we've been able to, like I said, change  
17 the design to meet the requirements of whoever  
18 had that jurisdiction at that time.

19 So that's basically the project as of  
20 right now.

21 HEARING OFFICER LEMEY: Thank you.

22 Staff, could you please discuss your  
23 process for reviewing an application for a Small  
24 Power Plant Exemption such as this --

25 MR. PAYNE: Sure.



1 HEARING OFFICER LEMEI: -- an application  
2 for a Small Power Plant Exemption such as this,  
3 and present on your Issue Identification Report?

4 MR. PAYNE: Sure thing. We don't have  
5 any particular presentation slides but I will be  
6 referring to the Issue I.D. Report that we  
7 submitted, specifically the portion where we go  
8 into our schedule issues which is, essentially, a  
9 milestone list of the major things we do from the  
10 time we get an application in through our  
11 notification procedures, coordinating with other  
12 agencies, coordinating with the tribes, and then  
13 going into what, in these projects, tends to be  
14 the part that takes the longest and is the most  
15 complicated, which is sort of data requests and  
16 responses going back and forth. On this  
17 particular project, we've had several rounds of  
18 that.

19 And as you might have seen on the docket  
20 this morning, we had our third -- a response to  
21 our third set of data requests just came in this  
22 morning at 8:00 a.m.

23 So we're, essentially, operating on two  
24 different tracks. We've got data requests that  
25 are going out for specific technical chapters for

1 our CEQA document. And those are, essentially,  
2 still in the data gathering phase. We have other  
3 technical chapters for our CEQA document that  
4 have the information they've needed and, in many  
5 cases, are already drafted and ready to go when  
6 we can join them with the others.

7           So just to give you a basic status check  
8 on where we're at, some of this is impacted by  
9 the fact that we're doing two analyses at once.  
10 There's another project called Walsh. And we  
11 also have this project. They came in close to  
12 the same time but Walsh came in first, so we're  
13 slightly further ahead on that one.

14           But on this one in particular, out of the  
15 21 technical chapters we create for a CEQA  
16 document which, in general, has been an initial  
17 study is the document we produce, we have drafted  
18 9 of those 21 sections. There are maybe a few  
19 that we could get in quite quickly and probably  
20 would be, had we not been prioritizing work on  
21 Walsh based on Walsh coming in first.

22           We then have several others, probably  
23 six, seven, that are impacted by the need to get  
24 responses, like the ones we just received this  
25 morning, to data request set three. So about

1 half of the document is already in the can. The  
2 rest is we are evaluating the data responses that  
3 just came in. Once we have that information and  
4 know that it's complete for analysis purposes, we  
5 will then complete drafting our sections. That  
6 will then get reviewed, ultimately get wrapped up  
7 into an initial study that we will then publish.

8           So I'm not going to get into the parts of  
9 the schedule which you control because -- you  
10 know, the hearing dates and prehearing  
11 conference. But the parts of it that involve  
12 Staff producing our document that you can then  
13 work from, that's the rundown.

14           There are a couple things that I want to  
15 talk about in the context of, you know, we put  
16 out a schedule based on the information we had at  
17 the time. When we were -- ordered the docket,  
18 this particular schedule was part of the Issue  
19 I.D. Report, and there was still quite a bit  
20 unknown because we were in the process of doing  
21 this data request set three and gathering some  
22 information we didn't have.

23           In the meantime, I'd say a couple of  
24 things have happened that I wanted to draw your  
25 attention to, the first of which is the Applicant

1 filed a schedule with actual proposed dates in  
2 response to our schedule, in particular  
3 mentioning the 15th as a date that they'd like to  
4 see the initial study go out. We've made some  
5 adjustments internally based on that specific  
6 date and are trying to figure out whether we can  
7 meet it or not. I've got that question out to  
8 key folks who are preparing the final sections to  
9 see whether or not we think we can do it. At  
10 this stage, we think we're weeks apart, not  
11 months apart, if that is helpful. And based on  
12 the information that came in this morning, we may  
13 be, actually, days apart as opposed to weeks  
14 apart.

15           But today, I don't have a definitive  
16 answer for you about whether I can guarantee that  
17 I can get this particular document and initial  
18 study out on the 15th. However, I do feel pretty  
19 confident that, based on what we got in this  
20 morning and where the other analysis for the  
21 other technical chapters is at, based on best  
22 information I have as of 10:20 this morning, I  
23 think we can get a joint stipulated schedule to  
24 you, like we're planning to do on Walsh, I think  
25 we can get it to you by, I'd say, the 23rd, which

1 is early next week. And we can let you know  
2 whether we can hit the 15th or whether we would  
3 ask for days or weeks, depending on what the  
4 answers and our review of the answers we just go  
5 say, so I can commit to that this morning.

6 I have not mentioned this to the  
7 Applicant at this time. But based on our other  
8 conversations have gone, I would imagine that  
9 would probably be pretty helpful, and that we  
10 would be able to agree on that, but I'll let them  
11 speak to that when I'm finished.

