

DOCKETED

Docket Number:	20-SPPE-02
Project Title:	Lafayette Backup Generating Facility
TN #:	234688
Document Title:	Transcript of September 4, 2020 Committee Conference
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	9/14/2020 3:48:08 PM
Docketed Date:	9/14/2020

EVIDENTIARY HEARING BEFORE THE
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

In the matter of,)
) Docket No. 20-SPPE-02
Application for Small Power Plant)
Exemption for the Lafayette)
Backup Generating Facility)

COMMITTEE CONFERENCE

REMOTE ACCESS ONLY

VIA ZOOM VIRTUAL MEETING PLATFORM

FRIDAY, SEPTEMBER 4, 2020
2:01 P.M.

Reported by:
Jacqui Denlinger

APPEARANCES

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Karen Douglas, Commissioner, Presiding Member

Kourtney Vaccaro, Advisor to Commissioner Douglas

Eli Harland, Advisor to Commissioner Douglas

David Hochschild, Chair, Associate Member

LeQuyen Nguyen, Advisor to Commissioner Hochschild

Jon Hilliard, Technical Advisor, Siting Matters

HEARING OFFICERS:

Susan Cochran, Co-Hearing Officer

Deborah Dyer, Co-Hearing Officer

CEC STAFF PRESENT:

Leonidas Payne, Project Manager

Jared Babula, Staff Counsel

Renee Webster Hawkins, Staff Counsel

Noemi Gallardo, Public Advisor

Matthew Layton, Supervising Mechanical Engineer

Rosemary Avalos, Public Advisor's Office

APPLICANT: DIGITAL REALTY

Scott Galati, Esq., DayZen, LLC

Michael Malone, HKS Architects

Chad Mendell, Environmental Systems Design

Greg Darwin, Atmospheric Dynamics

PUBLIC COMMENT

Rosalie Montalbano, Trustee, Rosalie Montalbano Trust

CALIFORNIA REPORTING, LLC
229 Napa Street, Rodeo, California 94572 (510) 313-0610

INDEX

	Page
1. Call to Order/Introductions	5
2. Hearing Officer overview of SPPE Process	7
3. Public Advisor's Office presentation on public participation	15
4. Applicant's presentation on the proposed Lafayette project	23
5. Staff's overview of its role in reviewing SPPEs	30
6. Discussion between Staff, Applicant, and the Committee	32
7. Public Comment	47
8. Closed Session (if necessary)	--
9. Adjournment	50
Reporter's Certificate	51
Transcriber's Certificate	52

EXHIBITS

IDENTIFICATION EVIDENCE WITHDRAWN

NO EXHIBITS

P R O C E E D I N G S

1
2 SEPTEMBER 4, 2020

2:01 P.M.

3 COMMISSIONER DOUGLAS: -- Commissioners to conduct
4 these proceedings. I'm Karen Douglas, the Presiding Member
5 of this Committee. Chair David Hochschild is the Associate
6 Member of the Committee and he is also participating today.
7 We are all participating remotely using Zoom.

8 I would like to introduce some people who are in
9 attendance today, including Chair Hochschild. Kourtney
10 Vaccaro, my Advisor. Eli Harland, my Advisory. LeQuyen
11 Nguyen, Advisor to Chair Hochschild. Jon Hilliard, Technical
12 Advisor to the Commission on Siting Matters. Susan Cochran,
13 Co-Hearing Officer for this proceeding and Deborah Dyer, Co-
14 Hearing Officer for this proceeding.

15 I would also like to introduce Noemi Gallardo, the
16 CEC's Public Advisor.

17 At this point I would like to ask the parties to
18 please introduce themselves and their representatives,
19 starting with the Applicant.

20 MR. GALATI: Good afternoon Commissioners and Hearing
21 Officers. Thank you, this is Scott Galati representing
22 Digital Realty, the Applicant for the Lafayette Data Center.

23 COMMISSIONER DOUGLAS: All right, thank you very
24 much.

25 And staff?

1 MR. BABULA: This is Jared -- not hearing from Lon,
2 this is Jared Babula. I'm staff counsel. And our Project
3 Manager is Lon Payne, who will be talking later today.

4 MR. PAYNE: Yeah, apologies for that. I appear to
5 have been muted. This is Lon Payne for staff.

6 COMMISSIONER DOUGLAS: All right, thank you both.
7 Anybody else for staff?

8 All right, at this point I would like to ask any
9 participating public agencies to introduce themselves,
10 beginning with federal or state government agencies. If
11 you're on, please just speak up.

12 All right, how about officials representing Native
13 American Tribes or Nations?

14 Officials representing local government
15 jurisdictions, the City of Santa Clara? Bay Area Air Quality
16 Management District? Santa Clara Valley Transit Authority or
17 any others?

18 All right, I will now turn the proceedings over to
19 Deborah Dyer and Susan Cochran, the two Hearing Officers for
20 the proceeding, to discuss small power plant exemptions
21 generally, and to lead a discussion about the Lafayette
22 Backup Generating Facility application for a Small Power
23 Plant Exemption.

24 So, with that I'll turn this over to the Hearing
25 Officers.

1 CO-HEARING OFFICER DYER: Thank you, Commissioner
2 Douglas. Good afternoon, everyone. My name is Deborah Dyer
3 and I'm accompanied by Susan Cochran. Ms. Cochran and I are
4 Hearing Officers with the California Energy Commission, also
5 known as the CEC. The Hearing Officers assist the Committee
6 in conducting hearings on applications and then preparing
7 documents, such as orders, notices and decisions related to
8 this proceeding.

9 On May 20th, 2020 Digital Lafayette, LLC, a
10 subsidiary of Digital Realty, Inc., filed an application for
11 a Small Power Plant Exemption, which we often refer to as an
12 SPPE, for the Lafayette Backup Generating Facility with the
13 CEC.

14 The application -- the purpose of the Lafayette
15 Backup Generating Facility is to provide an uninterruptible
16 power supply for the Lafayette Data Center in Santa Clara,
17 California. The Applicant proposes to build 44 3-megawatt
18 generators to support the demand of the building making up
19 the data center, and a single 1-megawatt generator to provide
20 backup electricity to the administrative offices.

21 The Applicant has estimate the total demand of the
22 data center buildings as 99 megawatts.

23 The CEC created an electronic docket, 20-SPPE-02, for
24 the application. The CEC has appointed two of its members,
25 Commissioner Karen Douglas and Chair David Hochschild as a

1 Committee to conduct proceedings on this application.

2 Notice of today's Committee Conference was provided
3 on August 25th, 2020 and was published in English, Spanish,
4 Mandarin, and Vietnamese.

5 The Notice along with other documents related to this
6 application for exemption are available on the CEC's website
7 in the electronic docket for this proceeding.

8 The PowerPoint presentations you will see today will
9 also be filed in the docket over the next couple of days.

10 Before we proceed I want to discuss some housekeeping
11 issues. Consistent with Governor Newsom's Executive Orders
12 N-2520 and N-2920, as well as the recommendations from the
13 California Department of Public Health to encourage physical
14 distancing to slow the spread of COVID-19, we are conducting
15 this Committee Conference entirely remotely, using Zoom.

