

DOCKETED

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Project Title:	Lafayette Backup Generating Facility
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Document Title:	Memo - Issues Identification, Status Report, and Proposed Schedule
Description:	Issues ID, Status Report, and Proposed Schedule for the Lafayette backup Generating Facility Small Power Plant Exemption
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Memorandum

To: Commissioner Karen Douglas, Presiding Member
Chair David Hochschild, Associate Member

Date: August 28, 2020

From: **California Energy Commission**
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Subject: **ISSUES IDENTIFICATION, STATUS REPORT, AND PROPOSED SCHEDULE FOR THE LAFAYETTE BACKUP GENERATING FACILITY SMALL POWER PLANT EXEMPTION (20-SPPE-02)**

In its August 25, 2020 order ("NOTICE OF COMMITTEE CONFERENCE AND RELATED ORDERS"), the Lafayette Backup Generating Facility SPPE Committee ordered California Energy Commission (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 / Issues Identification

Staff is working diligently to gather information necessary for its analysis. Staff issued its first set of data requests (DR) on July 6, 2020. The applicant docketed partial responses on August 12, 2020. Missing or incomplete data responses include the one-line diagram of the substation, which applicant has requested from Silicon Valley Power (SVP); various air quality, health risk assessment, cumulative health risk assessment, and air quality and thermal plume modeling files; cultural resources reference reports; information on diesel particulate filters selected; and drawings to show the below grade tanks for the engines affected by the Airport Land Use Commission safety zones.

The remaining information—some of which is expected to be available on August 28, 2020—has not yet been docketed or received by staff as of the date of this memorandum. Staff will update the Committee on the status of missing or incomplete information at the September 4, 2020 Committee Conference.

Staff has a limited number of follow-up questions to the partial responses received on August 12, and will be docketing these data requests as Set 2 in the near future. Staff may also have follow-up data requests on the remaining missing or incomplete information, which would be docketed as Set 3.

Concurrently with staff's information gathering activities, staff is drafting its initial study. At this time staff is unaware of any issues the Lafayette project presents and staff

anticipates issuing a proposed mitigated negative declaration for the Committee to consider.

Project Schedule

Because the information gathering phase is still ongoing, it is not possible for staff to produce a definitive estimate for publication of its Initial Study at this time. Having now completed five Initial Studies for recent—and largely similar—data center SPPE applications, staff believes these prior data center analysis efforts may be instructive in terms of estimating when an Initial Study might be ready for publication. Staff's calculation based on information from the McLaren, Laurelwood, Walsh, Sequoia, and Mission College proceedings indicates that the average time from receipt of a data center SPPE application to publication of an Initial Study is 184 days. Since the Lafayette SPPE application was received on May 20, 2020, staff considers November 24, 2020 to be a reasonable target for publication of its Initial Study. Staff will, of course, endeavor to complete its work as quickly as possible, but it cannot commit to an earlier date until it has received—and has had time to evaluate—information that is not currently available.

In the interest of providing the applicant some further assurance in terms of when a Commission decision on the SPPE application might be made, staff calculated the average length of time between the publication of an Initial Study and the Commission decision for the five most recent data center projects, four of which have already received exemptions and a fifth which is on the agenda for the September 9, 2020 Business Meeting. Staff calculates the average time from Initial Study publication to final Commission decision to be 161 days. Assuming the publication of an Initial Study by the November 24, 2020 target discussed above, the Commission should be in a position to make a decision on the SPPE request in early May, likely at the May 2021 Business Meeting.

Due to the existing work and robust evidentiary records in prior cases, staff believes the proceeding from publication of the Initial Study to consideration at a business meeting can be accelerated. To the extent appropriate, testimony from prior cases can be admitted into the record of this proceeding in lieu of live testimony at the evidentiary hearing—this may allow the Commission to reach a decision prior to May 2021.

Given these calculations, staff proposes the following schedule:

Application materials docketed	5/20/2020
Data Requests Set 1 docketed	7/6/2020
Partial Responses to Set 1 docketed	8/12/2020
Memo re Issue ID and Schedule docketed	8/28/2020
Status Conference	9/4/2020
Follow-up Data Requests (Set 2 and 3) docketed	TBD
Applicant Responses to Follow-up Data Requests received	TBD
Initial Study publication	11/24/2020 target
Deadline for comments on the Initial Study (30 days per CEQA)	TBD
SPPE hearing related testimony and activities	TBD
Committee proposed decision	TBD
Commission Decision at Business Meeting	May 2021

Staff additionally makes the following requests regarding the schedule for and conduct of the proceeding:

*Staff requests that the Committee establish the same deadline for public comment on the Initial Study and Opening Testimony from any intervening parties.

*Staff requests that the Committee grant staff a minimum of 15 *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.

*Staff is open to combining the Prehearing Conference and Evidentiary Hearing and having them occur on the same day as has occurred in prior data center backup generating facility SPPE proceedings.