12 The only other point that I wanted to  
13 draw to your attention is that on the Applicant's  
14 response to our schedule, they did what we had  
15 hoped they would do which is to recommend that  
16 CEQA comments and opening testimony be the same  
17 day. They mentioned it as the 14th. We don't  
18 think of it as a particular day, the 14th, we  
19 think of it as at least 30 days after our CEQA  
20 document goes out because that the CEQA  
21 requirement for comments. So that date is really  
22 up to you, when you want to set that particular  
23 date but, you know, we're fine with that. We  
24 know that will flow from the date that the  
25 initial study gets published.

1

2           However, we did want to point out, because we  
3 think it's quite important, we would like the  
4 Committee to reserve at least ten working days or  
5 at least two weeks for the responses to the CEQA  
6 document, which we're going to include with our  
7 reply testimony. So the Applicant's schedule  
8 only gives a week for that and we wanted to make  
9 sure that you had seen the portion of our Issue  
10 I.D. Report that mentions, specifically, we'd  
11 like ten days, ten working days, between opening  
12 testimony and reply testimony because that's when  
13 we would be doing both our reply to any opening  
14 testimony submitted, but also to CEQA comments  
15 which we were going to do together.

16           That's the basics. I'd love to get some  
17 feedback from Scott on whether he thinks the 23rd  
18 stipulated schedule is something that we could  
19 produce and we can agree to that right now.

20           HEARING OFFICER LEMEI: So, if I may real  
21 quick, the agenda arbitrarily compartmentalized  
22 topics. And I think what we're going here is  
23 sort of transitioning into a discussion of the  
24 schedule which, per the agenda, was supposed to  
25 happen later, but I think that's fine and

1 organic. We also want to talk a little bit about  
2 the issues raised. But let's go ahead and move  
3 forward with the discussion that we're having  
4 now. And I'm just noting that we're departing  
5 from the stated agenda and that's not a problem  
6 in terms of the order of operations.

7 MR. GALLATI: Yeah. I think that if we  
8 get a firm commitment that the initial study and  
9 proposed MMD come out on the 23rd, that would be  
10 acceptable to us. We still think we can make --  
11 I would like --

12 MR. PAYNE: Scott, just for the sake of  
13 clarification, we're not talking about asking for  
14 additional time on the initial study itself. We  
15 still may be able to hit the 15th. We don't  
16 know that.

17 We're talking about a joint stipulated  
18 schedule on December 23rd where we would identify  
19 a specific date that you and I both think is  
20 reasonable for getting it published. I just  
21 can't give you an answer of whether that date is  
22 January 15th based on what I know at 10:00 a.m.  
23 with data responses that came in at 8:20 this  
24 morning.

25 MR. GALLATI: So just I have to address a

1 couple of things. This is our third round of  
2 data responses. We got them on the 6th of  
3 December. We filed them on the 16th of December.  
4 They included new air quality modeling and we  
5 still got them done. So this is -- I think the  
6 Applicant has been working extremely hard. They  
7 have beat every date in filing what they can.

8           There was a wrinkle in the project. He  
9 wrinkle in the project had to do with the Airport  
10 Land Use Commission. The Energy Commission staff  
11 contacted the Airport Land Use Commission. The  
12 Airport Land Use Commission and the city decided  
13 that they would voluntarily, not mandatory that  
14 we go to the ALUC, voluntarily seeked their  
15 guidance. So we got on the earliest meeting to  
16 go to the Airport Land Use Commission to discuss  
17 a couple of issues. That was November 20th.

18           November 20th, the Airport Land Use  
19 Commission voted and found the project consistent  
20 with the Airport Land Use Plan but we had to  
21 change one thing and that was we had to take the  
22 tanks that sit on the ground, and then the  
23 generator sits on top of the tank, and because  
24 they have a policy of no above-ground tanks, we  
25 had to put that below grade, so we redesigned a



1 way to put that below grade.

2           We worked with the fire department, who  
3 would prefer us not to have underground tanks  
4 that they can't inspect the sides of, so we have  
5 created a concrete basin and we put the tanks  
6 underground, below grade, and they have metal  
7 grating over the top that can be removed so  
8 someone can go down and check the outside of the  
9 tank. So it's a positive change. And that  
10 caused Staff to provide us with that set of data  
11 requests.

12           The Airport Land Use Commission hasn't  
13 produced a letter in writing yet. But Staff can  
14 certainly call the Airport Land Use Commissioner  
15 -- excuse me, the staff and verify what I just  
16 said. They had something go wrong with their  
17 minutes in their recording, so they've been  
18 trying to recreate to write this letter for us.  
19 So that's the only outstanding piece of  
20 information from our perspective that is  
21 outstanding.

22           In the data requests that were -- the  
23 data responses that were provided, there is --  
24 Staff asked for, how will operate and maintain  
25 the concrete basin? We were unable to get that

1 answer but we'll be filing that right away.