16 We set up the Zoom meeting so that most participants
17 will not be able to mute and unmute themselves to speak. You
18 may still mute your phone by pressing star 6 and you should
19 still be able to hear the meeting.

20 There's a court reporter transcribing all of the
21 statements made and the questions asked today. Therefore, I
22 must ask that only one person at a time speak. If you want
23 to be recognized, please use the raise your hand feature on
24 Zoom. If you're on your phone, you can press star 9 to raise
25 your hand.

1 If you've muted your phone by pressing star 6, please
2 be sure to unmute yourself by pressing star 6 again.

3 The raise your hand feature creates a list of
4 speakers based on the time when your hand was raised and we
5 will call on you in that order. I will review these
6 directions during the discussion with the parties and before
7 we start the public comment period.

8 So, please identify yourself before you speak. When
9 you speak for the first time please say and spell your name
10 slowly. It's very important for both me and the court
11 reporter. If you don't identify yourself, either the court
12 reporter or I may interrupt you and ask that you do so to
13 ensure that we have a complete and accurate record of the
14 meeting.

15 If you run into difficulties, please contact the
16 Public Advisor's Office, or Zoom's Help Center. The contact
17 information for both is on page 5 of the Notice for today's
18 Committee Conference.

19 Are there any questions?

20 Okay, so now we'll move on to the substance. The
21 purposes of today's Committee Conference is to review the
22 current status of the proceeding, to provide the public with
23 an overview of the process by which the CEC will consider the
24 application, to hear more about the project and its features,
25 to address any outstanding issues and to develop a schedule.

1 At today's conference, first I will give an overview
2 describing the Small Power Plant Exemption, which is known as
3 an SPPE. And then, I'll outline some of the rules applicable
4 to CEC proceedings.

5 After I give that overview, the CEC's Public Advisor
6 will discuss opportunities for public participation in this
7 proceeding.

8 Following the Public Advisor's Office we will hear
9 from Applicant about the application.

10 And then, CEC staff will discuss their role in
11 reviewing the application.

12 If we could have slide 3, please. Following staff's
13 presentation, as stated in the agenda for today, the
14 Committee and the parties will discuss a schedule and other
15 topics regarding the application. There will then be an
16 opportunity for public comments.

17 The Committee has also given notice that it may hold
18 a closed session and we will decide whether that's necessary
19 after we've heard from everyone. After that, we will adjourn
20 the meeting.

21 Slide 4, please. So, an overview of Small Power
22 Plant Exemptions. The CEC was created in 1974 with the
23 passage of the Warren-Alquist Act. Under that law, the CEC
24 has the exclusive authority to consider and ultimately
25 approve or deny applications for the construction and

1 operation of thermal power plants that will generate 50
2 megawatts or more of electricity.

3 The Warren-Alquist Act allows builders of thermal
4 power plants that will generate from 50 100 megawatts to
5 apply to the CEC for an exemption from its exclusive
6 jurisdiction if the proposed project meets certain criteria.
7 This exemption is known as the Small Power Plant Exemption.

8 To grant an SPPE, the Warren-Alquist Act states that
9 the CEC must make three separate and distinct determinations.
10 And this is on slide 5, please.

11 First, that the proposed power plant has a generating
12 capacity of no more than 100 megawatts.

13 Second, that no substantial adverse impacts on the
14 environment will result from the construction or the
15 operation of the power plant.

16 And third, that no substantial adverse impact on
17 energy resources will result from the construction or
18 operation of the power plant.

19 In addition to meeting these Warren-Alquist Act's
20 requirements, the CEC must also analyze an SPPE application
21 under the California Environmental Quality Act, which we call
22 CEQA.

23 The CEC is the CEQA lead agency and considers the
24 whole of the action. For the application, the whole of the
25 action means not just the backup generators, but also the

1 entire data complex -- data center complex that the backup
2 generators support and includes other project features such
3 as landscaping.

4 When I refer to the project today, I'm referring to
5 the backup generators, the data center, and these other
6 project features.

7 It is important to note that if the CEC decides to
8 grant the application, that decision would not constitute
9 project approval. Instead, upon being granted an exemption
10 from the CEC's power plant licensing process the project
11 owner would then seek permits and licenses that are required
12 from other local agencies, which for the Lafayette project
13 includes, without limitation, the City of Santa Clara and the
14 Bay Area Air Quality Management District. Those agencies
15 will also conduct any other necessary environmental analysis
16 as responsible agencies under CEQA.

17 Consideration of an SPPE begins with the filing of an
18 application. The application for the Lafayette Backup
19 Generating Facility SPPE was filed with the CEC on May 20th,
20 2020.

21 Staff is currently asking the Applicant for
22 additional information about the application. We refer to
23 these as data requests or discovery. Staff uses this
24 information to prepare an environmental review document that
25 includes information necessary under both CEQA and the

1 Warren-Alquist Act for the Committee and the CEC to decide
2 whether to approve or deny the SPPE.

3 After the staff has complete its analysis, and staff
4 will talk more about its process later in this Conference,
5 the next step is consideration by the Committee and,
6 ultimately by the CEC.

7 In this review the CEC uses an adjudicative process.
8 The Committee will ultimately have an evidentiary hearing,
9 which is like a trial, where it will receive evidence from
10 the parties and comments from the public about whether to
11 grant or deny the SPPE.

12 After the evidentiary hearing is complete, the
13 Committee will prepare its proposed decision. The proposed
14 decision will include the Committee's analysis of the project
15 under both the Warren-Alquist Act and CEQA. The Committee's
16 proposed decision is then considered by the CEC at a public
17 hearing. And the CEC will ultimately decide whether to
18 adopt, modify, or reject the Committee's proposed decision.

19 And I believe we're on slide 10, now. In all SPPE
20 proceedings there are at least two parties, the Applicant
21 request exemption and the CEC staff. Organizations and
22 members of the public can become parties by intervening. The
23 Public Advisor's Office will describe that, as well as some
24 other ways to provide comments in just a few minutes.

25 The next slide, please. Because we use an

1 adjudicative process, the CEC's regulations and state law
2 require that we ensure a fair process for everyone who
3 participates in this proceeding. The CEC's ultimate decision
4 will be based solely on evidence contained in the record.

5 One way we ensure a fair process is through the ex
6 parte rule. The ex parte rule states that parties to a
7 proceeding and interested persons outside of the CEC, that's
8 the general public, are prohibited from communicating with
9 presiding officers about anything that may be in controversy
10 or in dispute, unless notice is given to allow an opportunity
11 for all other parties to participate in that communication,
12 or the communication is in a writing shared with the public
13 and the parties.

14 Prohibited communications include voicemail messages,
15 text messages, emails, letters, telephone calls, and in-
16 person discussions. Basically, any kind of communication.

17 In this proceeding, the presiding officers are the
18 members on this Committee, both Commissioner Douglas and
19 Chair Hochschild, as well as the other three members of the
20 CEC. Presiding officers also include the hearing officers,
21 which are Susan Cochran and myself.

22 Ex parte communications are also prohibited with
23 individuals who are assisting these presiding officers which
24 in this proceeding includes anyone serving as an advisor to
25 the Commissioners, and any attorney or other experts

1 assisting the Committee or the Commissioners with this
2 proceeding.

