

**DOCKETED**

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## CALIFORNIA ENERGY COMMISSION

In the Matter of: ) Docket No. 19-SPPE-03  
 )  
 )  
 Sequoia Backup Generating ) COMMITTEE CONFERENCE AND  
 Facility Application for Small) CLOSED SESSION  
 Power Plant Exemption (SPPE) )  
 ) RE: Sequoia Backup  
 \_\_\_\_\_) Generating Facility

STATE ENERGY RESOURCES CONSERVATION AND  
DEVELOPMENT COMMISSIONCOMMITTEE CONFERENCE AND  
CLOSED SESSION

REMOTE

WEDNESDAY, DECEMBER 16, 2020

2:00 P.M.

Reported by: Martha Nelson

**CALIFORNIA REPORTING, LLC**  
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## APPEARANCES

SITING COMMITTEE MEMBERS & ADVISORS:

Karen Douglas, Commissioner and Presiding Member  
Patty Monahan, Commissioner and Associate Member  
Kourtney Vaccaro, Advisor to Commissioner Douglas  
Eli Harland, Advisor to Commissioner Douglas  
Jana Romero, Advisor to Commissioner Monahan  
Jim Bartridge, Technical Advisor to the Commission on  
Siting Matters

CEC STAFF PRESENT:

Susan Cochran, Hearing Officer  
Leonidas Payne, Project Manager  
Drew Bohan, Executive Director  
RoseMary Avalos, Public Advisor's Office  
Lisa DeCarlo, Staff Counsel

APPLICANT:

Scott Galati, Counsel, DayZen  
Robert Jackson, Executive Vice President and General Counsel,  
CyrusOne  
John Hatem, Chief Operations Officer, CyrusOne  
Steve Branoff, Air Quality Consultant  
Sarah Manzano, Air Quality Consultant

INTERVENORS:

Robert Sarvey  
Tany Gulesserian, Adams, Broadwell, Joseph & Cardozo  
Sara F. Dudley, Adams, Broadwell, Joseph & Cardozo

PUBLIC AGENCIES:

Ellen Peters, California Air Resources Board  
Craig Segall, California Air Resources Board  
Wesley Dyer, California Air Resources Board  
Thomas Andrews, California Air Resources Board  
Courtney Graham, California Air Resources Board  
Jakub Zielkiewicz, California Air Resources Board  
Brewster Birdsall, Aspen Environmental Group

PUBLIC COMMENT:

None

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Reporter's Certificate

Transcriber's Certificate

## P R O C E E D I N G S

1  
2 December 16, 2020 2:00 P.M.

3 COMMISSIONER DOUGLAS: All right. So good  
4 afternoon. This is the Committee Conference for the  
5 application for a small power plant exemption for the Sequoia  
6 Backup Generating Facility. I'm Karen Douglas, the presiding  
7 member of the Committee assigned to conduct proceedings on  
8 this application. Commissioner Patty Monahan is here today  
9 and is the associate member of this Committee. We're all  
10 participating remotely today using Zoom.

11 I'd like to first introduce the people in  
12 attendance today. My advisors Kourtney Vaccaro and Eli  
13 Harland. Jana Romero, Commissioner Monahan's advisor. Jim  
14 Bartridge, technical advisor to the commission on siting  
15 matters. Susan Cochran, the hearing officer for this  
16 proceeding. And as I said before, Commissioner Patricia  
17 Monahan. I'd also like to introduce RoseMary Avalos from the  
18 Public Advisors Office.

19 At this point I will ask the parties to please  
20 introduce themselves and their representatives starting with  
21 the applicant.

22 MR. GALATI: Thank you, Commissioner Douglas.  
23 Scott Galati representing C-1 Santa Clara which is a division  
24 of CyrusOne.

25 I have with me today also as panelists, and they

1 can introduce themselves in more detail when they speak. I  
2 have Robert Jackson who is the executive vice president and  
3 general counsel of CyrusOne. And John Hatem who is the  
4 executive vice president and chief operating officer of  
5 CyrusOne.

6 We also have on the phone as an attendee that can  
7 lend any information should it become necessary our air  
8 quality consultant Steve Branoff and Sarah Manzano.

9 COMMISSIONER DOUGLAS: Super.

10 MR. GALATI: Thank you.

11 COMMISSIONER DOUGLAS: Thank you, Mr. Galati.  
12 Staff?

13 MR. PAYNE: Hi, everybody. Leonidas Payne, project  
14 manager for staff. I've also got Joseph Hughes available in  
15 case there's any technical questions that come up on air  
16 quality issues. And of course staff counsel Lisa DeCarlo.  
17 And I'll throw it to her in case she has some additional  
18 introductions she wants to make.

19 MS. DECARLO: Good afternoon. No additional  
20 introductions. Thank you.

21 COMMISSIONER DOUGLAS: All right. Thank you.

22 Intervenors. Robert Sarvey.

23 MR. SARVEY: Yeah, this is Bob Sarvey, the  
24 intervenor. Thank you.

25 COMMISSIONER DOUGLAS: Thank you.

1           How about California Unions for Reliable Energy?

2           Okay. Now let me invite any public agencies to  
3 introduce themselves. Are there are any federal agencies  
4 that have joined us this afternoon?

5           All right. Let's go to state agencies. How about  
6 the California Air Resources Board?

7           MR. ANDREWS: Hi, this is Thomas Andrews with  
8 California Air Resources Board.

9           MS. GRAHAM: Hi, this is Courtney Graham, also with  
10 CARB.

11           COMMISSIONER DOUGLAS: Okay. Let me turn to local  
12 agencies. Anyone from the Bay Area Air Quality Management  
13 District?

14           Any other federal, state, or local government  
15 agencies or Native American tribes here with us this  
16 afternoon?

17           All right. Commissioner Monahan, do you have any  
18 opening remarks you'd like to make?

19           COMMISSIONER MONAHAN: No, I don't. I don't.  
20 Thank you.

21           COMMISSIONER DOUGLAS: Absolutely. So I will now  
22 hand over the conduct of this proceeding to the Hearing  
23 Officer Susan Cochran.

24           Susan, it's all yours.

25           MS. COCHRAN: Thank you so much. Good afternoon,

1 everyone, thank you for joining us today. As Commissioner  
2 Douglas indicated, I'm Susan Cochran, the hearing officer  
3 assigned to assist the Committee in concluding -- in  
4 conducting the proceedings on the Application for a Small  
5 Power Plan Exemption, SPPE, for the Sequoia Backup Generating  
6 Project that I will generically refer to as the project.

7           The Committee noticed today's Committee Conference  
8 on December 4, 2020. Before we proceed with the substance of  
9 today's conference, I would like to discuss some housekeeping  
10 issues. Consistent with Governor Newsom's Executive Order  
11 N-25-20 and N-29-20, the -- and the recommendations from the  
12 California Department of Health to encourage physical  
13 distancing to slow the spread of COVID-19, we are conducting  
14 this Committee Conference remotely using Zoom.

15           We have set up this Zoom meeting so that most  
16 participants will be able to mute and unmute themselves to  
17 speak and have the option to use the video feature. On Zoom,  
18 we look for the black bar at the bottom of your Zoom screen  
19 for your participation options. If you want to be  
20 recognized, please use the raise hand feature. If you are on  
21 your phone, press star 9 to raise your hand. If you have  
22 muted your phone by pressing star 6, please be sure to unmute  
23 yourself by pressing star 6 again. The raise hand feature  
24 creates a list of speakers based on the time when your hand  
25 was raised and we will call on you in that order.



1           The general public may speak during the time for  
2 the public comment toward the end of the conference.

3           A court reporter is present today who is taking  
4 down all of the discussion and who will prepare a transcript  
5 of what is said. To ensure that we have a complete and  
6 accurate transcript, I must ask that only one person speak at  
7 a time. Second, please identify yourself before you speak.  
8 When you speak for the first time, please say and spell your  
9 name slowly. Again, for the court reporter's purposes.  
10 Meeting remotely like this makes it harder for the court  
11 reporter and for me to identify who is speaking or who wishes  
12 to be recognized.

13           If you run into difficulties -- next slide, please.

14           If you run into difficulties, please contact the  
15 Public Advisor's Office or Zoom's help center. The  
16 information and contact information is included both in the  
17 screen currently on -- both in the slide currently on your  
18 screen as well as in the notice of today's hearing.

19           In addition, so that you know, this slide  
20 presentation will be put into the docket of this proceeding.

21           Are there any questions about how to use Zoom for  
22 today's conference? No raised hands.

23           Seeing then --

24           MS. DECARLO: Sorry, I apologize.

25           MS. COCHRAN: That's okay.

1 MS. DECARLO: I just got an e-mail from Drew Bohan,  
2 our executive director, asking to be promoted to panelist.

3 MS. COCHRAN: Okay.

4 MS. DECARLO: If that's possible. Thank you.

5 MS. COCHRAN: Thank you. I think that that is  
6 happening.

7 So at this point, I'm going to turn the meeting  
8 over to RoseMary Avalos from the Public Advisor's Office. In  
9 addition to the housekeeping matters I just discussed,  
10 RoseMary Avalos will discuss how the public can participate  
11 in the proceeding.

12 RoseMary?

13 MS. AVALOS: Thank you, Susan.

14 Hello, my name is RoseMary Avalos, and I work with  
15 the Public Advisor's Office performing work for siting  
16 proceedings. This presentation will provide ways to engage  
17 and stay updated in the Sequoia proceedings.

