

**DOCKETED**

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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  
**GREAT OAKS SOUTH BACKUP  
GENERATING FACILITY**

**DOCKET NO. 20-SPPE-1**

**DECLARATION OF MICHAEL  
LISENREE**

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I, Michael Lisenbee, declare as follows:

1. I am presently employed as Senior Project Manager with David J. Powers & Associates.
2. A copy of my professional qualifications and experience is included was included with the previously docketed SV1, LLC's Opening Testimony Package (TN 239276) and is incorporated by reference in this Declaration.
3. I prepared the attached Supplemental Testimony relating to Noise and Greenhouse Gas Emissions in support of the Application for Small Power Plant Exemption for the Great Oaks South Backup Generating Facility (California Energy Commission Docket Number 20-SPPE-1).
4. It is my professional opinion that the attached prepared testimony is valid and accurate with respect to issues that it addresses.
5. I am personally familiar with the facts and conclusions related in the attached prepared testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and that this declaration was executed at San Jose, California on September 17, 2021.



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Michael Lisenbee

**SV1, LLC  
GREAT OAKS SOUTH BACKUP GENERATING FACILITY  
NOISE AND GREENHOUSE GAS EMISSIONS  
SUPPLEMENTAL TESTIMONY**

I. Name: Michael Lisenbee

II. Purpose:

My testimony addresses the ORDERS DENYING MOTION TO STRIKE, GRANTING APPLICANT LEAVE TO FILE EXHIBITS, DENYING WRITTEN CROSS-EXAMINATION, AND REQUESTING INFORMATION (TN 239723) (Committee Order) for the Great Oaks South Backup Generating Facility (GOSBGF) Application For Small Power Plant Exemption (SPPE), CEC Docket 20-SPPE-1 (TN 239361).

III. Qualifications:

**Michael Lisenbee:** I am presently employed as a Senior Project Manager at David J. Powers & Associates and have been for the past 15 years. I have a Bachelor's Degree in Environmental Studies from the University of California Santa Barbara and I have 15 years of experience in preparing and reviewing California Environmental Quality Act (CEQA) documents. I have been engaged by SV1, LLC to prepare the Application for SPPE for the GOSBGF and additional documents for docketing at the CEC. I managed the preparation of the Application for SPPE and reviewed and developed several related data responses.

A detailed description of my qualifications was previously docketed as part of SV1, LLC's Opening Testimony Package (TN 239276).

To the best of my knowledge all referenced documents and all of the facts contained in this testimony are true and correct. To the extent this testimony contains opinions, such opinions are my own. I make these statements and provide these opinions freely and under oath for the purpose of constituting sworn testimony in this proceeding.

#### IV. Opinion and Conclusions

The Committee Order requested additional information to answer four questions. Each Committee question identified in the Committee Order is reproduced below in ***bold italics***. My responses immediately follow each question.

### **RESPONSES TO COMMITTEE QUESTIONS**

- 1) ***The Committee Request for Information, request two, asked the parties whether the Project’s construction-related noise would be consistent with the City of San Jose’s General Plan Policy EC-1.7.51. Applicant responded in part that “the noisy portion of each phase of construction would be less than 12 months. . .[and] the majority of the noise and the loudest activities would take place during grading, which would be done for the whole site as part of the first phase and will be completed in less than 12 months.” Please direct the Committee’s attention to evidence in the record or provide evidence (documentary or witness testimony) supporting the timing of any noisy portion of the Project’s construction.***

#### **RESPONSE TO COMMITTEE QUESTION 1**

Applicant’s Proposed Exhibit 4, Appendix H to the SPPE Application (Exhibit 4, Appendix H), page 8 identifies that the City’s policy EC 1.7 defines noisy construction work to be “(such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing)”. Exhibit 4, Appendix H at page 16 identifies that all of the grading and excavation will be done as part of Phase I of construction with subsequent phases including the construction of the second two buildings. Applicant’s Proposed Exhibit 1, SPPE Application (Exhibit 1), Section 2.2.1, page 8, identifies that the site is currently vacant and therefore there will not be any demolition activity. Exhibit 4, Appendix H, page 16 identifies that the project will be using drilled piles for foundations and therefore will not be engaged in pile-driving. Exhibit 4, Appendix H, Table 8, page 16 identifies durations of the noisy construction work activities:

- Site Preparation (20 days)
- Grading/Excavation (40 days)
- Trenching (60 days)

- Building Exterior (230 days)

These activities are less than 12 months. While there might be sporadic use of noisy equipment during the construction of the Building Exterior, the noisy work would be completed in the early stages of the 230-day estimate identified in Exhibit 4, Appendix H, Table 8. Therefore, all of the noisy work identified in the City policy would take place in less than 365 days or 12 months. Since the grading will be completed as part of Phase I, the subsequent phases which would be constructed after completion of Phase I, would not require grading.