3 Today's Conference is one of several public events
4 that will extend over the next couple of months. At these
5 events, members of the public can provide comments on the
6 project.

7 I'd now invite the Public Advisor to present how the
8 Public Advisor's Office can help members of the public to
9 participate in meetings and hearings about the application.

10 And after that, we'll move on to the Applicant's
11 presentation. Ms. Gallardo.

12 MS. GALLARDO: Hello everyone. Thank you. For the
13 purpose of the record this is Noemi Gallardo speaking, the
14 Public Advisor of the California Energy Commission.

15 The next slide. I'll start by explaining a little
16 bit about the Public Advisor role. It is a mandated role in
17 the Warren-Alquist Act. The Public Advisor must be a
18 licensed attorney who is nominated by the Energy Commission
19 and appointed by the Governor for a three-year term.

20 I'll highlight a few of the Public Advisor's key
21 duties, which include helping the public under Commission
22 processes, identifying stakeholders missing in the process,
23 and reaching out to them. Assisting with access to language
24 services and reasonable accommodations.

25 Please note that no requests were made for today's

1 conference.

2 Generally, state proceedings may seem like a long
3 windy path that can generate confusion, but my office is here
4 to provide guidance. For example, today I'm informing the
5 public about how to navigate and participate in the Lafayette
6 proceeding.

7 The next slide. The key takeaway from this
8 presentation is that the Energy Commission values public
9 participation and wants to hear from an array of stakeholders
10 from different perspectives because having a robust record
11 helps the Committee make a thoroughly informed decision.

12 As the National Academies of Sciences, Engineering,
13 and Medicine concluded, public participation improves the
14 quality of agency decisions about the environment. Well-
15 managed public involvement also increases the legitimacy of
16 decisions in the eyes of those affected by them, which makes
17 it more likely that the decisions will be implemented
18 effectively.

19 The Public Advisor functions as a bridge between the
20 Energy Commission and the public to help ensure anyone can
21 participate meaningfully in the Commission's proceedings,
22 such as today's. The Public Advisor's Office has a lot of
23 experience to answer questions and we can ask the
24 Commission's subject matter experts when we don't have
25 immediate answers.

1 Please do not hesitate to contact us at
2 publicadvisor@energy.ca.gov, or call us at 916-654-4489.

3 The next slide. The CEC conducts significant
4 outreach from beginning to end of every proceeding. Staff,
5 the Hearing and Policy Unit, and the Public Advisor's Office
6 take on various responsibilities to conduct outreach. Some
7 of the key steps taken for this proceeding have been mailing
8 the notice of receipt to residents and property owners within
9 1,000 feet of the project site. Also, to California Native
10 American Tribes associated with the project area and others.

11 This notice is important because it informs people
12 that the proceeding is beginning and it informs people about
13 signing up on the List Serve to ensure that they receive
14 subsequent notices and other updates. The full mailing list
15 will be published in the environmental assessment document.

16 The notice of this Committee Conference was mailed to
17 residents and property owners within 1,000 feet of the
18 project site, emailed to parties to the proceeding and to the
19 List Serve. And, all notices are also filed in the docket.

20 Additional outreach was conducted to notify people
21 aside from residents and property owners in the area via
22 mail, email, and phone such as local and state-elected
23 representatives, air and water and transit district
24 officials, parks and rec departments; community-based
25 organizations, environmental and social justice advocates,

1 health groups, libraries, schools and school districts,
2 daycare and community centers, and religious organizations,
3 chambers of commerce, trade associations, and labor groups,
4 to name a few.

5 The next slide. There are two ways to participate in
6 Small Power Plant Exemption proceedings, also known as SPPEs.
7 First is informal as a member of the public, like you would
8 in any other Energy Commission event.

9 The second way is formal, as an intervenor. The
10 Lafayette proceeding will consist of various types of events
11 that we encourage you to join. In each event, such as
12 today's Committee Conference, time is carved out specifically
13 for public comment. And that is your opportunity to speak
14 out to the issue.

15 I'd like to emphasize that the Energy Commission is
16 using the Zoom application as its virtual platform for online
17 events. Zoom includes an option to join by phone as well.
18 We provide instructions about how to join in the notices.

19 Aside from providing verbal comments during events,
20 you can also provide concise comments via email to the Public
21 Advisor's Office and I can relate them on your behalf during
22 the event.

23 Finally, you may also submit written comments through
24 our docket system. The written comments, like the verbal
25 comments, will be included in the record.

1 The next slide. The formal approach to participate
2 in SPPE proceedings is to become an intervenor. An
3 intervenor, just like any other party to the proceeding may
4 present evidence and witnesses, object to other parties'
5 evidence, cross-examine other witnesses, and file motions.

6 In order to become an intervenor, you must file a
7 petition to intervene. We emphasize that even if you are not
8 sure whether you want to become an intervenor or even if you
9 do not end up participating at all in the proceeding, it is
10 best to go ahead and file so that you don't miss key
11 deadlines and opportunities to engage.

12 Anyone may file a petition. And to be crystal clear,
13 you do not need to be an attorney or have legal
14 representation in order to file a petition.

15 Also, there is not a specific form to fill out, but
16 you must include the required information in the petition you
17 file. For example, the petition must identify grounds for
18 the intervention, the position and interest of the
19 petitioner, and the extent to which the petitioner desires to
20 participate in the proceeding. The petition must be filed in
21 the docket and include the docket number.

22 The next slide. Whether you decide to engage in the
23 proceeding as a member of the public or an intervenor, we
24 highly recommend you go to the Lafayette Data Center Project
25 page on the Energy Commission's website to find the most

1 current information about the proceeding. The page is found
2 at ww2.energy.ca.gov/sitingcases/lafayette/.

3 For those who can see the screen, here's what that
4 webpage looks like. The red arrow points to the link where
5 you can submit electronic comments. The blue arrow points to
6 the e-filing link, which is the preferred pathway for staff
7 and parties to the proceeding to submit material. The gold
8 arrow points to the docket log link. That arrow is gold
9 because it points to the docket log which is a repository
10 where you'll find the golden nuggets filed by parties to the
11 proceeding, by staff, and comments from the public.
12 Basically, it's where you'll find all materials submitted for
13 this proceeding.

14 Towards the bottom of the screen you'll see a green
15 arrow, which is the section where you'll sign up for
16 Lafayette Center List Serve. It's green in color because
17 green means go. And we highly recommend you go there to sign
18 up for the List Serve, which is a lifeline to the proceeding.
19 We'll go over the steps to sign up on the next slide.

20 This may seem complicated, but if you need assistance
21 with any of these steps contact the Public Advisor's office.
22 This webpage also contains contact information for the Public
23 Advisor's Office and staff involved in the Lafayette
24 proceeding.

25 The next slide. Signing up for the proceeding's List

1 Serve is a voluntary procedure. We highly recommend it
2 because it is the most efficient way to receive the latest
3 and greatest information about the proceeding, including
4 alerts about what is happening and notifications about
5 material that have been docketed.