18 Next slide, please.

19 In every public event held by the CEC such as  
20 today's Committee Conference time, time will be carved out  
21 specifically for public comment and that is your opportunity  
22 to speak on record about issues that concern you. Providing  
23 public comments is your opportunity to participate informally  
24 as a public member.

25 Aside from providing verbal comments during events,

1 you can also provide comments in writing to the public  
2 advisor and she will relate the main points on your behalf.  
3 You may also submit written comments through our docket  
4 system and your comments will be included in the record.

5           During this time of the COVID-19 pandemic, the CEC  
6 has converted to using Zoom as its main platform for holding  
7 events online and provides instructions in its notices on how  
8 to participate.

9           Next slide, please.

10           To stay informed, we highly recommend you go to the  
11 Sequoia Data Center project web page to obtain the most  
12 current operation about the proceeding. Here's what the web  
13 page looks like. The red arrow points to the link where you  
14 can submit electronic comments. The blue arrow points to the  
15 e-filing link which is the preferred pathway for staff and  
16 parties to the proceeding to submit material.

17           The gold arrow points to the docket log link. The  
18 document log is a repository for documents filed by parties  
19 to the proceeding by Staff and for public comments. It's  
20 where you find all materials submitted for this proceeding.

21           The green arrow is a section where you'll sign up  
22 for the Sequoia Data Center ListServe. Signing up for the  
23 ListServe is very important, it's a lifeline to the  
24 proceeding.

25           Next slide, please.

1           Signing up with the proceeding ListServe is a  
2 voluntary procedure. We highly recommend it because it is  
3 the most efficient link to receive the most current  
4 information about the proceeding including alerts about what  
5 is happening in the proceeding and notifications about  
6 materials that has been docketed.

7           Next slide, please.

8           And we would like to emphasize the next significant  
9 opportunity where you may want to participate and provide  
10 public comment.

11          Next slide, please.

12          If you need assistance with any of the processes,  
13 contact the Public Advisor's Office. The best way to  
14 communicate with us during the shelter-in-place period is via  
15 email at the email provided on this slide.

16          Thank you very much.

17          Okay. Hand it over to you Hearing Officer Cochran.

18          MS. COCHRAN: Thank you so much, RoseMary.

19          Moving now to the substance of this Committee  
20 Conference. This concerns, as Commissioner Douglas said, the  
21 SPPE for the Sequoia Backup Generating Facility. The  
22 application for this proceeding was filed by the Applicant on  
23 August 14, 2019.

24          Briefly, the project concerns the installation of  
25 54 diesel powered backup generators each capable of providing

1 up to 2.25 megawatts of power to ensure an uninterruptible  
2 power supply for the Sequoia Data Center.

3           The project is located at 2600 De La Cruz Boulevard  
4 in Santa Clara, California. The application and many of the  
5 other documents I will be mentioning today are available in  
6 the online docketing system used by the Energy Commission.

7           Next slide, please.

8           As you see on the slide being shown right now, it  
9 shows you the address where you can look at the docket. In  
10 addition, you may contact the Public Advisor's Office for  
11 assistance in looking at documents or obtaining access to  
12 them.

13           The Committee issued its Proposed Decision for the  
14 project on August 21, 2020. That Committee Proposed Decision  
15 recommended that based on the hearing record of these  
16 proceedings, the CEC grant the requested exemption and adopt  
17 a mitigated negative declaration to address the project's  
18 potential environmental impacts.

19           The CEC conducted a public hearing on the Committee  
20 Proposed Decision on September 9, 2020. At the September  
21 20 -- at the September 9, 2020 business meeting, the  
22 California Air Resources Board, CARB, made oral comments  
23 concerning the project and its potential air quality impacts.

24           The Bay Area Air Quality Management District, which  
25 I will refer to as Bay Area, also raised concerns about the

1 project. The CEC ultimately voted to remand the project to  
2 the Committee to obtain additional information about CARB's  
3 and Bay Area's concerns.

4 The day after the September 9, 2020 business  
5 meeting, the CEC learned that the public had been unable to  
6 comment on the motion to remand. Accordingly, the CEC held a  
7 second hearing to reconsider the motion to remand on  
8 November 16, 2020. Between September 9 and September (sic)  
9 16, 2020, CARB filed written comments providing greater  
10 particularity about its concerns about the analysis of  
11 potential air quality impacts in the Committee Proposed  
12 Decision and its mitigated negative declaration.

13 On November 16, 2020, the CEC met to consider  
14 whether to affirm, affirm with modifications, or vacate the  
15 motion to remand adopted on September 9. After considering  
16 CARB's written comments along with the filings and comments  
17 from the parties and the public, the CEC voted to affirm the  
18 motion to remand with the following modifications. One, the  
19 Committee is directed to conduct limited additional  
20 proceedings to consider those comments raised by CARB and Bay  
21 Area in this proceeding that addressed one, input assumptions  
22 regarding NO<sub>2</sub> impacts from routine testing and maintenance;  
23 and two, direct and cumulative impacts of emergency  
24 operations of the project's backup generators. The Committee  
25 may address additional issues that arise during those

1 proceedings.

2 Two, in order to facilitate a timely resolution of  
3 this matter, the Committee is directed to report on progress  
4 in this proceeding to the full California Energy Commission  
5 at the January 2021 Business Meeting.

6 Based on the order to remand, the Committee issued  
7 noticed of today's Committee Conference. In that notice, the  
8 Committee issued an order that indicates that the Committee  
9 wishes to resolve the issues raised by CARB and Bay Area  
10 during the CEC's initial consideration of the proposed  
11 decision and adoption of the motion to remand. To that end,  
12 the Committee order directs the parties to address the  
13 following questions. One, is the Applicant's modeling relied  
14 on by staff in the ISPMND, Initial Study Proposed Mitigated  
15 Negative Declaration, adequate for the analysis of NO<sub>2</sub> impacts  
16 from routine testing and maintenance operations. If not,  
17 describe why the analysis is not adequate and what would cure  
18 the described inadequacies.

19 Two, can scenario modeling be used to bound a range  
20 of potential impacts from emergency operations? Are there  
21 other options to assess impacts of emergency operations? If  
22 so, how long would it take to perform these options?

23 The Committee Order also requested that the parties  
24 meet and confer to determine whether any of the outstanding  
25 issues identified in the order could be resolved among the

1 parties and to identify what issues remain in dispute. The  
2 Committee requested the parties provide a joint statement, if  
3 possible. If a joint statement was not possible, then the  
4 parties could submit individual statements.

5 In the order, the Committee also asked CARB and Bay  
6 Area respectively or jointly to provide any additional  
7 information or data they deem relevant to resolving the  
8 outstanding issues identified by the CEC in the order.  
9 Further, the Committee requested that CARB and Bay Area  
10 explain the relevance of any such information or data and how  
11 the Committee should utilize such information or data.

12 On December 14, 2020, Applicant and Staff and  
13 Mr. Sarvey all submitted individual statements. CARB and Bay  
14 Area submitted a joint recommendation. We appreciate those  
15 filings. The parties' filings indicate that Applicant,  
16 Staff, Mr. Sarvey, and CARB met on December 8, 2020 to confer  
17 about the issues and questions raised by the Committee. Bay  
18 Area did not participate in the meet and confer session.  
19 Staff and Applicant also included information that was  
20 discussed during a scoping meeting for another SPPE, the  
21 Great Oaks South Backup Generating Facility that I will refer  
22 to as Great Oaks.

23 Based on the filings, the Committee has the  
24 following remaining questions that we would like to hear from  
25 the parties and the representatives today as it relates to



1 the one-hour NO<sub>2</sub> standard for routine testing and maintenance.  
2 Based on the discussions with the CARB representative during  
3 the Great Oaks scoping meeting, both Staff and Applicant  
4 believe that CARB agrees with Applicant's modeling approach  
5 as relied upon by Staff and the ISPMND. Therefore the  
6 Applicant and Staff believe that the modeling already  
7 contained in the record should be deemed sufficient and no  
8 additional analysis required.

9 Is this an accurate reflection of what the parties'  
10 positions are as according to Staff and Applicant?

11 Applicant? Staff? Ms. DeCarlo?

12 MS. DECARLO: Lisa DeCarlo. Yes, that is our  
13 understanding based on conversations we had in Great Oaks  
14 South that the Sequoia analysis fully encapsulates the agreed  
15 upon approach, at least as per the discussion in the Great  
16 Oaks South scoping meeting.

17 MS. COCHRAN: Okay. Thank you for that.

18 Does anyone disagree with that?

19 MR. GALATI: This is Scott Galati. We agree as  
20 well that the issues that were discussed in Great Oaks South  
21 were in detail and in-depth and we believe that the modeling  
22 that was done in Sequoia meets what was agreed in Great Oaks  
23 South.

24 MS. COCHRAN: Thank you.

25 Representatives from CARB, do you agree with

1 Applicant's modeling approach for compliance with the one-  
2 hour NO<sub>2</sub> standard based on what you learned during the Great  
3 Oaks scoping meeting?

4 MR. ANDREWS: Hi, this is Tom Andrews with CARB.

5 Some other possible modeling options were discussed  
6 during the recent Great Oaks South scoping meeting. However,  
7 these modeling options are less conservative and thus would  
8 require greater technical justification to ensure that  
9 ambient air quality public health standards are protected.

10 If one of these other modeling options are being  
11 considered, CARB will be happy to review any modeling  
12 protocol detailing their approaches that are proposed for  
13 this evaluation.