2 MR. PAYNE: Just to --

3 MR. GALLATI: I wanted to make sure the  
4 Commission knew, Mr. Devine went out and hired  
5 the CEQA consultant that the city would have  
6 hired to process this project to prepare our  
7 application. And we didn't prepare the  
8 application. The staff of that consultant wrote  
9 an initial study with proposed mitigation  
10 measures incorporated into the project that they  
11 would have written for the city had this  
12 Applicant just provided them with a project  
13 description. So we think that most of the work  
14 was done and most of it should have just been  
15 verified by Staff.

16 We think that some of the questions have  
17 gone far afield from CEQA. You hear me say this  
18 almost every time. And that's what we believe is  
19 taking a lot of time.

20 So I think we're -- I'm uncomfortable  
21 about waiting until next week to come up with a  
22 joint stipulated schedule because should Staff  
23 not agree with an expedited schedule, I don't get  
24 to address the Commission -- the Committee right  
25 now. We believe that Staff should be able to get

1 their analysis done by the 15th. We filed in  
2 August. We responded to three sets of data  
3 requests. Few of those data requests really  
4 changed the analysis. They were mostly more  
5 information to describe the project better.

6           And so we would like the Committee to  
7 issue an aggressive schedule. We don't actually  
8 think the 15th is that aggressive. We're only  
9 dealing with one issue left in our -- from our  
10 perspective and that is verification that the  
11 ALUC has agreed to finding the consistency.

12           Ironically, the only reason we had to get  
13 that consistency determination is because one of  
14 the runways where this master plan was prepared  
15 had some particular zones designated. That  
16 runway has been decommissioned for ten years,  
17 they just haven't updated the master plan. So  
18 Mr. Devine has agreed to spend extra money to put  
19 these tanks underground and below grade and  
20 shortly, probably within the next year, those  
21 zones will go away. And he's doing that because  
22 he wants to build this project and he would like  
23 to get to construction as soon as possible.

24           So we ask you for a January 15th date.  
25 I'd be happy to work with Staff after that date

1 is set to determine whether it should be  
2 extended. But at this point, I'm going to lose  
3 any opportunity to plead with you to give me a  
4 firm date that keeps Staff working towards a  
5 goal.

6 MR. PAYNE: Just a quick reply to that.  
7 I would concur that Applicant has done a really  
8 terrific job getting answers to us on an  
9 expedited timeframe. When we put out requests  
10 we're cognizant of the fact that there is  
11 different -- you know, like regulatory dates, you  
12 know, 20 to 30 days for objecting and those sorts  
13 of things, and Applicant has consistently been  
14 able to get them in quicker to us to try to move  
15 us along.

16 I would also say we are very aggressively  
17 working to get this particular initial study to  
18 completion. And the reason I had mentioned the  
19 other project we're analyzing as part of this is  
20 up until, literally, two or three days ago we had  
21 assumed we would get that one out because it came  
22 in a few weeks earlier. And we have now adjusted  
23 our priorities to get this one to leapfrog that  
24 one and get this one out first. And we do not  
25 think we're far apart on when we can do it. I

1 just know that right now, as a P.M., if I  
2 guarantee you the 15th and I can't do it, it's  
3 not going to look good.

4           So I think that I'm very close to it, I  
5 just don't have the confidence based on not  
6 knowing -- not being able to pull Staff who are  
7 actively reviewing and digesting the submittal we  
8 got at 8:00 in the morning today, how that is  
9 going to impact their ability to deliver their  
10 chapters, and then all of the work I need to do  
11 on the back end of that to get that entire  
12 document through review, get all the appropriate  
13 people brief. I think I'll have answers to that  
14 by the 23rd and that's why I'm suggesting that's  
15 a date that we can definitively that it either is  
16 the 15th, or later, or possibly earlier. I don't  
17 know the answer because I haven't been able to  
18 have that conversation with Staff about what they  
19 think about what they just got this morning at  
20 8:00 a.m.

21           HEARING OFFICER LEMEI: Understood.

22           So I think that this is a good  
23 opportunity and a good segue to speak about  
24 substantive issues more generally. The Committee  
25 did have just a few things that we wanted to

1 mention which folds into the discussion of when  
2 the initial study could be published.

3           So in the Issue Identification Report,  
4 Staff did identify this concern about generator  
5 fuel tanks and consistency with the Comprehensive  
6 Land Use Plan adopted by the Santa Clara Airport  
7 Land Use Commission. A clarifying question: Is  
8 that a creature of municipal government? Is that  
9 a division -- is that part of the City of Santa  
10 Clara?

11           MR. GALLATI: Yeah. It's part of the  
12 County of Santa Clara.

13           HEARING OFFICER LEMEI: County of Santa  
14 Clara.

15           MR. GALLATI: And so the County of Santa  
16 Clara has an Airport Land Use Commission. What  
17 they do is they adopt a master plan surrounding  
18 properties at the airport that -- and it has  
19 policies so that it does not impact the airport.  
20 And if you are consistent with that plan, then  
21 you can build that particular facility.

22           Generally, if the zoning is consistent,  
23 then you don't have to go to the Airport Land Use  
24 Commission for a determination. In this case, we  
25 did, and made those modifications that were the

1 subject of the last data request.