6 Signing up for the List Serve is quick. First,
7 you'll go to the project webpage noted here and shown in the
8 previous slide. Scroll down through the box that looks like
9 this one, titled "Subscribe Lafayette List Serve", enter your
10 first and last name, along with your email, and click send.
11 You'll immediately receive an automated email from the
12 Commission asking you to complete your subscription. Please
13 be on the lookout for this email because you won't be able to
14 join without responding to it. You'll have 24 hours to
15 confirm your subscription. If you do this successfully,
16 you'll then receive an email notifying you that your
17 subscription was accepted and you'll begin to receive
18 material for this proceeding.

19 The next slide. Today is the first Committee
20 Conference for this proceeding. And the schedule with
21 specific deadlines for the rest of the proceeding is
22 forthcoming. You'll be able to find the schedule on our
23 webpages and you'll be notified of the schedule via the List
24 Serve if you are subscribed.

25 Now, we want to emphasize a few significant

1 opportunities you'll have to participate. First is the
2 publication of the Staff's Environmental Assessment Document.
3 CEQA allows for a public review and comment period on Staff's
4 Environmental Assessment Document. This is a period in which
5 staff will prepare an Environmental Impact Report based upon
6 the assessment of potential environmental impacts outlined in
7 the Staff's Initial Study, response to comments and questions
8 in the proposed decision. If necessary, a workshop may be
9 held to address any unresolved issues.

10 The prehearing conference and evidentiary hearing are
11 other opportunities. Subsequent to the Environmental
12 Assessment is a prehearing conference followed by an
13 evidentiary hearing. The prehearing conference is a public
14 forum where the Committee will assess the parties' readiness
15 for an evidentiary hearing. Public comment will be taken.

16 The evidentiary hearing is an administrative
17 adjudicatory proceeding to receive evidence into the formal
18 hearing record from the parties. Members of the public may
19 present comments at the evidentiary hearing that become part
20 of the hearing record.

21 After the evidentiary hearing concludes, the
22 Committee issues a proposed decision which provides the
23 findings under both the CEQA and the Warren-Alquist Act about
24 whether the project will have significant environmental or
25 energy impacts. And the proposed decision sets forth the

1 recommendation for this project of whether or not to grant an
2 exemption from the CEC's certification process.

3 Toward the end of the proceeding the Commission will
4 decide on whether to approve or deny the proposed decision
5 during one of the Commission's business meetings. Public
6 comment will also be accepted and considered prior to the
7 vote of the Commissioners during the business meeting.

8 The next slide. This slide contains the contact
9 information for the Public Advisor's Office. The best way to
10 communicate with us for the time being is via email at
11 publicadvisor@energy.ca.gov. And that's Public Advisor with
12 an "o". Or by phone at 916-654-4489. We are no longer
13 receiving faxes, so ignore that option there.

14 And by the end of this week I'll have this
15 presentation posted for public access in the Lafayette
16 docket. Thank you, that concludes my presentation.

17 CO-HEARING OFFICER DYER: Thank you, Ms. Gallardo.

18 We will now invite the Applicant to present an
19 overview of its Lafayette SPPE application.

20 MR. GALATI: Thank you very much Hearing Officer
21 Dyer. This is Scott Galati. Before we go forward with our
22 presentation, I wanted to also for the record state that we
23 have some other members on our team that are available to
24 answer questions should they come up in this hearing. We
25 have Michael Lisenbee and Maria Kisyova with David J. Powers

1 and Associates, as consultants. We also have Greg Darwin
2 with Atmospheric Dynamics.

3 The two people that will be presenting today, and
4 I'll have them introduce themselves when they get started,
5 are from the Design Team. And that is Chad Mendell and
6 Michael Malone. So, Chad or Mike, whoever is going to start
7 first, if you would unmute yourself and go ahead and begin
8 the presentation, thank you.

9 MR. MALONE: Hi, good afternoon Commissioners and
10 Hearing Officers. My name is Michael Malone and I'm with HKS
11 Architects. And I'll provide some context here for you, for
12 a brief overview of the project.

13 So, we are looking at providing a new data center for
14 Digital Realty at the corner of Lafayette Street and Central
15 Expressway. The imagery you see here gives you a feel for
16 the massing and the materials of the building.

17 The upper right image is the front entrance to the
18 building or the entrance to the campus.

19 We go to the second image, it's as you're coming
20 around the corner, through the intersection at Lafayette,
21 turning on to Lafayette -- sorry, Central Expressway. And
22 then, the bottom right image is when you are on Central
23 Expressway, moving past the building.

24 The images on the left give you a feel for the
25 massing of the building. It's primarily outward facing for

1 Lafayette and Central Expressway and pulls the support
2 services inward to the campus, primarily being electrical and
3 generator support.

4 If we move the slide, please. So, this is an
5 overview of the proposed site plan. So, this would be going
6 onto an existing campus. The gray building there at the
7 bottom is an existing building, which is an up and running
8 data center also owned by Digital Realty. There are two
9 existing buildings on the site that are approximately 166,000
10 square feet each. Those will be removed to make room for our
11 new facility, which is represented in gold here, along the
12 north there.

13 So, it's primarily a data center. The space which is
14 in the white or gold. And it's supported by some periphery
15 office space which is in the darker gold. It's at the left
16 end and at the upper right-hand corner of the facility.

17 The building is primarily three stories tall, except
18 for the last quadrant there on the far right, which is two
19 stories. And that height was dictated by the proximity of
20 the building to the San Jose Airport. So, they lowered that
21 end of the building to provide the required clearances.

22 We're also working at adding a substation to support
23 this building, which is located on Lafayette Street
24 immediately to the west of the building in gray.

25 Like I mentioned, the building is outward facing.

1 The main entrance is at that upper left-hand corner, so it
2 faces Lafayette Street and addresses the corner with Central
3 Expressway. And then, all of the support equipment which
4 fuels this building is sitting behind, as represented by
5 those blue generators and the equipment going back behind the
6 building.

7 If you want to move to the next slide? And then this
8 gives you a look and feel for the materials of the building.
9 It's primarily a combination of painted precast walls, an
10 exterior insulated finish system, metal panels, curtain wall
11 and cross-screened.

12 So, we've worked with the City of Santa Clara's
13 Planning and Zoning Department to look at the massing, the
14 treatment of the facades, the heights of the building, the
15 overall look and appearance. And this is where we are at
16 this point with them, in all process with them. So, we've
17 been working very closely with them for the -- well, for the
18 latter part of the year, I guess, at this point to work with
19 them to get to this point where we are.

20 Are there any questions for me?

21 MR. MENDELL: This is Chad Mendell, with
22 Environmental Systems Design. I just want to confirm you can
23 hear me?

24 COMMISSIONER DOUGLAS: Yes, can hear you.

25 CO-HEARING OFFICER DYER: We can hear you.

1 MR. MENDELL: All right, thank you very much. My
2 engineering firm that I represent, Environmental Systems
3 Design, we are mechanical and electrical engineers. I wanted
4 to take a few minutes and talk a little about the actual
5 Lafayette Backup Generator Facility and some of the details
6 associated with it.

7 If you could, could you please go to the second
8 slide, the site plan? Yeah, the second one. Not the
9 renderings, but the site plan. All right.