14 CARB, as we discussed in our October 15, 2020  
15 filing is -- we do not agree with the approach it's adequate  
16 that was used by the Applicant. It revise -- this isn't  
17 specific to the one-hour NO<sub>2</sub> state standard. The Applicant's  
18 evaluation relied upon by the CEC Staff uses a five-year  
19 average of the third highest value of the background hourly  
20 data. We don't think it's appropriate to use a multiyear  
21 average of the background NO<sub>2</sub> for this evaluation because the  
22 one-hour California state NO<sub>2</sub> standard is a simple not to  
23 exceed one-hour average standard.

24 For purposes of modeling compliance with the one-  
25 hour NO<sub>2</sub> state standard, the maximum modeled 102, NO<sub>2</sub> impact

1 for the proposed project should be added to the maximum one-  
2 hour NO<sub>2</sub> background level. As I previously stated while there  
3 might be some other modeling approaches that can be used,  
4 these would have to be further evaluated by CARB and the best  
5 way to do that is in a modeling protocol prepared by the  
6 Applicant and submitted to CARB for review.

7 MS. COCHRAN: Okay. Is there a way for Staff and  
8 Applicant to provide an explanation of how the modeling  
9 previously used can address and resolve these concerns from  
10 CARB's October 15, 2020 written comments? And what would the  
11 timing of that be?

12 MR. GALATI: This is Scott Galati. My  
13 understanding is the following, Ms. Hearing Officer. The  
14 Applicant's modeling did do an hourly average. But we  
15 believe that Staff actually in its analysis did the more  
16 conservative approach on using the seasonal max to determine  
17 what the ultimate impacts are. So the question asks whether  
18 the Applicant's modeling was appropriate for them to rely  
19 upon which we believe it was but I think that Staff did some  
20 more conservative I would say evaluation of that modeling.  
21 And I'll let Staff describe that.

22 MR. PAYNE: Susan, this is Leonidas Payne. I just  
23 saw a chat go up from Joseph's cue asking that Brewster  
24 Birdsall be promoted and it's possible that he might have a  
25 comment on this specific modeling-related question. So I'm

1 hoping we can make that happen.

2 MS. COCHRAN: Please promote Brewster.

3 So understand that today's hearing is not to  
4 actually resolve this, it's to figure out the path forward to  
5 finish this proceeding to get to a place where we can have a  
6 committee-proposed decision considered by the Commission  
7 again. But I do want to -- so that's where my questions are  
8 focused on, what's the timing going to be? How are we going  
9 to resolve these issues?

10 So I'm being told that Brewster was made a  
11 panelist. Mr. Birdsall, are you on the call? Or on the  
12 Zoom?

13 MR. BIRDSALL: Can you hear me?

14 MS. COCHRAN: Yes. Thank you.

15 MR. BIRDSALL: Okay. Thanks, everybody. Maybe I  
16 will hide my video just so I do not get so distracted.

17 I believe that Mr. Andrews commented specific about  
18 the use of the season hourly dataset which is a -- a  
19 representation of the background NO<sub>2</sub> concentrations. And  
20 we -- we do explain this in the initial study that we relied  
21 on the -- on the Applicant's processing of the seasonal  
22 hourly background dataset.

23 And what that means is that for a typical day in  
24 every season, we have 24 individual background numbers. And  
25 that means one background number for every hour of a typical

1 day in each of four seasons. So the background is carved up  
2 into 24 times 4 different background hours. And this  
3 approach is similar to how applicants have come in with --  
4 with their treatment of the background information on other  
5 cases and so we've been using it for other cases as well.

6 And my understanding is that when I was listening  
7 to the Great Oaks South scoping meeting, that ARB in general  
8 does not object to this treatment of the background  
9 concentrations. And to get to stay a little bit more in the  
10 technical weeds for just another moment, Mr. Galati is  
11 correct that when we received the Applicant's work for the  
12 modeling of individual one-hour high concentrations, the  
13 Applicant's work had included a certain amount of averaging.

14 And then again this is explained in the initial  
15 study. What Staff did during our review and what I did was I  
16 took away the averaging of the project's one-hour NO<sub>2</sub> impacts  
17 that the Applicant had imbedded in its model and I took away  
18 that averaging to examine the highest instance of NO<sub>2</sub> impacts  
19 from the facility itself.

20 And so I took an approach that is less conservative  
21 than the Applicant's and I put that result into the initial  
22 study. And that is -- that is less conservative than the  
23 Applicant's approach for the project's specific impact. I  
24 think -- I think to talk about a modeling protocol at this  
25 point would really turn --

1 (Background voice interruption)

2 MR. BIRDSALL: Excuse me. To talk about a modeling  
3 protocol at this point would put the clock way back to the  
4 beginning.

5 So I'll pause here and just say that normally a  
6 modeling protocol would be the kind of document that would be  
7 reviewed prior to even submitting an application, let alone  
8 an application supported by an environmental assessment like  
9 the one filed in an SPPE case.

10 So I'll pause here and see if there are any  
11 questions.

12 MS. COCHRAN: Okay. So turning back to  
13 Mr. Andrews, having heard the discussion, does that alter  
14 what you said initially or is your position still the same  
15 that -- that you want the max one-hour versus the max  
16 background? Am I understanding that correctly?

17 MR. ANDREWS: Yes. That's -- this is Tom Andrews  
18 with CARB. That's what we want done and we don't think  
19 that's what's been done to date. And we want that evaluation  
20 done and the results published.

21 And as I said earlier, yes, there are other  
22 approaches that can be used, but they're less conservative.  
23 So that needs to have additional level of consideration done  
24 and reviewed. That's why we are proposing a modeling  
25 protocol.

1 MS. COCHRAN: That's not my line that was -- that  
2 had the back chat.

3 Okay. So I'm not sure -- so is there a way -- what  
4 is the best way, then, for us to move forward and get this  
5 technical issue resolved? Is it they -- would a tech panel  
6 discussion be appropriate?

7 Mr. Galati, since you're the Applicant, I'm going  
8 to look to you for your suggestion first.

9 MR. GALATI: If the goal is to get CARB to agree to  
10 the modeling, I have no idea how long that will take, if that  
11 is the goal. We certainly had discussions which I thought we  
12 made progress and I have not heard Mr. Andrews say that he  
13 would accept modeling that looks at the seasonal max which is  
14 what I thought we were in agreement at Great Oaks South.  
15 Otherwise, we've spent a lot of time at Great Oaks South not  
16 getting anywhere.

17 If that is the direction of what workshopping does  
18 without coming to a conclusion specifically or a  
19 recommendation to go back to square one and submit a modeling  
20 protocol, that's not something that can be done anytime soon.  
21 And so we would prefer if that's what we needed to do, to  
22 actually go to evidentiary hearing on this point and have you  
23 listen to the experts describe what's conservative, what's  
24 not conservative and make a decision rather than go back to  
25 the drawing board and try to identify exactly what CARB will

1 accept.

2 I know that doesn't seem very helpful and I  
3 apologize. I just --

4 MS. COCHRAN: No. It --

5 MR. GALATI: -- don't see how to get it done.

6 MS. COCHRAN: It's understandable. I -- I  
7 understand as well. But can -- if -- if the Committee were  
8 interested in using the approach that CARB is suggesting,  
9 what is the amount of time that would be necessary? Do you  
10 have even a ballpark?

11 I know -- I know because of the season that that's  
12 delaying things as well. But is there a ballpark for this?

13 MR. GALATI: The best ballpark I can give you is  
14 when we set out to prepare an application, we usually have an  
15 air quality consultant that takes 12 weeks to go from the  
16 beginning of the project to an air quality report. And part  
17 of that is setting up the modeling.

18 So let's assume that we could use the modeling  
19 setup and that CARB's not asking for any of those changes,  
20 then I imagine that it would be on the order of six to eight  
21 weeks to review all the testing and modeling with  
22 reconfiguration of the background. But I would defer to  
23 Brewster on that. But I don't think it's something that can  
24 be done very quickly.

25 MS. COCHRAN: Okay. Thank you for that.



1           Staff, did you wish to be heard on the timing  
2 question or any of the other issues that we've just talked  
3 about?

4           MS. DECARLO: Lisa DeCarlo for Staff. I'll just  
5 jump in here and then invite Brewster or Joey or Leonidas to  
6 jump in as well.

7           I don't have anything to add about the timing. I  
8 would say, though, or request that if the Committee is  
9 considering further discussions of these issues, that they be  
10 Committee-led discussions. We feel that that is the only way  
11 to try and reach some resolution. You know, we've had lots  
12 of conversations with the agencies and it's very hard to come  
13 to a concrete conclusion on some of these issues and progress  
14 forward. So we think that perhaps the Committee's continued  
15 involvement might help facilitate that.

16           MS. COCHRAN: And then additional question for you,  
17 Ms. DeCarlo and your clients, do you understand exactly what  
18 CARB wants? That's probably more a question for your tech  
19 experts but I'll take your answer too, please.

20           MS. DECARLO: Well, we understand max is max. We  
21 don't believe that it represents a realistic analysis of what  
22 could occur in real life in terms of missions.

23           We don't -- we thought we understood what some of  
24 these alternative approaches could be acceptable to CARB and  
25 we thought we had agreement that Sequoia met those

1 requirements. But now we're hearing that those now need to  
2 be vetted. So I guess these alternative approaches would  
3 require further discussion, it seems, from CARB's position.

4 MS. COCHRAN: That's fair enough.

5 Those are the questions I had about the routine  
6 testing and maintenance protocols. Does anyone else have  
7 anything about that issue that they wish to discuss? Routine  
8 testing and maintenance.