2 HEARING OFFICER LEMEI: Understand.

3 So we note that Applicant did just  
4 provide the latest responses to data requests.  
5 There was -- this -- let me step back.

6 Going back to Staff's Issue  
7 Identification Report, Staff also stated that at  
8 this time, understanding that this is now a  
9 couple of weeks ago, at this time, Staff is  
10 unaware of any other issues in the Sequoia  
11 project that require resolution before the  
12 Staff's initial study can be published and  
13 hearings conducted. But Staff did note that this  
14 particular request was outstanding and that other  
15 responses have been received.

16 The question is, and understanding that  
17 you've had very limited opportunity to review the  
18 requests received or the responses received  
19 today, but more generally, do the responses to  
20 data requests received to date, including  
21 anything you can say about the ones received  
22 today, raise significant new issues?

23 MR. PAYNE: I'm still not aware of  
24 anything specifically. There are always issues  
25 where it would be nice to have information and

1 sometimes it's simply not available from the  
2 Applicant, in which case we need to go out and  
3 gather it independently. And part of the work  
4 I've been trying to do to figure out a good  
5 schedule for you has been to try to figure out  
6 which of our technical areas need to go out and  
7 get things on their own which, now that we  
8 understand that we need to get this one ahead of  
9 Walsh, we have been aggressively working to get  
10 the answers on those issues as well.

11           So that work is, essentially, going on as  
12 we speak, along with the analysis of what we got  
13 at 8:00 a.m. this morning. And that's why I'm  
14 suggesting the 23rd as a date that I will know  
15 those answers and can get you something that at  
16 least will pin down the dates on when we could do  
17 it.

18           If it is important to do another  
19 Committee conference to signal to the Committee  
20 any of those things in advance of the initial  
21 study, we could probably do that. But I'm  
22 actually quite cognizant of the impact that would  
23 have on the schedule itself for us to essentially  
24 pre look through those issues rather than do  
25 those in the course of issuing the initial study



1 and getting comment on it. And I think that  
2 would slow things down rather than provide  
3 additional clarity. And that's -- my concern at  
4 this point is that I don't know enough to give  
5 you a good accounting of it. And I think if we  
6 set up a procedural mechanism to do that, we  
7 would slow the schedule down even more  
8 significantly and I don't think that's what the  
9 Applicant wants.

10 HEARING OFFICER LEMEI: When you say  
11 procedural mechanism, you mean --

12 MR. PAYNE: Additional --

13 HEARING OFFICER LEMEI: -- another  
14 Committee conference?

15 MR. PAYNE: -- additional Committee  
16 conference ordering -- ordered -- notice time to  
17 do that. I think that we could get this going  
18 quicker, just by virtue of us figuring the  
19 quickest day we can get our initial study out.

20 HEARING OFFICER LEMEI: Right.

21 Scott, did you -- it looked like you  
22 were --

23 MR. GALLATI: Yeah.

24 HEARING OFFICER LEMEI: -- leaning  
25 forward.

1           MR. GALLATI: Yeah. I just wanted to let  
2 everybody know, what this data request three was,  
3 was we had already submitted a drawing of what  
4 this concrete basin looks like and it prompted  
5 some questions. The primary questions were: Does  
6 it change any of your air quality modeling? And  
7 it doesn't. We kept the stacked tips the same,  
8 so we described that.

9           The second thing that Staff asked was  
10 redo the construction modeling because we'll be  
11 excavating some soil. We calculated the amount  
12 of soil. We calculated. It's de minimus but we  
13 redid the modeling anyway. It didn't change any  
14 of the results.

15           So there isn't a lot here for Staff to  
16 work through. And I don't want that to be used  
17 as a reason that Staff can't continue. When they  
18 do read the answers, and they should have known  
19 that they were going to get answers similar to  
20 that because we're talking about a large site  
21 that was being graded, and we did the air quality  
22 modeling for it, now we've got some additional  
23 trenching, so it was pretty minor. How this  
24 would have been handled at the city would have  
25 been a simple condition that said, hey, you have

1 to underground this in accordance with the  
2 building code --

3 HEARING OFFICER LEMEI: Um-hmm.

4 MR. GALLATI: -- and that's all that  
5 would have been done. It would have been -- it  
6 would have not have been done, additional  
7 construction emissions' calculations or modeling.  
8 That's been done.

9 And so the only thing that we were unable  
10 to provide is the letter from the ALUC saying  
11 we're consistent. And, again, I urge Staff to  
12 pick up the phone and call Mark Connolly, who is  
13 the planner. He was at the meeting, he's the one  
14 preparing the letter, and he can certainly verify  
15 what I've said. We certainly will have it in  
16 time, I believe, for any proceeding.

17 HEARING OFFICER LEMEI: Is that letter  
18 required?

19 MR. GALLATI: Probably get two different  
20 answers as we sit here. My answer is, is it not  
21 required.

22 HEARING OFFICER LEMEI: Thank you. Thank  
23 you for that. So that was what we wanted to talk  
24 about, flowing out of the Issue Identification  
25 Report specifically.