10 So, just a quick explanation of the building. So,
11 the primary purpose of the building, as we just discussed, is
12 a data center building. The data center spaces inside of the
13 building will be leased by third parties, similar as you
14 would do in an office building.

15 In the building itself, about 40 percent of the space
16 is deemed to be the actual data center space itself. About
17 another 50 percent of the building is going to be electrical
18 and other support spaces for that data center space. And
19 about, approximately, 10 percent of the space is going to be
20 office that's going to be leased by the technicians that are
21 going to be maintaining and running the IT equipment in the
22 space.

23 Talking a little more about the equipment in the
24 Backup Generator Facility, as was discussed at the front of
25 the meeting there are 44 generators in the equipment yard.

1 Those are there to provide backup power to the data center
2 spaces. Of the -- so, of that power there are going to be
3 what we call 11 suites, data center suites. Each suite will
4 have four generators providing backup power to those suites.

5 The way it's designed is that three are needed to
6 support the load and there is one additional generator that's
7 also installed so that one of the four generators can be
8 taken out of service at any given time and still provide the
9 9 MVA of total load for that suite. Of that 9 MVA total load
10 for the suite, about two-thirds of that actually goes towards
11 backing up the data center equipment itself.

12 The generators in this equipment yard for the backup
13 generator facility is dedicated to this building and doesn't
14 serve any other areas. The generators will pull the building
15 load only when utility service is interrupted. So, the vast
16 majority of time during the year the building is actually
17 being fed from the utility substation that's going to be
18 located on the western portion of the site.

19 The generators do get run typically once a month, one
20 at a time, with no load on the generators for preventative
21 maintenance. And they could potentially be tested once a
22 week if one of the tenants in the suite does request that the
23 generators get tested on a weekly basis, not on a monthly
24 basis.

25 The generators themselves, as you can see from the

1 site plan, they are located outside of the building. They
2 are located in walk-in enclosures.

3 Within the building, just to give context, inside the
4 building, on the south edge of the building there are
5 electrical rooms lining the building. The generators then
6 feed into the building where we have battery backup systems
7 that are then used to provide another level of backup to the
8 IT equipment inside of the space.

9 The generators will be sized with 24 hours' worth of
10 fuel. The generator fuel will be located in a tank located
11 below the generator. Each generator will have its own fuel
12 storage tank.

13 Similar to the generators, the substation that is
14 being planned on the west side of the site, it is also going
15 to be dedicated to this building.

16 And I think that's the highlights I wanted to talk
17 about. One more item I wanted to bring up. The building was
18 reviewed and received a determination of no hazard from the
19 FAA in December of 2019.

20 Thank you very much for your time.

21 MR. GALATI: Thank you Chad and Mike. This is Scott
22 Galati. Hearing Officer, we can answer any questions that
23 the Committee might have.

24 CO-HEARING OFFICER DYER: Okay, thank you. We will
25 have time for questions later.

1 At this point we're going to go forward to staff and
2 staff is going to present an overview of its role in the
3 review of the application.

4 MR. PAYNE: Yeah, this is Lon Payne. Can you confirm
5 that you can hear me?

6 CO-HEARING OFFICER DYER: We can hear you.

7 MR. PAYNE: Okay, great. And I see my visual aid is
8 going up. If you could scroll down to the schedule portion,
9 which is page 3 of the PDF, the lower portion. A little bit
10 lower. There you go right there.

11 So, I just want to give the Committee a brief update
12 on where we are with our analysis at this point. This
13 outlines the basic milestones of the proceeding. The
14 important information for you to know is that there have been
15 a couple of new things that have happened since we put in
16 this Issue ID report and schedule. The primary one being
17 that we did in fact send out Set 2 of data requests shortly
18 after publishing this issue at the airport.

19 The other update is that we did receive a second
20 partial response to our data request Set 1. So, the initial
21 responses came in I believe on the 12th. This second partial
22 response came in on the 28th. It is limited, however, to air
23 quality-related responses. So, there are still questions
24 that were asked in data request Set 1 covering cultural, and
25 also issues regarding tank undergrounding that had not yet

1 been answered from data request Set 1.

2 So, we still have outstanding data requests in Set 1.
3 We have outstanding data requests of Set 2. We are currently
4 in the process of generating data request Set 3, which
5 consists primarily of follow-up questions to the material we
6 got on the 12th and, in some cases, the material, the air
7 quality material we got on the 28th.

8 It is possible that we might have a data request Set
9 4, depending on what we receive in the other responses we
10 get, the remaining responses to Set 1, the responses we would
11 get to Set 2. So, depending on what we get from the
12 Applicant on those, we may do a data request Set 4, but we do
13 not know that at this point.

14 We do know that there will be a data request Set 3
15 and our assumption is that that will go out sometime next
16 week.

17 The target of November 24th, 2020 still stands based
18 on the best available information we have at this point. So,
19 that's it in terms of schedule.

20 Now, if you could scroll down to the next page where
21 we have our suggestions for the proceeding, I just want to
22 highlight one key point. Our second suggestion there talks
23 about how we would appreciate it if the Committee could grant
24 us a minimum of 15 working days to prepare our responses to
25 any comments we get on our CEQA analysis document and, you

1 know, possibly also combined with opening testimony, so we
2 would do responses to both at the same time. That's our
3 initial request is that they be combined.

4 The important thing I wanted to point out is
5 Applicant's response to our Issue ID. At least as I read it,
6 it was in support of this idea of 15 days, but we wanted to
7 make sure that the Committee understood that the operable
8 word in this is the word "working", so 15 working days.
9 We've often run into issues with holidays and weekends, which
10 have turned a 15-day turnaround in more like 9 or 10. So, we
11 wanted to make sure that what we were asking for and,
12 hopefully, what the Applicant is also lending its support to
13 is the idea that we would have 15 working days to prep those
14 responses.

15 That concludes our presentation, but we're available
16 to answer questions you may have.

17 CO-HEARING OFFICER DYER: Thank you, Mr. Payne.
18 Okay, so if we could have slide 18, please. Okay.

19 So, in the notice for today's Committee Conference we
20 directed staff to file an Issues Identification Report,
21 Status Report and proposed schedule. And staff timely filed
22 that document on August 28th.

23 The notice also ordered the Applicant to file a
24 response to staff's Issues Identifications Report, Status
25 Report, and proposed schedule. And the Applicant timely

1 filed its response on September 2nd. So, we thank both the
2 staff and the Applicant for filing those documents on time.

3 And now, we can move on to a discussion of the
4 issues. The Committee has the following questions.

5 COMMISSIONER DOUGLAS: Co-Hearing Officer Dyer? This
6 is Commissioner Douglas.

7 CO-HEARING OFFICER DYER: Yes.

8 COMMISSIONER DOUGLAS: I just wanted to break in
9 quickly because I believe the Chair had a question of the
10 Applicant and was having a little difficulty making his audio
11 work. So, let me see if the Chair wants to ask the question
12 now and then we can go further in the discussion.

13 Chair Hochschild are you --

14 CHAIR HOCHSCHILD: Are you able to hear me?

15 COMMISSIONER DOUGLAS: Yes. Yes, we are, go ahead.

16 CHAIR HOCHSCHILD: Okay. Yeah, my question was just
17 in your cycle of testing how long is that period? If you're
18 doing that once a week, or is that for 15 minutes, or half an
19 hour? And on an annual basis how many hours of run time does
20 that add up to, roughly?