9 MR. SARVEY: Hello, this is Bob Sarvey.

10 MS. COCHRAN: Please, Mr. Sarvey. I'm so sorry I  
11 forgot to call on you.

12 MS. SARVEY: I'm used to that.

13 MS. COCHRAN: No, it's my fault because I can't see  
14 your name, so it's my fault.

15 MR. SARVEY: Well, the existing record contains  
16 ambient air quality data from 2018 and the analysis performed  
17 by the ISPMND by adapting only use data up to 2017. Record  
18 contains the 2018 data being used. Should be used for both  
19 NO<sub>2</sub> and PM<sub>2</sub> other. And I agree with CARB and still my  
20 position both proceeding that don't use average for the  
21 background, use the max for one-hour background.

22 This was -- that was always done at every  
23 proceeding I've been except the (indiscernible) Data Center.  
24 Suddenly they've changed their way of evaluating one-hour  
25 (indiscernible). And I don't understand that. I agree with

1 CARB (indiscernible) information substitute the background in  
2 there. Thank you.

3 MS. COCHRAN: Thank you, Mr. Sarvey. And I will --  
4 and again, I apologize for not recognizing you sooner.

5 Is -- Applicant, did you want to have the last word  
6 on routine testing and maintenance?

7 MR. GALATI: No, thank you.

8 MS. COCHRAN: Okay. So next I wanted to turn to  
9 the direct and cumulative air quality impacts of emergency  
10 operations. And based again on the filings submitted by  
11 Staff, Applicant, Mr. Sarvey, Staff and Applicant appear to  
12 agree that scenario modeling can be used to identify a range  
13 of potential impacts that could be associated with emergency  
14 operations.

15 Could Staff or Applicant or anyone who wishes to  
16 identify the process they propose for determining the  
17 scenarios to be modeled?

18 I know, Mr. Galati, that you had included some  
19 language in your filing that talked about things in the first  
20 part of January of next year. And I was wondering if you  
21 could -- if you could give us a little bit more detail about  
22 that.

23 MR. GALATI: Yeah, I'm happy to do so. Thank you  
24 very much. This is Scott Galati.

25 And again, I just wanted to -- I didn't a chance to

1 thank the Committee for actually scheduling this conference  
2 for us to be heard, we really appreciate that. And we also  
3 thank the Committee for writing down questions because I  
4 don't think that we've really understood exactly what we're  
5 trying to accomplish. So appreciate that, gave us something  
6 to shoot for.

7           It's not surprising that we don't have agreement on  
8 emergency operations and how to model them. It's not been  
9 done in the state, there's not a protocol for it. There's  
10 memos that say not to do it, no district does it. We even  
11 have another district participate at the Great Oaks South  
12 really concerned about trying how to do it. So it's not  
13 surprising that we are having difficulty coming up with the  
14 assumption for exactly why the Commission has difficulty with  
15 it to begin with and that is that they're speculative. So  
16 you can choose assumptions based on what you would like maybe  
17 the outcome to be.

18           So we don't know if further conversations are going  
19 to get to a point where the CARB, the district, the  
20 intervenor, and Staff would all agree. We don't even think  
21 they're fruitful, especially after what we believe has  
22 happened. I walked out of the Great Oaks South workshop  
23 thinking we have some way to go forward. I'm not -- not very  
24 comfortable that we're ever going to get there.

25           So we just said we would shortcut it. We'll do a

1 modeling analysis, everybody can look at it, and we should go  
2 to evidentiary hearing on it and you can hear from the  
3 experts, and we can defend it. But the idea that we're going  
4 to be able to at this late date in the proceeding and with  
5 what's difficult to do when we sit down with the agencies,  
6 including the fact that sometimes the agencies send technical  
7 people but they can't agree to find the agency and say yes.  
8 And when they go back, we think what happens is there's a no.

9           So I don't think the workshop process, and remember  
10 I was the one that really wanted the workshop process, I  
11 don't think the process will be fruitful here. What I think  
12 we need is Committee direction and Committee decision. So  
13 what we're planning to do is if we can't resolve this through  
14 some sort of agreement to change the technology, what we  
15 would propose is that we file our modeling analysis with a  
16 clear outline of all the bases of our assumptions and that  
17 everybody can comment and look at that analysis, we go to  
18 evidentiary hearing based on it and move forward.

19           So what we're trying to do is to get this done as  
20 quick as possible, we were on the verge of approval and we're  
21 trying to claw that time back.

22           MS. COCHRAN: Mr. Galati, I have a question about  
23 what you just said. In terms of if you were to -- if we were  
24 to say prepare your model and submit it and then we'll have  
25 analysis and discussion and evidentiary hearing on it, how

1 long would it take to run the model? How will you inform us  
2 of the assumptions used in the model or the parameters used  
3 in that modeling so that everyone has a full and fair  
4 understanding of how the model was -- the modeling was done?  
5 Because that seems to be, I think, part of the issues here,  
6 too, is understanding what the inputs are.

7           So can you -- and again, I'm looking for time  
8 frames.

9           MR. GALATI: We think that in early January to mid-  
10 January we could submit a modeling result report that also  
11 has all of the bases for the assumptions identified.

12           MS. COCHRAN: Okay. And in -- I'd like to, though,  
13 delay discussing the change of the equipment option,  
14 that's -- I have that later on. And but we can take it up  
15 now. But I think I'd like to hear from the other parties  
16 starting with Staff about this approach of having this  
17 modeling run and then proceeding to something else versus  
18 having more of the workshop.

19           I understand, Mr. Galati, your concern about having  
20 decision makers present to make sure that everyone has agreed  
21 to what -- how we're moving forward. Is that -- that's what  
22 I think I just heard you say.

23           MR. GALATI: I think -- I don't -- unless the  
24 Commission -- unless the decision makers tell us this is what  
25 we will do, I don't believe that we'll come to an agreement.

1 MS. COCHRAN: Okay.

2 MR. GALATI: So for me, I'd rather you just go to  
3 evidentiary hearing and do exactly that.

4 MS. COCHRAN: Okay. Staff, did you have any  
5 comments on the approach outlined by Mr. Galati?

6 MS. DECARLO: Yes. Lisa DeCarlo. Yes, we're in  
7 agreement with that approach. We have been talking at a high  
8 level with the agencies and all the parties on what  
9 parameters could be identified. And we haven't really made  
10 much progress on pinning down specific details. And so I  
11 think at this point, it makes sense just to have the  
12 Applicant do their best what they think is a reasonable  
13 modeling assumption approach and Staff can review it. We  
14 might identify other potential scenarios we think should be  
15 looked at as well, we might not. But I think at this point  
16 it would be helpful to have an actual applied model to talk  
17 about.

18 MS. COCHRAN: Okay. Thank you for that.

19 Mr. Sarvey.

20 MR. SARVEY: Yes, thank you. Wanted to say that  
21 Mr. Galati is incorrect that an emergency modeling is not  
22 performed by air quality California. And the record contains  
23 evidence that that can be performed (indiscernible) modeling  
24 Santa Clara Data Center. In that case they modeled it and  
25 determined they had to limit the hours of operation.

1           One problem has been identified by Staff in  
2 determining (indiscernible) data center engines would be  
3 running in emergency operation. And Mr. Galati informed us  
4 at the meet and confer that generally all generators are  
5 operating during emergency operations sharing the load of the  
6 data center and they keep all generators operating in case  
7 one fails, there's one right there to replace it.

8           I believe worse case, Air Quality should  
9 (indiscernible) this background, since background is  
10 experienced all (indiscernible) already this year. And these  
11 engines will likely operate in some sort of power outage or  
12 ESPS and there's definitely going to be foul air quality.  
13 But that's my put on. So.

14           MS. COCHRAN: Okay. Thank you.

15           So we've talked about modeling. My next question,  
16 then, is what thresholds of significant -- what would be the  
17 identified threshold of significance that we would apply to  
18 analyze the results? So it's one thing to have the numbers,  
19 how then do we determine whether the numbers show a  
20 significant impact?

21           MR. GALATI: This is Scott Galati. I think that as  
22 I look down the chessboard, we're coming back to no matter  
23 what happens, we're coming back to how frequently do we  
24 predict it would happen?

25           I don't see a way to come up with a threshold. So



1 for example, if you came up with a threshold that said if  
2 there is one violation over the life of the project during an  
3 emergency for one hour, that is a significant impact. That  
4 is likely to be the case whether you modeled Tier 2 operating  
5 or Tier 4 operating, there's likely an hour where there's a  
6 violation.

7           So you have to ask yourself how likely is there an  
8 emergency that occurs during that meteorological condition  
9 that would happen during that hour? No matter what, we get  
10 down to the frequency of an emergency event and the  
11 probability of the coinciding with the right conditions to  
12 make an impact. So I can't -- I don't know what the  
13 threshold would be. And that's one of the reasons why we've  
14 been arguing that this is not useful information.

15           So I can't answer that question what should the  
16 threshold be? For my perspective, it should be is this  
17 occurrence frequent enough that you can predict that these  
18 impacts will happen? If it is, that's a significant impact.  
19 If it isn't, it crawls right in the -- in the case law on  
20 speculative analysis.

21           I would point out that the frequent, you know, in  
22 order to do the probability that emergency operations would  
23 happen at the right time and under the right circumstances to  
24 cause an impact, that probability would be much lower than  
25 the probability than an emergency would happen at all. And

1 you've done that analysis.