1           We had just -- the Committee had just a  
2 handful of other issues that we wanted to mention  
3 from our review of, of course, the Staff's Report  
4 on Applicant's response, also the application  
5 itself and the voluminous appendices which we've  
6 read.

7           So regarding land use generally with the  
8 issue with conformance with the ALUC being a  
9 subset, but there being any number of other land  
10 use requirements that are referenced in the  
11 application, just the point that if an exception  
12 is needed from a city or a county requirement for  
13 any project feature, the Committee does need to  
14 or would like to understand the process through  
15 which -- and we hope the environmental documents,  
16 the testimony, reflects the process through which  
17 the city or the county grants such an exception,  
18 the criteria applied, and the extent to which  
19 that conformance or nonconformance or exception  
20 tracks with environmental concerns, gives rise to  
21 a potential environmental issue if it appears  
22 that that rule or requirement is in place to ward  
23 against environmental -- potential environmental  
24 impacts, how those potential impacts are being  
25 addressed. I just want to make sure that that's

1 reflected for each of those land use issues that  
2 are raised.

3           With respect to air quality and health  
4 assessment, the application states that,

5           “A complete HRA, Health Risk Assessment, was  
6           conducted to evaluate the potential health  
7           risks associated with airborne emissions from  
8           routine operations of the facility, SBGF,”  
9           that’s the end of the quotation.

10           The application also states that, quote,  
11           “BAAQMD’s new policy regarding calculating  
12           emissions from the backup generators  
13           clarifies that emissions during emergency  
14           operations are not required to be included  
15           when evaluating compliance with Regulation 2,  
16           Rule 5.”

17           That’s in Appendix F, as well as in Table  
18 18, but then Table 18 appears to include  
19 accumulative health risk assessment.

20           We hope that the environmental documents  
21 and testimony in this proceeding clarify these  
22 issues, reflect whether the extent to which  
23 emissions associated with emergency operations  
24 are or are not included in the analysis and, if  
25 so, the number of hours that are assumed for

1 analysis of emergency operations.

2           And then with respect to the underlying  
3 requirements, if the requirements of the Bay Area  
4 Air Quality Management District or any other  
5 applicable laws, ordinances, rules or standards  
6 that relate to environmental quality and  
7 potential environmental impacts associated with  
8 air quality or health risk assessment, how those  
9 pertain to emissions from emergency operations  
10 for TACs and criteria pollutants?

11           I'll just acknowledge that the  
12 underlying -- the guidance from the Bay Area Air  
13 Quality Management District is -- there's a lot  
14 there, so some clarification on that point and  
15 how it applies to the facility from the parties  
16 would be appreciated.

17           MR. GALLATI: Can I ask some questions  
18 along those lines? I want to make sure we're  
19 clear.

20           HEARING OFFICER LEMEI: You may ask  
21 questions. I don't know if I'll have answers.

22           MR. GALLATI: Okay. I want to try to  
23 make a clear record. In Walsh, similar questions  
24 were asked. I wasn't smart enough to ask  
25 questions. And as we read the transcript, Staff

1 believes one thing was meant and I believe  
2 another thing was meant. So I'd like to try to  
3 get some clarity on that.

4           The policy that you're talking about for  
5 the 100 hours is for purposes of calculating  
6 offsets. And is there another policy that you're  
7 referring to or is that the one that you want  
8 clarification about whether or not it leads to  
9 other modeling efforts and how emergencies should  
10 be treated for CEQA purposes? Is that the policy  
11 you're referring to?

12           HEARING OFFICER LEMEI: Well, the  
13 application references a particular -- it's not  
14 clear if it's actually part of the Bay Area -- of  
15 BAAQMD's regulations or how it relates on its  
16 face to regulations. It appeared to me like this  
17 was pertaining to the calculation for the purpose  
18 of various thresholds of applicable thresholds  
19 but that was the specific document that I was  
20 referring to that the application referred to.

21           However, the question is much more  
22 general. The question is: What are the  
23 applicable rule sets? What are the applicable  
24 rules that apply to the analysis of air quality  
25 impacts and, specifically, impacts from emergency

1 operations? There is this one specific document  
2 that speaks to calculation for the purposes of  
3 emergency operations but that builds upon a much  
4 broader framework with references in it as well.  
5 And that's the frame of reference from BAAQMD.  
6 The Committee would -- expects the testimony  
7 submitted in the proceeding to fully clarify how  
8 these laws or how these requirements are being  
9 complied with.

10 MR. GALLATI: Yeah. Thank you. That's  
11 helpful. We referred to that guidance document.  
12 As you know, it came out recently. We referred  
13 to that guidance document. We'll certainly file  
14 this in testimony. But I think the short answer  
15 is the purpose of that guidance document does not  
16 affect any of the CEQA significance thresholds.  
17 And, in fact, the Bay Area doesn't require any  
18 modeling associated with emergency operations.  
19 They do not do that type of analysis for  
20 emergency generators.