21 MR. GALATI: Commissioner, this is Scott Galati. I
22 think we'll have to ask if Greg Darwin's phone is open. I'll
23 do my best to answer that and he can correct it or Chad can
24 correct it.

25 Really, what we plan to do is once a month the

1 testing, unless there is that specific item that a tenant
2 asks for something once a week. We have a 15-minute test.
3 And my understanding is that once a month we would do a
4 possibly one-hour test. And unless there is something that
5 breaks that requires maintenance and more testing, that is
6 the normal maintenance schedule.

7 We've committed to only run one generator at a time
8 during that testing and maintenance to minimize emissions.

9 But I don't think that we proposed a limit on number
10 of hours because I don't think that the air quality impacts
11 required such a limit.

12 But typically, somewhere between 12 to 15, or 17
13 hours per engine, a year, is what we anticipate.

14 And Mr. Darvin, can you correct me I didn't get those
15 numbers correct? Mr. Darvin is probably muted, which is --
16 and he's an attendee at an 831 number. There he is.

17 MR. DARVIN: This is Greg Darvin, can you hear me?

18 MR. GALATI: Yes.

19 CHAIR HOCHSCHILD: Yes.

20 MR. DARVIN: Okay, great. Scott, you pretty much
21 have it correct. We actually have a limit in the assessment
22 that was prepared for the CEC of 50 hours per year per
23 engine. But in reality it's -- and no one test will go over
24 60 minutes or one hour, and no more than one engine would
25 ever be tested during any one-hour time frame.

1 We also put, I think, a limit on the number of
2 engines tested on a daily basis. And I've got to dig up that
3 number, I don't recall that. But I believe it was between 6
4 and 8, and it might be up to 10.

5 But realistically, the tests are only expected to
6 occur on each engine probably at least once a month, and from
7 the information that we have provided anywhere from 15
8 minutes to 30 minutes would be the average test length.

9 CHAIR HOCHSCHILD: Very helpful, thank you.

10 MR. DARVIN: Sure.

11 CO-HEARING OFFICER DYER: Okay, Commissioner Douglas
12 or Chair Hochschild, were there any additional questions
13 before we move on?

14 COMMISSIONER DOUGLAS: This is Commissioner Douglas.
15 I don't have any questions at this point, thank you.

16 CHAIR HOCHSCHILD: No further questions here.

17 CO-HEARING OFFICER DYER: Okay. Okay, so now we'll
18 move on to Committee questions. So, this is a question for
19 staff.

20 In the past, CEC has typically used an Initial Study
21 Mitigated Negative Declaration to analyze the potential
22 environmental impacts of SPPE. However, in two pending SPPEs
23 staff has determined that an EIR would be most appropriate to
24 evaluate the potential impacts of those projects.

25 Could you please explain why staff is proposing at

1 this point to use an Initial Study Mitigated Negative
2 Declaration?

3 MR. BABULA: This is Jared Babula, staff counsel.
4 And, yeah, I can touch on that. So, those two projects you
5 referenced are the two San Jose projects, and they have
6 different aspects that aren't found in this project. And so,
7 without getting into too many details of those projects,
8 which are pending before various Committees, I would say that
9 for example in the Microsoft Data Center Project that project
10 was already approved -- a prior iteration of that project was
11 approved by the city with a EIR. And so, one of the
12 rationale bases would be to ensure a document that the city
13 would be able to use. And so, there is a smoother transition
14 with using the similar document as previously used by the
15 city for their use.

16 And so, and there are other issues that are
17 different. And so, as part of each project getting an
18 individual assessment through staff's analysis and looking at
19 the project case by case, at this point in time looking at
20 this specific case of Lafayette and the facts behind it, and
21 its location, and other factual issues, the MND appears to be
22 the appropriate document as opposed to see what in some -- in
23 the other two cases in San Jose.

24 And we also touched on, in those cases, filed in the
25 staff report we identified in those documents some of the

1 other rationale for wanting to go with an EIR in those cases.
2 So, I'm not sure what level of detail you'd like. I can go
3 further. If you feel that's sufficient for now, I can end it
4 at that.

5 CO-HEARING OFFICER DYER: Thank you, Mr. Babula. I
6 think that's -- I think that's satisfactory for now. Okay.

7 MR. GALATI: Hearing Officer Dyer?

8 CO-HEARING OFFICER DYER: Yes.

9 MR. GALATI: This is Scott Galati. May we respond?

10 CO-HEARING OFFICER DYER: Yes. Go ahead, please, Mr.
11 Galati.

12 MR. GALATI: Thank you. I just wanted to also add
13 that the Applicant has endeavored to include mitigation
14 proposed in the project as proposed design measures, basing
15 those mitigation measures off the types of mitigation
16 measures that occurred in similarly-approved projects.

17 So, we think that the analysis at the end of the day
18 would not require the Energy Commission to also evaluate and
19 include additional mitigation measures to ensure the project
20 is less than significant level. That is also something that
21 is often encouraged by Applicants, so it is possible to also
22 support a Mitigated Negative Declaration.

23 CO-HEARING OFFICER DYER: Okay, thank you.

24 Commissioner Douglas or Chair Hochschild, do you have
25 any questions on that item?

1 CHAIR HOCHSCHILD: I do not at this time.

2 COMMISSIONER DOUGLAS: No, we'll jump -- I don't. I
3 think that we can --

4 CO-HEARING OFFICER DYER: Okay. Okay, good.

5 Then this question is also for staff. In your Issues
6 ID Statement, you request that the CEQA commenting and
7 opening testimony deadline be combined. Am I understanding
8 that you are asking that the response to the CEQA comments
9 and the staff's opening testimony be the same document?

10 MR. BABULA: This is Jared Babula again. Can you
11 repeat that last part? I'm trying to understand which two
12 documents.

13 CO-HEARING OFFICER DYER: Yes. In your -- in the
14 staff's Issue ID Statement, the second -- the second bullet
15 on the last page, asking that the Committee grants a minimum
16 of five working days following a combined CEQA commenting,
17 opening testimony deadline.

18 Is what you're asking that the CEQA comments and the
19 opening testimony be the same document for staff?

20 MR. BABULA: Well, we wouldn't be -- this is Jared
21 Babula again. So, the comments on the -- we wouldn't be
22 filing the comments. So, we would -- the comments would be
23 received on the same day as opening testimonies do. And
24 then, we would respond to comments after the 15 working days,
25 and that document could -- would both be a response to

1 comments and could also have reply testimony, if necessary.
2 So, that is basically the same exercise because we assume
3 there will be overlap, potentially, between if there is
4 comments and then there's also opening testimony filed, there
5 might be overlap in what those things say. And so, we could
6 then have one document which would respond to the comments
7 and also cover any responses as a reply, as reply testimony.
8 So, that was the idea.

9 CO-HEARING OFFICER DYER: Okay, okay.

10 MR. PAYNE: This is -- this is Lon Payne. I think I
11 may have understood the question. We're talking about
12 opening testimony by parties, Applicant and Intervenors. Our
13 opening testimony as staff is generally a submitting our
14 environmental document.