2 MS. COCHRAN: My understanding was that from the  
3 Great Oaks scoping meeting was that it was going to take the  
4 numbers from the model and view it through the lens that  
5 you're talking about, Mr. Galti, that is the probability of  
6 it all.

7 Do -- CARB --

8 MR. GALATI: (Indiscernible.)

9 MS. COCHRAN: I'm sorry, go ahead.

10 MR. GALATI: I apologize, I thought that CARB moved  
11 off of that already. I thought we had an agreement there and  
12 I was informed that we do not.

13 MS. COCHRAN: Mr. Andrews, are you still online?

14 MR. ANDREWS: I am.

15 MS. COCHRAN: Could you -- could you speak to this  
16 issue of emergency operations and the numerical values versus  
17 the likelihood of an occurrence and where -- where your  
18 agency is?

19 MR. ANDREWS: CARB's Staff position is two part.  
20 First part, we would like a modeling analysis done looking at  
21 a range possible operating its scenarios with multi engines  
22 operating due to these emergency conditions. And do -- and  
23 that could be based on information supplied by the Applicant  
24 in terms of expected buildout of their facility. In other  
25 words, the phased increase of megawatts due to low server

1 load increases and then model those results using much of the  
2 modeling parameters that have already been developed for the  
3 project to do the modeling to date, come up with ambient  
4 impacts, and then compare those impacts to relevant  
5 standards. We believe ambient air quality standards would be  
6 relevant because we don't know of any legal exemption from  
7 those standards due to the operation of any type of facility  
8 for any reason.

9           Then it's, you know, the whole discussion of  
10 probability should be greatly examined in terms of how often  
11 this may or may not occur. And so that would be the second  
12 part which is looking at the probability issue. So it's a --  
13 part one is do the modeling, compare to relative standards,  
14 those would also include ambient air quality standards,  
15 publish those results, and then discuss in detail probability  
16 of this event occurring/not occurring.

17           MS. COCHRAN: And Mr. Andrews, do you have an  
18 understanding of how many violations of AAQS would be a  
19 significant adverse impact?

20           MR. ANDREWS: No, I do not. I'm sorry.

21           MS. COCHRAN: It's okay. Is there -- is there --  
22 is there somewhere else? Is there a CAPCOA document the --  
23 is there some published standard already or are we being  
24 tasked with creating our own standard, our own threshold of  
25 significance here?

1 MR. ANDREWS: Well, one could look at just in terms  
2 of the probability and whether that is significant or not.  
3 One could look at a variety of documents, one being the  
4 CAPCOA guidance and the kind of general standard, that is the  
5 one-hour federal standard which is a statistical probability-  
6 type standard. And that sort of approach in terms of not  
7 looking at -- or looking at a percentile of what the impact  
8 is which is a form of statistical probability could be used  
9 as one of the guideline documents.

10 Another thing that could be looked at is just how  
11 ambient monitoring data is used to determine attainment,  
12 nonattainment in certain areas because there's a certain  
13 probability there that's used that removes some outlier-type  
14 peak results.

15 So anyway, there are some documents around about  
16 that that could be included in this probability analysis that  
17 goes to whether or not the results are -- remain to be  
18 significant or not.

19 MS. COCHRAN: Okay. Thank you for that.

20 Mr. Sarvey, did --

21 COMMISSIONER MONAHAN: Okay. Can I -- can I ask a  
22 question on that?

23 MS. COCHRAN: Yes, please.

24 COMMISSIONER MONAHAN: So Mr. Andrews, I'm just, I  
25 was trying to -- I've listened very carefully to what you

1 were saying and I think the specific question of that is  
2 there guidance that we can use to inform modeling of  
3 emergency operations? What I heard, and please correct me if  
4 I got that wrong, is that there are a lot of guidance  
5 documents but none specific to that question that we would  
6 indeed be doing for analysis to a self-generating new  
7 analysis around emergency operations that doesn't currently  
8 exist.

9 MR. ANDREWS: I think -- this is Tom Andrews of  
10 CARB. I think it is true that there's going to be few  
11 guideline documents regarding how to do impact analysis for  
12 emergency operations, I believe that's true. However, there  
13 will be some. And the very nature of the federal one-hour NO<sub>2</sub>  
14 standard being a probability of something occurring over  
15 multiple years is a form of looking at the probability that  
16 these peak impacts that just don't happen that often can kind  
17 of be mathematically smoothed out.

18 And so yes, there's not that much guidance on  
19 emergency operations, that is correct. But there is some and  
20 some was referred to in terms of when the federal one-hour NO<sub>2</sub>  
21 standard was developed.

22 MS. COCHRAN: And again, looking at the timing,  
23 we're saying that this is several weeks/months out; is that  
24 correct? In order, in other words, to get the modeling done  
25 where everyone agrees for us to determine the threshold of

1 significance and then make the analysis available for review  
2 and hearing.

3 Am I -- is -- am I understanding correctly?

4 MS. DECARLO: This is Lisa DeCarlo, I'll just jump  
5 in.

6 Yeah, based on conversations we've been continuing  
7 to have, I really don't see us reaching agreement on  
8 significance until -- and I --

9 MS. COCHRAN: In the modeling?

10 MS. DECARLO: And I hate to say that because I do  
11 think that is putting the cart before the horse. I think we  
12 really should have an understanding of what should be  
13 considered significant before we engage in the modeling. But  
14 that -- that might not be the most expeditious way to handle  
15 it, this instance, and it might not be feasible in terms of  
16 getting people to actually commit to an opinion, an expert  
17 opinion on that.

18 MS. COCHRAN: Mr. Andrews, is there a document or  
19 documents you could point Staff and Applicant to as we work  
20 through these issues of modeling and thresholds of  
21 significance that we could rely on to -- to use in making  
22 this analysis? And is that something that CARB could put in  
23 the docket for us to all be able to see?

24 MR. ANDREWS: This is Tom Andrews. We -- CARB  
25 would, can certainly try to find those documents and docket

1 them. Also I believe that perhaps the CEC Staff has also  
2 been looking at collecting district guidance documents on  
3 emergency operations. Some of them may just say not to do  
4 the modeling at all. But --

5 MS. COCHRAN: Uh-huh.

6 MR. ANDREWS: -- we can certainly, I think, work  
7 together and come up with a kind of a clearinghouse of all  
8 these documents and docket them and do the best we can to  
9 collect them.

10 MS. COCHRAN: Mr. Galati, I see that you've turned  
11 your camera on, did you wish to speak? You're muted, Scott.

12 MR. GALATI: I apologize.

13 MS. COCHRAN: No.

14 MR. GALATI: Scott Galati. Mr. Hatem from CyrusOne  
15 would like to speak. Would that be appropriate?

16 MS. COCHRAN: Absolutely. Please go ahead.

17 MR. HATEM: Thank you, Ms. Cochran.

18 Mr. Andrews, I'm just curious, when you guys look  
19 at this and, you know, we think about this as two parts,  
20 right, for our diesel engine operations. You know, one is  
21 obviously we do testing so we'll run one at a time, you know,  
22 for a very short period of time. And then, you know, two  
23 days or a week later we've run another one. So that's one  
24 part of the emission's calculation, obviously.

25 But when we think about -- or when you think about

1 as CARB, the emergency operation, I mean, you know, from a  
2 data center operator's perspective, we think of that as the  
3 utility itself typically is three nines reliable, right?  
4 And, you know, statistically that means that the utility will  
5 be down for, you know, about 8.7 hours a year which means we  
6 would be running on our generators at that point.

7           Is that the generalization that you guys would take  
8 when you think about the modeling of the emissions? Or is  
9 it, you know, worst case scenario where the utility's been  
10 down for weeks? I'm just -- I just want to understand -- and  
11 I appreciate the time, I appreciate all the work that  
12 everybody's been doing on this. I'm just curious.

13           MR. ANDREWS: Yes, this is Tom Andrews with CARB.

14           We're mainly, CARB Staff is mainly focused on the  
15 short-term ambient air quality standards and the short-term  
16 toxic standards during these emergency events.

17           So that's really a one-hour impact for the most  
18 part. And so this emergency operation evaluation that we're  
19 discussing is focused on this theoretical hour where multiple  
20 engines need to operate at one data center. Then it comes  
21 down to a couple of questions for that hour. How many  
22 engines running at what load and the duration?

23           Almost all of those parameters have been evaluated  
24 to date for this project because for the various modeling  
25 that's been done, the emission rate, exhaust parameters for



1 the engines at the various operating loads have already been  
2 evaluated and looked at in the screening modeling. So much  
3 of that's already there. It's just a matter of for your  
4 phased expansion of your data center, how many megawatts  
5 would be needed for this theoretical hour due to your built,  
6 expected buildout. And that could be less than a hundred  
7 percent, it's just you get to justify it.

8           But then it's just a matter of how many engines to  
9 run, what load to provide that megawatt. It may not be every  
10 engine a hundred percent load, it may be several engines at  
11 75 percent load because such is a better load for them.  
12 You're more of an expert at that than I and then evaluate  
13 those short-term impacts associated with that operation.

14           MR. HATEM: Okay. I -- Mr. Andrews, I really  
15 appreciate that. I -- so it's really about -- it's really  
16 about that long, that one hour, right, and what the positions  
17 are.

18           MR. ANDREWS: Yes. Because the longer term impacts  
19 have already been evaluated for this project. So it's really  
20 just short-term impacts.

21           MR. HATEM: Understood. Thank you, Mr. Andrews and  
22 Ms. Cochran for the time.

23           MS. COCHRAN: You're very welcome.

24           Mr. Sarvey, did you have any comments on the  
25 discussion that's just been going about thresholds and

1 theoretical hours and the modeling analysis for emergency  
2 operations?

