

**DOCKETED**

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<b>Project Title:</b>	Sequoia Data Center
<b>TN #:</b>	236340
<b>Document Title:</b>	C1 Post Proposed Decision Status Report 1 - SBGF
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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

Application For Small Power Plant  
Exemption for the **SEQUOIA BACKUP  
GENERATING FACILITY**

**DOCKET NO: 19-SPPE-03**

**C1-SANTA CLARA LLC'S POST  
PROPOSED DECISION STATUS  
REPORT 1**

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C1- Santa Clara LLC (C1) hereby files this Post-Proposed Decision Status Report 1 for its Sequoia Backup Generating Facility (SBGF) as directed by the Order After Committee Conference (Order), which was docketed on December 23, 2020 (TN236128).

The Order identifies the Letter dated December 12, 2020 from the Bay Area Air Quality Management District (BAAQMD) to the CEC relating to Best Available Control Technology (BACT) for emergency backup generators (TN236088). The timing of the letter is most unfortunate and unfairly applies BACT standards retroactively. The retroactive date of January 1, 2020 contained in the BAAQMD Letter appears to be selected carefully by the BAAQMD to capture the SBGF since the SBGF obtained its Letter of Completeness for its Application for its Authority To Construct permits for the Tier 2 engines on January 7, 2020 (Completeness Letter). The effect of the Completeness Letter was to accept the BACT analysis contained in the Application as accurate and to affirm that Tier 2 engines complied with the then current BAAQMD rules and Guidelines. The District then testified under oath before the Committee that Tier 2 was BACT for the SBGF in May 2020. Then in an abrupt and unforeseen change in direction, the BAAQMD intervened in September 2020 to delay the project at the Commission, and then on December 21, 2020 crafted a retroactive new BACT

determination to capture the SBGF specifically. It is important to note that the BAAQMD could have simply stated BACT required Tier 4 engines as part of its completeness determination earlier on January 7, 2020 and avoided all of the last minute delay that C1 has incurred. A fairer method, and one the BAAQMD has used in the past, would have set the legal effect of the new BACT determination informing the industry that Tier 4 would be required for emergency backup generators for all new applications filed after issuance of the date of the letter announcing the new BACT determination.

Notwithstanding the unreasonable methods employed and delay caused by the BAAQMD and the California Air Resources Board (CARB), and the addition of significant additional unforeseen costs, C1 has been forced to redesign the SBGF to accommodate Tier 4 compliant emergency generators in order to obtain its permits in California.

With the decision made to modify the SBGF to employ Tier 4 compliant emergency backup generators, C1 responds to the following questions of the Committee contained in the Order.

## **RESPONSE TO COMMITTEE QUESTIONS**

**2a. *Does BAAQMD's December 21, 2020, letter change the description of the Project?***

As described above, C1 has redesigned the SBGF to employ all Tier 4 compliant emergency generators.

**2b. *Will the requirement to use diesel backup generators that meet the Tier 4 emissions standards necessitate further environmental analysis? If yes, what additional information will be needed to conduct the analysis? By when can the analysis be completed?***

The modification to Tier 4 compliant emergency generators will not require further environmental analysis as described below:

### **Tier 4 Emissions**

Tier 4 compliant emergency generators significantly reduce NOx emissions which, when modeled are compared to the NO2 standard. Compliance with the

NO2 standard is the subject of CARB's criticism of Applicant and Staff's modeling and the subject of their assertion that emergency operations should be modeled. Reduction of NOx emissions would result in impacts that **are less than** those already determined by the IS/MND and Proposed Decision and the entire evidentiary record to be less than significant. Therefore, no new modeling is necessary.