15 So, in a sense we do that earlier, if that makes
16 sense. When we're talking about a combination of opening
17 testimony and comments on the CEQA document, we're talking
18 about what comes in from the other parties. Does that
19 clarify it?

20 CO-HEARING OFFICER DYER: Yes, thank you. Yes it
21 does, thank you very much.

22 MR. PAYNE: So, our comments generally in as reply
23 testimony. But we'd just like to be able to reply to both
24 CEQA comments and Applicant and Intervenor comments coming in
25 on the same day, so we do reply testimony covering both. In

1 other proceedings it's been broken up because the deadlines
2 for CEQA commenting and opening testimony have been
3 different.

4 CO-HEARING OFFICER DYER: Okay. Okay, great. That
5 makes sense, thank you very much.

6 MR. PAYNE: Thanks. Jared, did that seem okay to you
7 as well?

8 MR. BABULA: Yeah, that was -- that's correct,
9 thanks.

10 MR. PAYNE: Okay, great.

11 CO-HEARING OFFICER DYER: Okay, good. So, then at
12 this point then we can move on to public comments.

13 MR. BABULA: Oh, before you do that, this is Jared
14 Babula again.

15 CO-HEARING OFFICER DYER: Yes.

16 MR. BABULA: I do want to just highlight a couple
17 things that Mr. Galati brought up in his filing regarding the
18 actual evidentiary hearing. And I just want to note that
19 staff does support the concept of utilizing information that
20 was already produced in the robust records of these other
21 cases, where it's appropriate.

22 And so, I see that we could streamline the
23 evidentiary process by taking in the testimony, or
24 transcripts, the prior decisions and utilizing the
25 information from those dockets, and put it into the Lafayette

1 docket. And then, for example, testimony from some third-
2 party witnesses, and so forth, could be excerpted in the
3 Prehearing Conference Statements to identify that information
4 and then it could become an exhibit.

5 So, I do think if we could streamline the process
6 because a lot of work and effort went into these prior cases
7 and there's a lot of information that's still relevant and
8 can be used in this case without the need to go into more
9 time consuming, live testimony.

10 And so, we should really be focusing on what's unique
11 to this project that might require live testimony or what
12 does the Committee need to reach a decision, and then rely on
13 the existing information in prior decisions to support that.

14 And so, I do want to echo that staff would agree with
15 what Mr. Galati filed as a way to sort of streamline the
16 evidentiary process. Thanks.

17 CO-HEARING OFFICER DYER: Thank you, Mr. Babula.

18 COMMISSIONER DOUGLAS: So, this is Commissioner
19 Douglas, jumping in as promised. I just have a follow-up
20 question on that. How would we handle cross-examination on
21 any of that evidence if we were to do that? Would you
22 propose that the proponent of the testimony still be
23 available to answer questions?

24 MR. BABULA: Well, the purpose, so it depends on if
25 the Committee needs -- if it addresses the Committee's needs

1 in moving forward and reaching a decision, then we may not
2 need to have cross on stuff that's either not in dispute or
3 that was adequately addressed. But that could be something
4 that would be brought up in the Prehearing Conference
5 Statement if there was a concern with someone wanting cross.
6 And then, we could determine, depending on the source, you
7 know, how best to handle that.

8 But again, the purpose of the evidentiary hearing is
9 to establish the record for the decision makers to make a
10 decision. And so that someone, if they have an issue, could
11 bring that up prior to the evidentiary hearing. But I think
12 we could go into it with the objective of utilizing the
13 existing records in these other proceedings, especially for
14 noncontroversial issues or to supplement the information
15 that's part of this record.

16 COMMISSIONER DOUGLAS: Okay. So, you would propose
17 that Applicant or staff identify specific exhibits, for
18 example from other records that you thought were germane to
19 this record and that there would be an opportunity for all
20 parties to, you know, I mean potentially ask for cross, or
21 object to something. Or, how would you see that working?

22 MR. BABULA: So, I could see it in the Prehearing
23 Conference Statement identifying the -- so, for example, we
24 would put the transcripts of the Walsh hearing into the
25 docket and then we would identify in our Prehearing

1 Conference Statement the testimony of the Silicon Valley
2 Power COO, these pages as an exhibit. As information that's
3 weld into our proceeding here. And then, if someone had an
4 issue with that they could raise -- bring that up and say,
5 well, I would like to either cross-examine, or I want someone
6 to be able to speak to this. And try to narrow the focus to
7 specifically what it is and then, based on that, we can
8 figure out how best to address it.

9 But certainly it could be put into the Prehearing
10 Conference Statement, which usually comes out a number of
11 days before the prehearing conference, evidentiary hearing.
12 And so, that could be a vehicle. Or, even do it a little
13 earlier because all those records are already in existence,
14 so that could be put into the docket in advance, and then we
15 can identify.

16 So, I certainly wouldn't see -- I would see it more
17 beneficial to at least call out the portions of the
18 transcript that's relevant as opposed to just dumping it in
19 there and citing to it. So, we definitely want to focus in
20 on the parts that we want to identify.

21 But I think the idea of having, say, Mr. Kolnowski
22 testify on the same information for the third or fourth time,
23 we might want to --

24 COMMISSIONER DOUGLAS: You know, I can see the
25 efficiency and I can see some potential challenges with it.

1 That's why I'm asking questions.

2 MR. BABULA: Right.

3 COMMISSIONER DOUGLAS: I wonder, Mr. Babula, if
4 there's any more you'd like to say, if the Applicant would
5 like to say anything on this, and then I think we can keep
6 going.

7 MR. BABULA: Right. I mean we can certainly, as we
8 get closer to hearing, you know, delve into this. So, I'll
9 let Mr. Galati speak, thanks.

10 MR. GALATI: Thank you, Commissioner Douglas. The
11 intent would not in any way be to stop people from being able
12 to have conversations and cross-examination about new things
13 and things that are not adequately addressed.

14 And so, what I put in mine and what would typically
15 happen I think in a court of law, if we proposed something
16 like this, is you basically bring in that information. And
17 then, someone who wants to either cross-examine or believes
18 that information is not appropriate, or not enough, expansive
19 enough, they can make an offer of proof at the prehearing
20 conference of why they need the witness. And then, the
21 Committee could rule and the witness could be available.

22 The purpose was to not -- because I know that for me,
23 as the Applicant with the burden of proof, I have to build
24 the entire record and I would be building it again, exactly
25 with almost 90 percent the same as what happened in the prior

1 proceedings. And that takes a little bit of time and effort,
2 especially when everything is -- the cross-examination, you
3 know, could be the same because the testimony is the same.

4 So, but if somebody had something different, or
5 unique, or something new that would certainly be allowed in,
6 in my perspective, in cross-examination about that new --
7 that's what the evidentiary hearing would be about something
8 unique to Lafayette and something that is new.

9 COMMISSIONER DOUGLAS: All right, thanks to both of
10 you for speaking to that question. I think we can -- we can
11 move on for now. Appreciate it.