3 MR. SARVEY: Yes, I do. Traditionally sees that  
4 (indiscernible) power plant site participated in considers  
5 any violation of an ambient air quality standard as a  
6 significant impact. (Indiscernible.)

7 As I stated before back when all of (indiscernible)  
8 model (indiscernible) Santa Clara Data Center proceeding.  
9 Look at the Santa Clara Data Center proceeding  
10 (indiscernible) install (indiscernible) for the modeling  
11 protocol.

12 Mr. Galati stated that the Commission's  
13 (indiscernible) occurrence operate (indiscernible) analysis  
14 would SPPE (indiscernible) concluded that emergency operation  
15 only occur when the facility has a power outage initiated by  
16 SPPE. (Indiscernible) analysis concluded there were only two  
17 outages in the last ten years which affected (indiscernible).  
18 (Indiscernible) information Great Oaks proceeding for the  
19 period of 11/27/19 through 9/16/20, a period of ten months.

20 That ten months over ten data centers experienced  
21 emergency operation of the generators that were not related  
22 to the August 14 (indiscernible) rolling blackout events.  
23 Few of the data centers had multiple episodes. Since there  
24 are three data centers in Santa Clara, the probability of  
25 outages is well over 10 percent (indiscernible) for any data

1 center.

2 Vast conclusion ride upon this Post Decision is  
3 that there's 1.6 chance of any data center operating  
4 generators (indiscernible). Thank you.

5 MS. COCHRAN: Thank you, Mr. Sarvey.

6 I'm about ready to move on to the next topic I have  
7 and I wanted to make sure that everybody has had their say.  
8 Is there anyone else who wishes to speak on the emergency  
9 operation modeling question thresholds of significance, et  
10 cetera?

11 Okay.

12 MS. DECARLO: Sorry, I'm always late.

13 MS. COCHRAN: No, no, it's okay.

14 MS. DECARLO: Not to throw in another wrench but  
15 just to make sure this is on everyone's radar, and I don't  
16 know if it bears discussion now but another point to  
17 consider, too, in the evaluation is whether or not we're  
18 evaluating impacts at the fence line or at the receptor.

19 MS. COCHRAN: Thank you.

20 MS. DECARLO: CARB may have a different opinion on  
21 that, then -- and I'm not sure that staff has a concrete  
22 opinion at this point. I think we're leaning more towards  
23 receptor makes more sense when you're looking at actual  
24 impacts to a human being. But anyway.

25 MS. COCHRAN: Mr. Andrews, do you have thoughts

1 right now about fence line versus receptor?

2 MR. ANDREWS: Well, this is Tom Andrews with CARB.  
3 We certainly want all receptors analyzed where theoretically  
4 because this is we're focused on a one-hour impact here for  
5 this emergency modeling so this is the theoretical hour where  
6 someone outside the fence line could be exposed. So everyone  
7 has to be cautious about starting to remove receptors from  
8 the modeling grid because as you know, typically the modeling  
9 grid goes from the fence line outward several kilometers in  
10 all directions. And so I think we have to be very careful  
11 starting to remove those receptors because there are pits  
12 access to the public beyond the fence line and that's --  
13 we're trying to protect public health.

14 So I don't think at this point I can really commit  
15 on whether or not we can just remove fence line receptors.  
16 So I'm sorry.

17 MS. COCHRAN: That's all right. I wasn't looking  
18 for a commitment, I was just looking for sort of an initial  
19 reaction. And I think the initial reaction I'm hearing is  
20 receptors as Ms. DeCarlo said Staff was leaning towards.

21 Mr. Galati, I saw that you had your video on for a  
22 moment. Did you have another comment you wished to make?

23 Okay. I'm going to take that as a no.

24 So last --

25 COMMISSIONER DOUGLAS: Mr. Galati, are you trying

1 to speak? You're muted.

2 MR. GALATI: Yeah, sorry about that.

3 MS. COCHRAN: That's okay.

4 MR. GALATI: I promise I won't do it again. I'll  
5 address an evidentiary hearing, we have a good answer for the  
6 information that was provided by the Bay Area Air Quality  
7 Management District that Mr. Sarvey just identified as  
8 proving that generators run a lot more. Those -- the vast  
9 majority, if not all, of those reporting for the last year  
10 were during the emergency heat events covered by the  
11 governor's executive order. I just couldn't let that stand.  
12 I don't want the Commissioners to believe that Staff or we  
13 have underestimated in Silicon Valley power service territory  
14 what the actual operations of emergency generators have been  
15 for the last ten years.

16 MS. COCHRAN: Okay. Okay, thank you for that.

17 MR. SARVEY: That expectation --

18 UNKNOWN SPEAKER: Hearing Master Cochran --

19 MS. COCHRAN: I'm sorry, one at a time. I heard  
20 Mr. Sarvey first. And then I believe Mr. Andrews, you were  
21 after that.

22 So, yes, Mr. Sarvey, please.

23 MR. SARVEY: I did an analysis in fact, it's  
24 submission it in Great Oaks and I can run by for you real  
25 quickly. As I said, there's over ten data centers that have

1 had events outside the power outage, I can tell you exactly  
2 what they were if you want me to go through them.

3 MS. COCHRAN: No. Mr. Sarvey, again, we're not  
4 trying to resolve the issues today. What we're trying to do  
5 is to figure out the path forward to resolving them. And  
6 so --

7 MR. SARVEY: Well, I'll trying -- I'm just trying  
8 to correct an incorrect statement.

9 MS. COCHRAN: Okay. And -- and sorry?

10 MR. SARVEY: And so --

11 MS. COCHRAN: Go ahead.

12 MR. SARVEY: The statement that most the outages  
13 and (indiscernible) some issue related to the August 14, '16  
14 events is incorrect. As I said, there's ten data centers  
15 that actually were impacted outside those day. And some of  
16 them were significant. Some of them used a lot of diesel  
17 fuel, one of them used as much as much as 13,700 gallons of  
18 diesel fuel.

19 So I'm not buying this that all these submissions  
20 backing data centers all ran during August 14, '16. It's  
21 just not (indiscernible). I looked at the data, I've already  
22 analyzed it, and I can send you guys the information if you  
23 want.

24 MS. COCHRAN: Okay. And we may call on you for  
25 that information soon. So thank you for having that ready

1 for us.

2 And then, Mr. Andrews, I believe I heard you  
3 wanting to speak.

4 MR. ANDREWS: No, it wasn't me. It was --

5 MS. COCHRAN: Oh, okay.

6 MR. ANDREWS: I did hear a voice but I'm not sure  
7 who that was.

8 MS. COCHRAN: Okay. There is a voice. Who was the  
9 voice? Is there someone who wished to speak?

10 MR. BOHAN: Drew Bohan (indiscernible) speak up.

11 MS. COCHRAN: Thank you, Mr. Bohan. Please, go  
12 ahead.

13 MR. BOHAN: Are you getting an echo in here? An  
14 echo.

15 MS. COCHRAN: I have no echo.

16 MR. BOHAN: Okay. I'll just proceed. I just  
17 wanted to raise sort of a practical concern and that is if we  
18 were going to do some sort of modeling, I think we would  
19 benefit from some direction. Ordinarily we look at -- we  
20 have some sort of target in mind of what in this case a  
21 significance threshold would be. I understand there may be a  
22 few options out there that we could select from, but I think  
23 we should know what the target is in advance, that way we  
24 would know how to measure the results against that to see if  
25 there's been significant impact.

1           So I'm confused on that and we might benefit from  
2 CARB's take. Their submission earlier this week suggested  
3 that if the Applicant were to move to Tier 3 -- or Tier 4,  
4 excuse me, then there will be no need for modeling. Tier 2,  
5 we do need to model. But if we don't know the threshold  
6 significance, I'm confused about how that distinction is  
7 drawn.

8           MS. COCHRAN: Okay. It's interesting, you set me  
9 up for my next topic which was to discuss the Tier 4  
10 recommendation made by CARB and BAAQMD. And so let me set  
11 that up and we can have that discussion.

12           It might then resolve your question, Mr. Bohan, is  
13 that acceptable?

14           MR. BOHAN: Certainly.

15           MS. COCHRAN: Okay. So as Mr. Bohan said, earlier  
16 this week, CARB -- yes, earlier this week CARB and BAAQMD  
17 filed a joint recommendation. As by of background, in its  
18 initial filing on October 15, 2020, CARB indicated that the  
19 results of testing of routine -- that the results of testing  
20 for routine testing and maintenance indicates that both  
21 routine testing and maintenance and emergency operations  
22 could result in a potentially significant impact on air  
23 quality.

24           Based on that conclusion, CARB then indicated that  
25 the Commission should both conduct additional modeling as



1 well as analyze whether Tier 4 engines would reduce the  
2 impacts from the project. In the joint recommendation filed  
3 on Monday, CARB and Bay Area suggests that if the Applicant  
4 agrees to use a Tier 4 engines, no further analysis is  
5 required.

6 My question is, is this an issue of backed or is  
7 this the recommended -- recommendation based on the  
8 conclusion that the project would create -- would not create  
9 a significant impact if it used Tier 4 engines?

10 And I'm going to look to CARB to speak to this  
11 first as this was their recommendation to the Commission.

12 So can you talk, Mr. Andrews, about why the  
13 recommendation and use of Tier 4 engines may resolve the  
14 analytical gap that was originally identified by CARB?