21 The purpose of that was to determine if  
22 you took 100 hours of operation and added it to  
23 your maintenance and testing if, your potential  
24 to emit went above a certain threshold you could  
25 not access their small priority bank. We're



1 already agreeing not to access the small priority  
2 bank for offsets. We'll purchase our own  
3 offsets. That was purpose number one for that  
4 policy.

5           The second purpose for that policy was if  
6 you trigger over 100 tons, you would have to go  
7 to a more complex federal permitting process,  
8 called the Title 5 process, and that's the only  
9 purpose of that policy. So it doesn't have any  
10 bearing at all on CEQA, and we'll provide that in  
11 testimony. That's what we're quoting that for is  
12 we're aware of that policy because it came out  
13 before we filed. We did the calculations to show  
14 you that we don't -- we aren't going to the small  
15 bank and we don't need Title 5 permit. That's  
16 why we did those calculations.

17           HEARING OFFICER LEMEI: Okay. Thank you  
18 for that. And, of course, we hope that this is  
19 addressed in testimony.

20           And on that same point, we also expect  
21 Staff and Applicant to be clear and explicit when  
22 discussing air emissions about -- or terms that  
23 have specific meaning, such as routine and  
24 emergency, and ensure that that meeting is the  
25 same as if those terms have -- routine operations

1 and emergency operations are used, and BAAQMD's  
2 regulations or environmental guidance documents,  
3 that we're using those terms consistently and to  
4 be clear how we're using those terms, again, in  
5 the testimony that's submitted in the proceeding.

6           Moving on to the broader issue of  
7 cumulative impacts, we are, of course, aware that  
8 the Energy Commission has approved or is  
9 considering approval of Small Power Plant  
10 Exemption for a number of data centers with  
11 backup generation in relatively close proximity.  
12 And we, of course, need to consider whether those  
13 facilities contribute to a cumulatively  
14 considerable impact. The Committee will be  
15 expecting discussion and evidence on and  
16 testimony on the potential for the Sequoia Backup  
17 Generating Facility to operate at the same time  
18 as other facilities with backup generation,  
19 including but not limited to those permitted by  
20 the Energy Commission and if simultaneous  
21 operation is foreseeable or likely, whether this  
22 contributes to any potential cumulative impact,  
23 including on air quality and public health. Of  
24 course, that's only a facet of the cumulative  
25 impacts assessment but it's an important aspect

1 that we are cognizant of.

2 MR. PAYNE: Can I ask a clarifying  
3 question there?

4 HEARING OFFICER LEMEI: Um-hmm.

5 MR. PAYNE: You mentioned Energy  
6 Commission permitted facilities.

7 HEARING OFFICER LEMEI: Oh.

8 MR. PAYNE: Did you mean to talk about  
9 Energy Commission exempted facilities --

10 HEARING OFFICER LEMEI: I absolutely --

11 MR. PAYNE: -- in the context of data  
12 centers?

13 HEARING OFFICER LEMEI: -- misspoke.

14 Thank you for that clarification. Energy  
15 Commission exempted facilities, that is what I  
16 meant to say. Thank you.

17 MR. GALLATI: And again, trying to get  
18 clarity? Because that type of question, I think,  
19 prevented us from knowing what to do because the  
20 question raises unbelievably complex modeling  
21 requirements that we're not sure how we can even  
22 do that.

23 What we did and what we propose is that  
24 the Energy Commission not attempt to go down and  
25 model simultaneous running of maintenance

1 activities at nearby facilities and that, in  
2 fact, rely on the CEQA threshold and guidance  
3 that the Bay Area Air Quality Management District  
4 does. They are the expert in air quality in this  
5 region. They have set an emission threshold. If  
6 you are below that emission threshold you do not  
7 contribute cumulatively and you offset. That is  
8 how the District approaches that analysis, as  
9 opposed to trying to determine whether Facility 1  
10 will conduct routine operations during the hour  
11 of 9:00 to 10:00 and when Facility 2 is doing  
12 routine and maintenance operations, or during an  
13 emergency, whether Facility 1 is out and Facility  
14 2 is operating or not operating or they still  
15 have power. It is unbelievably difficult.

16           And it is also difficult to get the  
17 parameters for each one of these facilities to be  
18 able to put into a model that makes any sense.  
19 So you can model it but what comes out isn't  
20 going to make sense.

21           So what we urge the Committee to do is  
22 exactly what the City of Santa Clara would do and  
23 the City of San Jose does, they rely on the Bay  
24 Area Air Quality Management District's cumulative  
25 thresholds to determine whether there are

1 cumulative impacts.

2 I believe that if we attempted to do what  
3 the Committee seems to be asking, it will take  
4 months for us to even come to an agreement with  
5 Staff how to do it, let alone then have to do it  
6 and then submit that information. So I don't  
7 believe the Committee intends to do that. But  
8 I'm telling you that we've been struggling with  
9 Walsh with a similar comment since the status  
10 conference on Walsh with no clear direction on  
11 how we can do it.