12 CO-HEARING OFFICER DYER: Okay. So, there is one
13 more question from the Committee. Are there environmental
14 justice communities near the project site and, if so, could
15 you please discuss them a little bit, and include their
16 distance from the project site? Maybe we'll start with Mr.
17 Galati.

18 MR. GALATI: I do not have that information directly
19 in front of me. If the Committee would indulge, I would be
20 happy to file something very shortly addressing that
21 specifically. I don't want to be wrong.

22 CO-HEARING OFFICER DYER: Yes, that would be fine.
23 Thank you.

24 MR. GALATI: Thank you. And just to state that on
25 the record, I think we can get something in, docketed on

1 Tuesday, because we did address it in our Small Power Plant
2 Exemption. So, I'll pull that information out and with
3 Michael Lisenbee's help make sure that I've got it correct
4 before I docket it. Thank you.

5 CO-HEARING OFFICER DYER: Thank you, Mr. Galati.

6 Commissioner Douglas or Chair Hochschild, do you have
7 any other questions at this time?

8 COMMISSIONER DOUGLAS: I do not.

9 CO-HEARING OFFICER DYER: Okay. Then we can move on
10 to public comment. So, that concludes our discussion of the
11 issues, the status, and the next steps and now we will take
12 public comment.

13 The comments are limited to three minutes per person.
14 And if you're on your computer, please raise your hand using
15 the raise your hand feature to let us know you'd like to
16 comment. If you change your mind, you can always lower your
17 hand. And then, we'll call on you and open your line so that
18 you can say your comments.

19 For those of you that are on the phone, you can dial
20 star 9 to raise your hand. If you've muted yourself, you'll
21 have to press star 6 to unmute your phone lines. We'll
22 unmute your line from our end. And then, we will call on you
23 in the order that you raised your hand. If you're on the
24 phone, we will tell you your line is open and calling on you
25 by reading off the last three numbers of your phone number.

1 Do we have any members of the public who would like
2 to comment at this time, on the line? I don't see any.
3 Okay.

4 Ms. Gallardo, do we have any comments received in
5 writing from the public?

6 MS. GALLARDO: This is Noemi Gallardo, the Public
7 Advisor. We do not have anything in writing. I do see a
8 raised hand, so I want to make sure that that gets addressed.
9 It looks like it's Rosalie Montalbano.

10 CO-HEARING OFFICER DYER: Okay.

11 CO-HEARING OFFICER DYER: Okay. Could we please open
12 that line?

13 MS. MONTALBANO: Hello?

14 CO-HEARING OFFICER DYER: Hello. Yes, go ahead,
15 please.

16 MS. MONTALBANO: Yes, hi. My name is Rosalie
17 Montalbano, Trustee of the Rosalie Montalbano Trust. And I'd
18 like to bring to the attention, to the Committee something
19 that is unique to this Lafayette project, and for the
20 Committee to please entertain this in the decision making
21 because I feel it's of great importance.

22 The reason I have an objection with the project is
23 due to its proximity to four residential homes that are
24 within 300 feet of this project. And the health and well-
25 being of those families within that vicinity.

1 I feel that the streamlining, additionally of this
2 project, as requested by the Applicant, by using an MMD to
3 get it approved rather than a full environmental, you know,
4 EIR report, which is usually what is used on a project of
5 this size, also does a great service to the community in the
6 very near vicinity of this project and also to those a little
7 further away who are in excess of a 1,000 feet, who did not
8 get this notification.

9 I feel that a full EIR report, you know, would allow
10 for more information to be available to this Committee. And
11 basically, that is the extent I'm concerned about the health
12 and wellbeing of the individuals residing within this
13 proximity.

14 CO-HEARING OFFICER DYER: Thank you very much for
15 your comments.

16 MS. MONTALBANO: I apologize. Also, the quiet
17 enjoyment of those individuals. My husband was here,
18 apologize, reminding me of the various items I needed to
19 bring to the attention of the Committee.

20 When they spoke of those particular testing that
21 happens, I also want to bring to the attention that the
22 testing alone is not the issue. We understand that they are
23 backup. But when the backup actually comes to fruition, when
24 it's necessary for that backup to be used how many decibels
25 is the noise level? And these are all questions that need to

1 be addressed. Thank you.

2 CO-HEARING OFFICER DYER: Thank you, Ms. Montalbano.

3 Do we have any other questions, hands raised? I
4 don't see any.

5 Okay. All right, Commissioner Douglas and Chair
6 Hochschild, do either you have any comments you would like to
7 make at this time?

8 COMMISSIONER DOUGLAS: This is Commissioner Douglas.
9 I just want to thank staff and Applicant for their
10 presentations, and thank the public commenter for
11 participating today, and encourage her to consider reaching
12 out to the Public Advisor, as well, to learn you know about
13 -- to learn more about our process and how to participate in
14 our process.

15 And I think for now that will suffice for me.

16 CHAIR HOCHSCHILD: And no comments from me, thanks.

17 CO-HEARING OFFICER DYER: All right, thank you. So,
18 the Committee will now adjourn to a closed session, in
19 accordance with California Government Code Section --

20 COMMISSIONER DOUGLAS: Oh, Deborah?

21 CO-HEARING OFFICER DYER: Yes?

22 COMMISSIONER DOUGLAS: Deborah, I'm sorry, it's
23 Commissioner Douglas again. Let me just check in with the
24 Chair. I do not have any items that I feel the need to
25 discuss in closed session, but I want to ask the Chair if he

1 would like to hold a closed session.

2 CHAIR HOCHSCHILD: Nor do I, Commissioner Douglas.

3 COMMISSIONER DOUGLAS: All right. I think we can go
4 ahead and adjourn the session.

5 CO-HEARING OFFICER DYER: Okay, thank you. So, that
6 then, Commissioner Douglas, is back to you to adjourn the
7 session.

8 COMMISSIONER DOUGLAS: It's back to me to do that.

9 CO-HEARING OFFICER DYER: Yeah.

10 COMMISSIONER DOUGLAS: Very well. So, at this point,
11 again I thank the parties, and participants, and we are
12 adjourned.

13 (Thereupon, the Hearing was adjourned at
14 3:10 p.m.)

15 --oOo--

16

17

18

19

20

21

22

23

24

25

REPORTER'S CERTIFICATE

1
2
3
4 I do hereby certify that the testimony in the
5
6 foregoing hearing was taken at the time and
7 place
8
9 therein stated; that the testimony of said
10
11 witnesses were reported by me,
12
13 a disinterested person, and was under my
14
15 supervision thereafter transcribed into
16
17 typewriting.

18
19 And I further certify that I am not of
20
21 counsel or attorney for either or any of the
22
23 parties to said hearing nor in any way
24
25 interested in the outcome of the
26
27 cause named in said caption.

28
29 IN WITNESS WHEREOF,

30
31 I have hereunto set my hand this 15th day of
32
33 April, 2020.
34
35



36
37
38
39 _____
40 Jacqueline Denlinger
41 AAERT CERT # 747
42
43

TRANSCRIBER'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 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.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September, 2020.



Myra Severtson
Certified Transcriber
AAERT No. CET**D-852

TRANSCRIBER'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 transcribed by me, a certified transcriber.

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 14th day of September, 2020.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520