15 MR. ANDREWS: Yeah. This is Tom Andrews. I really  
16 can't say anything more to what the statement says which is  
17 the basic idea is that Tier 4 engines reduce the NO<sub>2</sub>, NO<sub>x</sub>  
18 emissions, therefore NO<sub>2</sub> emissions to such a degree that we  
19 just felt that it really wouldn't be necessary to do any more  
20 further modeling with regard to NO<sub>2</sub> impacts. That's just the  
21 basic idea. I can't really add to that.

22 MS. COCHRAN: Okay. So I'm going to open it up to  
23 Staff and Applicant and Mr. Sarvey now to -- especially you,  
24 Applicant, because this affects the project that you have  
25 proposed to speak to the issue of Tier 4 and how that

1 resolves CARB's concerns regarding potential impacts.

2 MR. GALATI: Thank you. This is Scott Galati.

3 First of all, we do appreciate CARB and the  
4 District of trying to identify a solution that would  
5 eliminate the time necessary for modeling and then hopefully  
6 help expedite the Sequoia project to construction.

7 We also appreciate that in the statement, you know,  
8 CARB and District do acknowledge that emergency operations  
9 are rare. And while we'd like to be able to have a quick,  
10 easy solution that gets us the time back that we need, we  
11 just can't do all Tier 4.

12 And we have a proposal -- let me just step back and  
13 just remind the Commission where we are. We submitted an  
14 application to the District for Tier 2 engines. We got the  
15 draft of those permits given to us for review of the  
16 conditions of which we've all accepted. And then we had an  
17 evidentiary hearing, a person from the Bay Area testified  
18 that Tier 2 was backed. And then we had a Proposed Decision  
19 that found a significant impact, and we've moved forward.  
20 The Tier 2 engines are being manufactured.

21 But we only applied for half of those generator  
22 permits because the generator permit license -- or I should  
23 say the authority to construct permit for generators, it has  
24 a lifespan of two years before you have to renew it. So the  
25 way that this data center will be built is the facility is

1 built and the generators are added as customers lease out and  
2 the interior space is built to their custom specification.

3           And so we could commit to be able to do Tier 4 for  
4 the next half of those generators. And the reason why is  
5 there is a significant amount of permitting delay and design  
6 that would be necessary to move to Tier 4 engines that we  
7 couldn't do for the first phase of this project and keep it  
8 on schedule but we would have time to do for the second  
9 phase. We believe that, you know, one of the things that is  
10 necessary for Tier 4 is to have a material, either urea or  
11 ammonia be used in the injection system that requires a tank.

12           You may remember that we are in the Airport Land  
13 Use Commission special zones and we had to underground the  
14 diesel tanks. Either way, whatever the solution would be to  
15 switch the generators and the technology to reduce the NOx,  
16 we would have to go back to the Airport Land Use Commission,  
17 we'd have to go back to the fire department. The last time  
18 we went through that process with diesel generators, it took  
19 us about five months. So we actually think that going  
20 forward and being able to put in Tier 4 would take us six to  
21 eight months or longer to be able to get the approval to do  
22 so. We can certainly do that for the second half.

23           And I'd like, if you'd indulge John Hatem to be  
24 able to speak from the company's perspective on the timing.

25           MS. COCHRAN: Please go ahead, Mr. Hatem.

1           MR. HATEM: Thank you very much. And, you know,  
2 thank you, Scott and thank you, Commissioner Douglas and  
3 Commissioner Monahan.

4           So I'm John Hatem, executive vice president and  
5 chief operating officer of CyrusOne, the Applicant here for  
6 the Sequoia project. And first I want to, you know, thank  
7 everybody and staff for all the time and work that has gone  
8 into this. Obviously this has been going on for months. And  
9 we want to make sure that myself and the companies here  
10 answer all questions, right, and make sure we're aligned.

11           We appreciate CARB and Bay Area's openness to not  
12 require further modeling of the emissions in their joint  
13 statement and their acknowledgement that emergency operations  
14 of the generators would be rare. Kind of seconded what Scott  
15 said.

16           We're here today, really, respectfully request  
17 Committee move forward the Sequoia project as expeditiously  
18 as possible. And we are, you know, more than willing and  
19 able to employ Tier 4 generators for the phased  
20 implementation for the second half of the project. And  
21 employing the Tier 2 generators with diesel particulate  
22 filters will remove 90 percent of the particulate pollution  
23 for the first half of the project and we're poised to  
24 commence right away.

25           Scott -- Scott touched on, you know, the

1 repermitting process will delay us, you know, six to eight  
2 months to start this projects. And, you know, the  
3 implications of adding additional time to our business case  
4 are dire right now. We purchased this property months ago  
5 and our business is very unique. The opportunity and the  
6 markets are very large-scaled deployments from some of the  
7 largest companies in the world and in California. Without  
8 entitlements where we sit right now, we're unable to market  
9 this project due to the uncertainty of the schedule which  
10 means we can miss these opportunities and miss these  
11 opportunities forever, so putting the project further at risk  
12 for CyrusOne.

13           So we truly appreciate the openness of everybody,  
14 you know, CARB and Bay Area, and would really like to  
15 understand if we can get to the same place with, you know, 50  
16 percent of those engines being Tier 4 where we could -- we  
17 could agree on the modeling and, you know, happy to work with  
18 CARB and the team here on, you know, the hours of operation  
19 for maintenance and, you know, provide realistic data for  
20 data centers that we operate all over the world. So we're  
21 operating over a gigawatt of capacity from a generator  
22 perspective in various markets.

23           So we can provide real world data for, you know,  
24 when these data centers are actually running on their  
25 generators and what the loads are. And even talk about the

1 customer profiles and what those loads would be for certain  
2 hours during the day.

3 So if we could move forward quickly, you know, we  
4 will -- we're ready to start immediately. The construction  
5 team and the development team work for me and, you know,  
6 we're ready to get 300 people to work down there on the  
7 construction side and, you know, dozens of full-time  
8 employees to help Santa Clara and California.

9 So we're here and I'm here to answer any questions.  
10 And thank you.

11 MS. COCHRAN: Thank you again, Mr. Hatem.

12 Mr. Galati, are you through? Because I have not  
13 talked to Applicant or Mr. Sarvey yet but I wanted to give  
14 you a chance if you had further information you wanted to  
15 share on this issue.

16 MR. GALATI: Yes, we could do this one of two ways  
17 which we think would expedite the project. We could either  
18 write a proposed design measure and that could be a  
19 mitigation measure that is imposed by the city when the city  
20 issues its permit. Or we could write a condition of  
21 exemption if the Commission was more interested in that.

22 What that condition would look like in either form  
23 would be not only would we commit to do Tier 4, but that we  
24 would have the city do a CEQA addendum to any modifications  
25 to the project that needed to be done because of the

1 implementation of Tier 4.

2           Because of the implementation of the tanks and that  
3 that would involve us coordinating with the fire department,  
4 going -- regoing through the what they call the Project  
5 Clearance Committee. All of the things that we've been doing  
6 for the last year and a half at the City of Santa Clara, we'd  
7 commit to doing those things as there were changes. There  
8 might be some changes to the design, the layout, where the  
9 generators go, how they sit.

10           We might need to order a different family of  
11 generators, there might be different noise enclosures. And  
12 in order to make sure that that's covered by CEQA, we would  
13 built in -- bake into this approval a requirement to get the  
14 city to do an addendum should those changes, you know, be  
15 significant enough for an addendum. That way the Commission  
16 can be assured that that will do that.

17           In addition, we would propose Tier 4 to the Bay  
18 Area for those generators. The timing that we're looking at  
19 for Commissioners' purposes is probably within the next  
20 couple of years we would start that process. Again, we  
21 didn't apply for those generator permits now because they  
22 could have expired before we actually needed them. That  
23 gives us the appropriate time without delaying building the  
24 project and leasing out the first half.

25           That's all. Thank you.

1 MS. COCHRAN: Thank you.

2 COMMISSIONER DOUGLAS: So Hearing Officer Cochran,  
3 I know you'll --

4 MS. COCHRAN: Yeah.

5 COMMISSIONER DOUGLAS: -- you'll get there. It  
6 would be good to hear ARB's thoughts on this one but of  
7 course go through the parties first if that's the order.

8 MS. COCHRAN: I'll take them however you would like  
9 them, Commissioner Douglas. If you want to hear from CARB,  
10 let's hear from CARB.

11 COMMISSIONER DOUGLAS: That would be helpful.

12 MS. COCHRAN: Mr. Andrews.

13 MR. ANDREWS: Yes. This is Tom Andrews.

14 I think all I could say on this is if the Applicant  
15 submits the details of this proposal, you know, all we can do  
16 is run it by my supervisors and CARB would, you know, have a  
17 response. I really can't say any more than that at this  
18 time.

19 MS. COCHRAN: Okay. Thank you, Mr. Andrews.

20 Ms. DeCarlo, on behalf of Staff, do -- does anyone  
21 from Staff have any comments on this Tier 4?

22 And if Mr. Bohan, if you had questions or comments  
23 too, this would be a good time as well.

24 MS. DECARLO: Lisa DeCarlo, just very quickly.  
25 We're in favor of any -- anything that moves the project



1 forward at this point. We believe our analysis as currently  
2 presented in the record would support moving forward with a  
3 hybrid approach as the Applicant suggests. So we'd be in  
4 favor of that.

5 MS. COCHRAN: Okay. Mr. Galati -- I'm sorry,  
6 Mr. Sarvey, did you have any questions or comments on the  
7 topic of Tier 4 generators?

