

DOCKETED

Docket Number:	19-SPPE-04
Project Title:	SJ2
TN #:	236959
Document Title:	Mark Espinoza - OSA Comments - NOP Comment letter
Description:	N/A
Filer:	System
Organization:	OSA/Mark Espinoza
Submitter Role:	Public
Submission Date:	3/2/2021 3:43:18 PM
Docketed Date:	3/2/2021

*Comment Received From: Mark Espinoza
Submitted On: 3/2/2021
Docket Number: 19-SPPE-04*

NOP Comment letter

Additional submitted attachment is included below.

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March 1, 2021

Lisa Worrall
California Energy Commission
1516 Ninth Street, MS 40
Sacramento, CA 95814
lisa.worrall@energy.ca.gov

Re: Comments for the NOP of the Draft Environmental Impact Report (DEIR) for the San Jose Data Center- Applicant Microsoft Corporation

Dear Ms. Worrall:

The Alviso community would like to express gratitude for CEC staff's diligent commitment to documenting our environmental and health concerns. We are especially appreciative of Ms. Rosemary Avalos from the Public Advisor's Office for her dedication to outreach, providing information, and education about CEC's process, and patience to listen attentively to our concerns. Additionally, we thank Ms. Worrall for the opportunity to share our questions and comments during the Scoping Meeting on February 19th, 2021. We hope that other government agencies will emulate CEC's philosophy and approach when addressing environmental inequities in disadvantaged communities.

This letter documents our questions and concerns that we expressed during the Project's Scoping Meeting on February 19th, 2021:

- The DEIR must disclose all documents used for tiering and the nexus with this proposed Project §15150, 15151, 15152, 15153. Some examples include the City of San Jose's DEIR (2017) 237 Industrial Center Project¹, City of San Jose's General Plan, and the City of San Jose's Alviso Master Plan.
- Biological Resources: The analysis must disclose short-term, long-term, direct, indirect, and cumulative impacts of habitat loss and listed protected, and endemic species, both locally in Alviso and regionally per the City of San Jose, SCVHCP, State, and Federal regulations. For example, Alviso which is located adjacent to the San Francisco Bay Don Edwards Wildlife Refuge is a biological hotspot and one of the few remaining locations for burrowing owls, golden eagles nesting nearby to this project site which is recorded in the valley for the first time in 128 years, and the congdon tarplant (§15380, CA Migratory Bird Protection Act, The Bald and Golden Eagle Protection Act, CDFW code 1601-1603, 3503, 3503.5, 3513, 3800).

¹ [showpublisheddocument \(sanjoseca.gov\)](#)

- Transportation: As expressed during the Scoping Meeting, Alviso has significant traffic impacts on neighborhood streets from past, current, and future developments. The nearby highways 237 and 880 exacerbate local traffic impacts from passenger vehicles and truck traffic. The community requests both short- and long-term analysis with the most current traffic data from the City of San Jose, Valley Transportation Agency (VTA), Caltrans, and with real time field studies and effective mitigations and monitoring. (§15064, 15064.4)
- Air Quality and Public Health: As requested during the public meeting, please provide disclosure of communication between CEC and BAAQMD staff pertaining to the updates to the Air District’s CEQA Air Quality Thresholds and Guidelines and the approach for this project. Lead agencies continue to rely on the BAAQMD 2011 thresholds, which was developed in 2009. Significant scientific updates on air quality and California court cases have been published for both the natural environment (physical) and human health impacts, thresholds, and mitigation measures. Please include cumulative and existing health risks, toxic air contaminants, PM_{2.5} levels, diesel particulate matter, including the most recent cancer rates, CalEnviroScreen results, and sensitive receptors in Alviso. The analysis and justification for the forty diesel fired generators and include alternatives. Furthermore, disclose the DEIR’s methodology to address the 2108 *Sierra Club v. County of Fresno*, 6 Cal.5th 502 (Friant Ranch) for the health effects for criteria pollutants. Additionally, the DEIR must comply with the City of San Jose Municipal Codes, Envision San Jose 2040 General Plan pertaining to air quality and health risks², and the Alviso Master Plan.
- Land-Use: The DEIR should address SB 1000, consistency with the General Plan, and the Alviso Master Plan.
- Greenhouse Gases (Climate Change Impacts): As stated by a concerned citizen, Dr. Stephen Rosenblum during the Scoping Meeting, Microsoft committed in January of 2020 to become a carbon negative company by 2030 and by 2050 “remove from the environment all the carbon that Microsoft has emitted directly or through electricity use since the company was founded in 1975”³. The community and decision-makers in the City of San Jose must have full disclosure whether this commitment will follow through in Alviso, as well.
- Project Alternatives: Per §15126.6, the DEIR must include project alternatives governed by rule of reason which is rigorous to “foster meaningful public participation and informed decision making” and includes alternative locations to mitigate any potential significant impacts.

We look forward to continuing our participation in the project’s CEQA process with CEC, BAAQMD, and the City of San Jose.

Thank you,
Mark Espinoza

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² Some examples: MS-10.6, MS-10.7, MS-10, MS-11.3, MS-1.1, MS-2.2, MS-2.3, MS-2.8, MS-2.11, MS-3.1, MS-3.3, MS-14.4, LU-1.1, LU-1.2, LU-1.3, LU-1.7, LU-3.5, LU-5.1, LU-9.1, LU-9.3, LU-10.3, LU-10.4, TR-1.1, TR-1.2, TR-1.3, TR-4.1, TR-4.3, and TR-9.1. EC-6.4, EC-6.6, EC-6.8, EC-6.9, EC-7.2, EC-7.4, EC-7.5, EC-7.8, and EC-7.10.

³ [One year later: The path to carbon negative – a progress report on our climate ‘moonshot’ - The Official Microsoft Blog](#)