Additionally, the attached Joint Letter from CARB and the BAAQMD (Joint Letter) recommending that if the SBGF employed Tier 4 compliance emergency generators no additional modeling would be necessary would correct the record concerning CARB's comments criticizing the modeling techniques employed. Staff has already responded in detail why CARB's criticism of the modeling performed by Applicant and Staff is unwarranted. The Committee's reliance on the Staff response to CARB's criticism of the modeling, and the Joint Letter recommending no new modeling would make the record clear that additional environmental analysis for Tier 4 emissions is unnecessary.

#### **Use of Urea – Airport Land Use Commission**

After some significant discussion with the SBGF design team and coordination with the manufacturer and supplier of the emergency generators it has been determined that the emergency generator models proposed by SBGF can be equipped with the Selective Catalytic Reduction (SCR) technology. The use of SCR requires the injection of urea into the exhaust stream and the use of a catalyst to achieve the Tier 4 NOx emission standards. The SBGF was already employing Diesel Particulate Filters, which achieves Tier 4 standards. It has been determined that the urea tanks can be installed in the below grade pits designed for the generators to comply with the Airport Land Use Commission (ALUC) Policy S-4. Therefore, the below grade installation of the urea tanks does not violate the Policy S-4's prohibition on above ground fuel and hazardous materials tanks, even though urea is not a hazardous material. Therefore, no additional action from the ALUC is necessary. Similarly since the urea tanks will be surrounded by the secondary containment for the below grade fuel tanks, there are no new potential environmental impacts that need further environmental analysis.

3. ***The Committee would like to receive detailed information about why both Staff and Applicant stated in their responses to Committee questions that the modeling discussed in the IS/PMND for routine testing and maintenance, in which the temporal pairing of the Project's NO2 impacts (as modeled by Applicant) with the NO2 background concentrations used by the Applicant (as modified by Staff), addresses CARB's concerns that the averaging used in that analysis does not provide complete information about worst case impacts. The parties shall include this information in the first status report to be filed no later than January 18, 2021.***

As described above, the Joint Letter should be treated as a withdrawal of CARB's concerns.

4. ***The Committee is not planning to identify a threshold of significance or provide guidance to the parties on modeling emergency operations. If the parties believe such modeling would provide useful information, the parties and CARB are invited to perform such modeling and identify a threshold of significance. The Committee may provide an opportunity to present such analysis at an evidentiary hearing. Information regarding whether such modeling will be performed, the time to complete such modeling, the process for determining the inputs and parameters of such modeling, identifying an applicable threshold of significance, and any other necessary steps involved, shall be included in the first status report to be filed no later than January 18, 2021.***

C1 has already testified and briefed the issue of emergency modeling to the Committee. This testimony agrees with Staff's testimony and briefing. The Joint Letter should be treated as a withdrawal of CARB's concerns over emergency modeling now that NOx emissions during emergencies will be reduced to Tier 4 emission levels, which are at least 90 percent below those allowed by the Tier 2 emission standards. The Proposed Decision's reasoning on emergency modeling should stand.

5. ***The Committee is interested in receiving additional information regarding how frequently backup diesel generators have operated at Applicant's similar data center facilities. The data reported shall include a description of the specific reason the backup generators operate, including, but not limited to, operation for testing and maintenance, during a utility power***

**outage, and for addressing power quality concerns. The Committee is specifically interested in better understanding how the design and deployment of the uninterruptible power supply system components affect the need to operate the backup diesel generators, including the effect on the number of generators needed and the duration of their operation. This information shall be filed no later than the first status report to be filed no later than January 18, 2021.**

C1 believes this issue is moot for two reasons. First, the emergency operations for facilities in other areas of the country do not provide any evidence of emergency operations that can be expected in Silicon Valley Power's (SVP) service territory. The evidentiary record is clear that in SVP's service territory emergency operations are extremely infrequent. As argued in prior hearings, operations pursuant to a Governor's Executive Orders requesting voluntary load shedding are also extremely infrequent and do not invalidate the Proposed Decision's conclusions that such operations are infrequent.