8 MR. SARVEY: Yes, I do have a comment.

9 MS. COCHRAN: Thank you.

10 MS. SARVEY: I believe CARB and (indiscernible)  
11 just for making a good faith effort and speed this proceeding  
12 along by recommending Tier 4. I believe natural gas engines  
13 would be a better alternative (indiscernible -- lost  
14 connection) provided multiple. Since the second set of  
15 generators has not been approved (indiscernible) and  
16 coordinating (indiscernible) install natural gas engines  
17 (indiscernible) few hundred hours of the air district,  
18 provide the Applicant with capacity payments to make him  
19 whole. He could use them in demand response of your energy  
20 problems. At the same time, he would not poison  
21 (indiscernible) community around the project.

22 Perhaps the CEC could coordinate with the CPUC for  
23 the second phase of generators that have not yet been  
24 approved by the Air District. Thank you.

25 MS. COCHRAN: Thank you, Mr. Sarvey.

1           Mr. Bohan, did this resolve your questions that you  
2 had before we started talking?

3           MR. BOHAN: Thank you, Hearing Officer Cochran. I  
4 wouldn't say resolve them, but I think it was helpful to hear  
5 what the folks had to say. Thank you.

6           MS. COCHRAN: Thank you. So is there any last  
7 comments anyone wishes to make on Tier 4 engines as a  
8 substitute? Last call.

9           Okay. I'm going to move on, then, to the next  
10 topic for our discussion. And we've touched on it already  
11 throughout this conversation and that is schedule.

12           So under the order that remanded the DSPP to the  
13 Committee, the next event currently scheduled is an update to  
14 the Commission at the January business meeting. This update  
15 needs to include a schedule as far as the Committee can see.  
16 That's the primary focus is to make sure that we're making  
17 forward progress in resolving this case. Because it's been  
18 pointed out already, this case was ready for actual approval  
19 of the decision and the granting of the SPPE as recommended.

20           Staff and Applicant both agreed that the matter  
21 could be ready for final Commission action at the  
22 February 10, 2021 business meeting.

23           Given what we heard today, is that still a  
24 realistic target?

25           MR. GALATI: Scott Galati. It depends on whether

1 or not we have to have agreement on how to do the modeling  
2 ahead of time. What we'll do is if the Commission -- if the  
3 Committee would like, it certainly is possible if the parties  
4 could agree to the half and half approach, doing Tier 4 on  
5 the second half.

6 What we'll do is we will submit by tomorrow the  
7 actual language of the condition or series of conditions or  
8 proposed designed measures we'll probably title them as, if  
9 the Committee would like, and then parties can comment on  
10 that.

11 Because if that agreement is possible, there's  
12 no -- there's no doubt we could meet the February business  
13 meeting. Otherwise, we're going to continue to do the  
14 modeling anyway to try to get that information to the  
15 Commission in mid-January.

16 MS. COCHRAN: Okay. So --

17 COMMISSIONER DOUGLAS: I just have the one follow-  
18 up question.

19 So first of all, Mr. Galati --

20 MS. COCHRAN: This is Commissioner Douglas  
21 speaking.

22 COMMISSIONER DOUGLAS: Thank you. First of all,  
23 Mr. Galati, it would be I think very helpful if you could  
24 post the proposed condition or however you want to style it  
25 for comment by the parties.

1           And I guess a follow-up question is should there be  
2 a need for an evidentiary hearing, is the time frame that you  
3 put forward feasible in your view or does that by necessity  
4 push it back?

5           MR. GALATI: If we have to probably, you know, have  
6 a lengthy discussion about modeling, I think that February  
7 becomes more difficult to meet.

8           COMMISSIONER DOUGLAS: Okay. Thank you.

9           MR. GALATI: With an evidentiary hearing. If we  
10 did it this way, I think the Commissioners could simply write  
11 an errata to the Proposed Decision.

12          COMMISSIONER DOUGLAS: Uh-huh. All right. Thank  
13 you.

14          MS. COCHRAN: Okay. Thank you for that.

15          Does anyone else have any comments on the timing of  
16 further action in this in terms of the receipt of the  
17 proposed condition of exemption/mitigation measure. Any of  
18 the issues about how we are going to resolve the modeling  
19 both for routine testing and maintenance and emergency ops,  
20 et cetera?

21          Are there any other scheduling proposals?

22          Okay. Commissioner Monahan, did you have any other  
23 questions or comments you wanted to make at this time?

24          COMMISSIONER MONAHAN: No, I don't. Thank you.

25          MS. COCHRAN: Okay. Thank you.

1 I am now going to hand over control of the meeting  
2 to Ms. Avalos from the Public Advisor's Office to assist in  
3 running the public comment portion of the meeting.

4 MS. AVALOS: Thank you, Susan.

5 I'll first call on attendees using the raised hand  
6 feature on Zoom. Please state your name and affiliation,  
7 spell your first and last name. Also, do not use a speaker  
8 phone feature because we may not be able to hear you clearly.

9 Okay. And if you on the phone, a reminder that to  
10 dial star 9 to raise your hand and star 6 to mute and unmute.

11 I'm looking at the list for raised hands. I'll  
12 give it a few more seconds.

13 Okay. Seeing that there are no raised hands, I'll  
14 turn to you, Hearing Officer Cochran.

15 MS. COCHRAN: Thank you, Ms. Avalos. I want to  
16 confirm that the Public Advisor's Office did not receive any  
17 emails or other requested or written comments.

18 MS. AVALOS: That's correct. We have not --

19 MS. COCHRAN: Okay.

20 MS. AVALOS: -- received any.

21 MS. COCHRAN: Thank you, again.

22 The Committee will now adjourn to a closed session  
23 in accordance with California Government Code Section 11126,  
24 subdivision (c) (3) which allows a state body to hold a closed  
25 session to deliberate on a decision to be reached in a

1 proceeding the state body was required by law to conduct.

2 We anticipate we will return from closed session in  
3 approximately, I'm going to say 60 minutes. Is that  
4 agreeable with the Committee members?

5 COMMISSIONER DOUGLAS: Yes, that's fine.

6 MS. COCHRAN: Okay. And I would recommend that the  
7 parties remain as there may be reportable action coming out  
8 from the closed session.

9 So with that, we are in closed session.

10 (Off the record at 1:38 p.m.)

11 (On the record at 4:54 p.m.)

12 MS. COCHRAN: So we have returned from closed  
13 session and there is reportable action.

14 COMMISSIONER DOUGLAS: Yes. So I will go  
15 through -- I will go through the comments that we have as the  
16 Committee.

17 Is my video on, Susan?

18 MS. COCHRAN: Yes, I can see you.

19 COMMISSIONER DOUGLAS: Okay. Well, that's --  
20 that's good.

21 So the Committee had four things that we'd like to  
22 say after our closed session and we want to thank all the  
23 parties and the ARB for their participation.

24 First of all, we wanted to note that because the  
25 Bay Area has identified Tier 2 engines as best available

1 control technology for this project, the Committee analyzed  
2 the Tier 2 engines and intends to continue to analyze the  
3 project as presented with the Tier 2 engines.

4           If the Applicant wishes to change its project  
5 description to include half Tier 4 engines or one or more  
6 Tier 4 engines, the Committee will of course review that  
7 proposed change and determine whether additional  
8 environmental analysis would need to be conducted by the  
9 Energy Commission. So that's one -- one thing.

10           Secondly, the Committee would very much like to  
11 receive detailed information on why or why not the  
12 Applicant's modeling of one-hour NO<sub>2</sub> impacts from routine  
13 testing and maintenance and Staff's revisions in fact respond  
14 to the Air Resource's Boards concerns as contained in the  
15 October 15, 2020 -- is that the --

16           MS. COCHRAN: The submittal.

17           COMMISSIONER DOUGLAS: Yeah, submittal and repeated  
18 today.

19           It is likely that we would want to get that  
20 information in the format of testimony so that we could deal  
21 with it in an evidentiary hearing.

22           The Committee at this point has no plans to itself  
23 identify a threshold of significance on emergency operations  
24 or to provide specific guidance to the parties and the Air  
25 Resources Board on how emergency operations should be

1 modeled.

2           If the parties believe that such modeling would  
3 provide useful information, the parties and the Air Resources  
4 Board are invited to perform such modeling and identify  
5 thresholds of significant -- the threshold of significance  
6 that they would propose. And if so, the Committee will  
7 provide an opportunity to present such analysis at an  
8 evidentiary hearing.

9           Finally, the Committee is interested in receiving  
10 the additional information regarding the frequency of  
11 operations of the backup diesel generators at the Applicant's  
12 facilities either in the event of a power outage or to  
13 address power quality concerns.

14           The Committee will memorialize the foregoing in a  
15 formal order to be issued next week. And we'll ask the  
16 parties to provide scheduling proposals for the speedy  
17 resolution of this proceeding.

18           So that's what we've got for you today. Please  
19 look forward to the order that will be issued by the  
20 Committee and hopefully this information we're providing  
21 orally today will assist all of the parties in thinking  
22 through their next steps and getting to work on the  
23 information that the Committee has requested.

24           So with that, I'll turn this back over to the  
25 hearing officer to adjourn.



1 MS. COCHRAN: Thank you. With that, we are  
2 adjourned at 4:58 p.m.

3 (Thereupon, the Hearing was adjourned at 4:58 p.m.)

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## CERTIFICATE OF REPORTER

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 29th day of December, 2020.



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MARTHA L. NELSON, CERT\*\*367

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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.

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IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of December, 2020.



Jill Jacoby  
Certified Transcriber  
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