

**DOCKETED**

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<b>Project Title:</b>	Mission College Data Center SPPE
<b>TN #:</b>	232216
<b>Document Title:</b>	Staff's Issues Identification, Status Report, and Proposed Schedule
<b>Description:</b>	N/A
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# Memorandum

To: Commissioner Karen Douglas, Presiding Member  
Commissioner Janea Scott, Associate Member

Date: February 25, 2020

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 MISSION COLLEGE DATA CENTER SMALL POWER PLANT EXEMPTION (19-SPPE-05)**

In its February 20, 2020 order (“Notice of Committee Conference and Orders on Hearings”), the Mission College Backup Generating Facility SPPE Committee ordered CEC 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.”

## Status Report / Issue Identification

Staff is working diligently with the applicant to resolve data gaps and gather the necessary information independently with the assistance of our agency partners. Staff issued its first set of data requests on December 27, 2019. The applicant submitted responses on February 6, 2020, with some additional Air Quality-related material docketed on February 18 and an associated thumb drive arriving on February 20, 2020.

Staff has a limited number of follow-up data requests now that it has seen and evaluated the applicant’s responses to its first set of data requests. Because the 60 day deadline for issuing data requests passed on January 23, 2020, staff drafted a Motion for Leave to accompany these follow-up data requests, and docketed the requests on February 24, 2020. Staff is hopeful the applicant will not wait until the Committee issues a ruling on the motion to begin work on the responses. Given the nature of the questions, and the applicant’s repeated statements that they are hoping for an expeditious review of the exemption application, we believe it is reasonable to expect responses by February 28, 2020.

Staff will update the Committee on its progress in addressing data gaps at the March 4, 2020 status conference. At this time staff is unaware of any issues the Mission College project presents that require resolution before staff’s Initial Study can be published and hearings conducted.

### Project Schedule

Because staff is still completing the discovery phase, it is not possible for staff to produce a definitive schedule for publication of the Initial Study at this time. Our experience on this project is consistent with prior SPPE evaluation efforts. Publication delays are most often the result of project description changes made by the applicant after filing—in some cases these changes are in response to changing market conditions, and in other cases such changes are in response to data requests made by staff or information that becomes available during concurrent planning reviews being conducted by the local permitting authority, which for this project is the City of Santa Clara. The proposed schedule provided below reflects this inherent uncertainty in the evaluation process.

### **Staff's Proposed Schedule**

Application materials docketed	11/25/19
Staff Data Requests Set 1 docketed	12/27/19
Notice of Receipt and agency coordination letters docketed	1/3/20
Tribal consultation letters docketed	1/10/20
Committee named at Business Meeting	1/22/20
Applicant Responses to Data Requests Set 1 received	2/6-20/20
Follow-up Data Requests docketed	2/24/20
Memo re Issue ID and Schedule docketed	2/25/20
Applicant Responses to Follow-up Data Requests received	TBD, req. 2/28/20
Status Conference	3/4/20
Mitigation resolution workshop (if needed)	TBD
Initial Study publication	TBD
Deadline for comments on the Initial Study (30 days per CEQA)	TBD
Public Comments / Opening Testimony due	TBD*
Response to Public Comments / Reply Testimony due	TBD*
Prehearing Conference	TBD
Evidentiary Hearing	TBD
Committee Proposed Decision	TBD
Commission Decision at Business Meeting	TBD

\*Staff has recommended on two prior occasions, and continues to recommend, that the Committee establish the same deadline for public comment on the Initial Study and Opening Testimony from any intervening parties. This would save a step and accelerate the hearing schedule. Staff further requests that it be granted a minimum of 10 working days following a combined CEQA commenting / Opening Testimony deadline to prepare and submit its Reply Testimony, which would include responses to any substantive comments received on the Initial Study.