12 So I would note, that's exactly what  
13 Staff did in Laurelwood. They looked at the  
14 cumulative thresholds for purposes of determining  
15 whether there was a cumulative impact. That's  
16 exactly what was done in the Vantage McLaren  
17 project. And it is not only legal and  
18 defensible, it is how the Bay Area Air Quality  
19 Management District, which is the air quality  
20 expert, would look at this if they were doing the  
21 CEQA analysis.

22 We would do our best to try to do that  
23 analysis. I'm just telling you, I don't think we  
24 can.

25 HEARING OFFICER LEMEI: Commissioner

1 Monahan would like to ask a question.

2           COMMISSIONER MONAHAN: Scott, do you know  
3 how consistent the Bay Area management, like  
4 across all the air quality districts, and I'm  
5 particularly interested in the South Coast, do  
6 you know how much alignment there is between the  
7 air districts and their treatment of this issue?

8           MR. GALLATI: I don't know the treatment  
9 of the issue for emergency backup generating. I  
10 do know the treatment of the issue for a source  
11 that were to require Title 5. I know that what  
12 the air -- what the South Coast would do and what  
13 the Bay Area Air Quality Management District for  
14 a large source like that would do. And,  
15 basically, they would conduct their own modeling  
16 for facilities that they had issued a permit.  
17 They wouldn't try to capture existing facilities.  
18 That's captured in the background. What they  
19 would do is for any permit that they issued they  
20 would do a cumulative modeling for those permits.  
21 In those cases the modeling makes more sense  
22 because you have facilities that are operating  
23 for a much larger amount of time, so you can  
24 predict when those facilities would operate  
25 together.

1           But, for example, after the Walsh status  
2 conference, we submitted a Freedom of Information  
3 -- we had to submit a Freedom of Information Act  
4 request to get information about facilities that  
5 the Bay Area was permitting and they just would  
6 not provide the data to us and said they could  
7 not provide the data to us to even try to attempt  
8 to do this modeling.

9           COMMISSIONER MONAHAN: Can I just ask  
10 that Staff explore this issue? Just because my  
11 presumption is that the South Coast will be sort  
12 of the most stringent, and they have dealt with  
13 this question of cumulative impacts a fair  
14 amount, and a lot of environmental justice  
15 concerns around facilities being aggregated. So  
16 it might just help us, just as a framing, to see  
17 how much alignment there is with the Bay Area Air  
18 Quality Management District's treatment of,  
19 especially, the emergency operations aspect.

20           HEARING OFFICER LEMEI: I wanted to give  
21 Staff an opportunity to add anything.

22           But I also just wanted to clarify that  
23 the question is that these -- it's a high-level  
24 question -- that these issues be addressed and  
25 that there's clarity on how the analysis is

1 conducted and what requirements apply and how  
2 those requirements are met. If it comes to pass  
3 that there's a lack of consensus or agreement  
4 about how that methodology should be undertaken,  
5 which at this moment I don't -- it's not clear to  
6 me that there is a lack of consensus between  
7 Staff and Applicant about how to approach the  
8 analysis, there are mechanisms for resolving  
9 that. You can submit questions to us. If  
10 necessary, we could schedule another status  
11 conference. Hopefully that wouldn't be  
12 necessary. But the question is a high-level  
13 question, that there be clarity on these points.

14 And did Staff have anything to add?

15 MR. PAYNE: I don't but I can look back  
16 behind me, if any of our folks would like to  
17 weigh in on this particular question?

18 Seeing none, we do not have any  
19 additional comments.

20 HEARING OFFICER LEMEI: Great. Well,  
21 we've -- in that case, we've gotten to the point  
22 where we get to discuss the schedule of the  
23 proceeding for the first time, which is -- what I  
24 think is appropriate now, then, is -- well, let  
25 me see. There's -- let me just look over my



1 notes and how to adjust, based on the discussion  
2 that we've had.

3           So let me just take a moment and confer  
4 with the Presiding Officer.

5           (Colloquy between Hearing Officer Lemei and  
6 Commissioner Douglas)

7           (Pause)

8           HEARING OFFICER LEMEI: Okay. At this  
9 time, I think we would ask the Public Advisor to  
10 Say a few words and give the public an  
11 opportunity to comment.

12           MS. AVALOS: Good afternoon. My name is  
13 Rosemary Avalos and I work for the Public  
14 Advisor's Office. And I'm here representing  
15 Public Advisor Naomi Gallero (phonetic). I'm  
16 going to give a brief overview of the function of  
17 the Public Advisor's Office.

18           The Public Advisor's Office is a bridge  
19 between the Energy Commission and the public. We  
20 encourage and facilitate public participation in  
21 meetings, hearings, workshops, and rulemakings to  
22 ensure the public's voice is heard.

23           We conduct outreach that includes and  
24 educates stakeholders through traditional means,  
25 such as emails, phone calls, and assisting with

1 public comment. We work on advancing energy  
2 equity. The Public Advisor's Office collaborates  
3 with and supports the Disadvantaged Communities  
4 Advisory Group. The Disadvantaged Advisory Group  
5 was established to advise the Energy Commission  
6 and the California Public Utilities Commission on  
7 clean energy and pollution reduction programs in  
8 disadvantaged communities.