The second reason this issue is now moot is the Joint Letter, which should be treated as a withdrawal of CARB and BAAQMD assertions that air quality modeling should be performed for emergency operations because the SBGF has been redesigned to use Tier 4 compliant emergency generators reducing NOx emissions by at least 90 percent.

- 6. Each party shall provide a detailed schedule for the resolution of this proceeding, including dates by which any additional analyses will be performed, the filing deadline for additional testimony and exhibits, and dates for any evidentiary hearing that may be required. This information shall be included no later than the first status report to be filed no later than January 18, 2021.**

As discussed above, C1 does not believe any additional environmental analysis is required to support the Committee's Proposed Decision granting the SPPE for the SBGF. Because there is no additional environmental analysis required, there is no need for evidentiary hearing. Additionally, since the Commission is acting as the CEQA lead agency, Section 1936 (c) of the Commission regulations state

The review of the application for exemption shall follow the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the state CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3).

Nothing in the Commission regulations require additional evidentiary hearings for the Committee to consider the information docketed since CARB's oral comments at the September 9, 2020 Business Meeting. All such filings, including this one are part of the administrative record. Unlike the certified regulatory process for considering an Application For Certification, which requires the specific findings of the Final Decision to be based on the evidentiary record, no such limitation exists for the Commission to consider the whole of the administrative record as it carries out its review in accordance with CEQA and its Guidelines, which does not require any evidentiary hearings.

Therefore, C1 requests the Committee advise the Commission at the January 25, 2021 Business Meeting, that it will prepare an erratum to the Proposed Decision to include the information contained in this and Staff's Status Reports. Further, C1 requests the Committee inform the Commission the SBGF Proposed Decision should be considered for adoption at the next available Business Meeting on February 10, 2021.

Dated: January 15, 2021

Respectfully Submitted,



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Scott A. Galati  
Counsel to C1-Santa Clara, LLC

<b>DOCKETED</b>	
<b>Docket Number:</b>	19-SPPE-03
<b>Project Title:</b>	Sequoia Data Center
<b>TN #:</b>	235939
<b>Document Title:</b>	California Air Resources Board Comments - CARB-BAAQMD Joint Recommendation
<b>Description:</b>	N/A
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*Comment Received From: California Air Resources Board  
Submitted On: 12/14/2020  
Docket Number: 19-SPPE-03*

**CARB-BAAQMD Joint Recommendation**

*Additional submitted attachment is included below.*

**Joint Recommendation for the Sequoia Backup Generating Facility Small Power Plant Exemption Proceeding from the Bay Area Air Quality Management District (BAAQMD) and the California Air Resources Board (CARB)**

On November 16, 2020, at a regularly scheduled business meeting, the California Energy Commission (CEC) remanded this proceeding back to the Committee overseeing the proceeding to conduct limited additional proceedings to consider comments made by BAAQMD and CARB concerning input assumptions regarding NO<sub>2</sub> impacts from routine testing and maintenance, and direct and cumulative impacts of emergency operations of the project's backup generators. On December 4, 2020, the Committee issued a Notice of Committee Conference in which it directed the parties to meet and confer and invite CARB and BAAQMD. The Notice also invited CARB and BAAQMD to submit any further relevant information with respect to these issues.

As supported by information provided by CARB with its comments on October 15, 2020, it appears that Tier 4 engines have been used for similar projects and are feasible for the proposed project. When all components are operating, Tier 4 engines are cleaner than the Tier 2 engines proposed, and Tier 4 engines would further reduce this project's potential emissions, most critically during those rare occasions the project may have to run more than one engine at a time. CARB and BAAQMD agree the use of Tier 4 engines is adequate in this case and, given the circumstances, further modeling of emissions may not be necessary if the project applicant agreed to this project change. Therefore, to enable expeditious consideration and resolution of the remaining issues for the Sequoia project, we strongly encourage the project applicant to modify the project to include this technology and the Committee to revise its decision to reflect that change.