9 We help stakeholders navigate processes  
10 and make proceedings accessible, for example,  
11 language assistance, ADA accommodations, and we  
12 recommend to the Energy Commission the best ways  
13 to engage all Californians. The Public Advisor's  
14 model is no one is left out or left behind.

15 Thank you.

16 HEARING OFFICER LEMEI: Thank you.

17 So at this time, we'd like to take any  
18 public comment from members of the public that  
19 are present in the room. I'm not sure that I see  
20 any members of the public in the room.

21 Okay, my apologies. Before we take  
22 public comment, I'm going to talk about -- I'm  
23 going to respond and provide guidance on  
24 schedule. The moment we've all been waiting for.

25 So what we would like is for Staff to get

1 back to the parties and the Committee as soon as  
2 possible about whether the proposed January 15th  
3 date for -- is it -- right, for publishing the  
4 initial study, is it possible to send an email  
5 today to the Committee and the parties confirming  
6 whether that date will work?

7 MR. PAYNE: I would say, no.

8 HEARING OFFICER LEMEI: Okay.

9 MS. VACCARO: So, thank you. Excuse me.  
10 This is Courtney Vaccaro. So, thank you. We  
11 appreciate that you believe you can't get that to  
12 the Committee today. But is there any reason,  
13 and if so, we would like to know why you could  
14 get such an email out to the Committee and the  
15 parties by tomorrow explaining what Staff's  
16 rationale is for why January 15 would not work  
17 for the publication of that document? So,  
18 essentially, what we're getting at is if you  
19 can't do it today, we'd really like you to do it  
20 tomorrow. And if that's not possible, could you  
21 help us understand why and when we might be able  
22 to get such an email?

23 MR. PAYNE: I would say the main issue  
24 has to do with the fact that we, until very  
25 recently, have been prioritizing work that is

1 similar on Walsh. We've only recently switched  
2 our emphasis to this project and work is ongoing,  
3 as we speak, to get these answers to these exact  
4 questions you're asking. I checked in, even this  
5 morning, to find out whether what we got in the  
6 context of the information that came in at 8:00  
7 a.m. gave us the answers we needed, and I got the  
8 answer that we don't have it yet and I don't know  
9 when, the exact time, that will come in.

10           So as soon as possible is doable but I  
11 can't tell you if as soon as possible means  
12 tomorrow, the following day, or the next day.  
13 But I feel confident in why I proposed the 23rd  
14 as a date we could not only have an answer but  
15 work out a schedule with the Applicant confirming  
16 we can hit January 15th or not. I feel very  
17 confident I can do that.

18           Other than that, as soon as possible is  
19 as soon as possible. And I will, you know,  
20 endeavor to get it to you as quickly as possible,  
21 and if that's tomorrow, I will give you the  
22 answer. I just can't give you the answer based  
23 on the information I have at 10:30, 10:40 this  
24 morning.

25           MR. KNIGHT: This is Eric Knight, a

1 Manager in Environmental Office.

2           We're committed to getting a response  
3 back to the Committee tomorrow on whether or not  
4 we can meet the 15th or not. So we'll marshal  
5 everybody together and review the data responses  
6 and see where we're at. But we have heard some  
7 things today, too, that I think we need to take  
8 into consideration, the concerns on the part of  
9 the Committee in terms of air quality and  
10 cumulative and whatnot, so --

11           MR. DEVINE: Thank you, Eric.

12           MR. KNIGHT: -- but we will get back to  
13 you, yes.

14           MR. DEVINE: Appreciate that. So we'll  
15 appreciate Staff's best efforts to just marshal  
16 the time and attention to get an answer to us and  
17 to the parties by email by close of business  
18 tomorrow about whether the 15th is going to work.  
19 And if the 15th -- if the answer is that the 15th  
20 will not work, please tell us why. And at that  
21 point, you should work with the Applicant to try  
22 to propose a joint schedule to the extent that  
23 you're able to, understanding that the Committee  
24 will take everything upon submission in  
25 determining a schedule.

1 Thank you.

2 HEARING OFFICER LEMEI: All right. That  
3 concludes the discussion of schedule.

4 So now we would like to ask any members  
5 of the public in the room, and I do not believe  
6 there are any members of the public in the room.

7 MS. AVALOS: No, there's no public in the  
8 room.

9 HEARING OFFICER LEMEI: Okay. In that  
10 case, I'd like to -- we'd like to go to the  
11 WebEx.

12 Are there any members of the public  
13 participating electronically? I am seeing none,  
14 o by telephones or any other means that we'd be  
15 able to communicate? It sounds like we do not  
16 have any members of the public wishing to  
17 comment.

18 So I think the Committee at this time  
19 does not feel the need to go into closed session.

20 So just checking on protocol. I have  
21 been deputized to adjourn the Committee  
22 Conference. Thank you all for participating.

23 (Thereupon, the Committee Conference was  
24 adjourned 11:11 a.m.)

25 -- o o o --

**REPORTER' S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February, 2020.



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Eduwiges Lastra  
CER-915

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT\*\*367

February 11, 2020