- 2) ***The Committee Request for Information, request three, asked the parties to evaluate the Project's contribution to the magnitude of change in ambient noise and identify any applicable threshold of significance, or why it is not necessary to provide this information.<sup>53</sup> Staff responded in part that "As discussed in Section 4.13 Noise on pages 4.13-2 and 4.13-6, for operation, staff used the city allowable limits to evaluate the potential for impacts. Operational noise would be below the city's noise limits (FEIR, p. 4.13-8)."<sup>54</sup> Applicant responded in part:***

***The ambient conditions for the residences all exceeded the city's daytime residential noise level limit of 55 dBA Leq and was almost entirely related to nearby traffic. The project contribution was well below the ambient noise levels. Therefore, the City's daytime residential noise level limit was more restrictive than identifying a threshold that measured the increase over ambient. Additionally, as discussed in the FEIR the modeled noise was from simultaneous operation of the generators when SV1 will only run one generator at a time for maintenance and testing and never at night. The FEIR compared the project's modeled noise at sensitive receptors to the measured ambient levels and found them to be below the ambient levels as well (see FEIR 4.13-8).<sup>55</sup>***

***Please direct the Committee's attention to evidence in the record or provide evidence (documentary or witness testimony) supporting the assertions that "project contribution was well below the ambient noise levels" and "the City's daytime residential noise level limit was more restrictive than identifying a threshold that measured the increase over ambient."***

## RESPONSE TO COMMITTEE QUESTION 2

Exhibit 4, Appendix H contains ambient measurements in Tables 4 and 5, at Page 11. SV1 submitted a revised noise analysis identified as Applicant's Proposed Exhibit 24 (Exhibit 24) to reflect the switch to Tier 4 generators and to acknowledge that generator testing and maintenance will take place only in the daytime and at one generator at a time. Exhibit 24, page 6 Table 2, first column, shows that the highest modeled noise from testing and maintenance of generators with concurrent operation of the HVAC equipment would be 47 dBA Leq, which is lower than any ambient Leq noise measure taken near any residential receptor as shown in Exhibit 4, page 11, Tables 4 and 5. The project's modeled noise which conservatively estimates that the HVAC equipment runs at full loading during the testing of a generator is between 8 and 23 dBA Leq below the lowest average ambient Leq measurement taken at LT-1, ST-1 and ST-5 (representing the closest residential receptors). The project's modeled contribution to ambient would therefore be *de minimis*.

- 3) ***The Committee Request for Information, request nine, asked about the appropriateness of the EIR's noise survey data as the environmental setting (baseline) for noise, in light of the time between the date of the 2016 noise measurements and the date the CEC began preparing the EIR. The Applicant responded in part that the COVID-19 pandemic significantly altered traffic patterns so "noise data in 2020 would have not yielded any meaningful background data because it would have produced sound levels with unsustainably low traffic levels caused by the Covid-19 quarantines." Please direct the Committee's attention to evidence in the record or provide evidence (documentary or witness testimony) to support these statements.***

## RESPONSE TO COMMITTEE QUESTION 3

Exhibit 4, page 11, Table 5 indicated that the primary noise source for the measurements was traffic.

To clarify, the noise study for the project (Exhibit 4, Appendix H) was completed in December 2019, prior to any effect of COVID-19 on traffic patterns. At that time, the noise measurements from 2016 were only three years old, which is well

within the range of noise measurements used in noise studies for CEQA documents in the City of San Jose for areas such as the project site where the primary noise source is traffic. The City allows the use of past noise measurements because, although traffic-related noise increases as development occurs and associated vehicle trips are added to roadways, the increase is gradual and incremental.

The Transportation Analysis, Applicant Proposed Exhibit 26 (Exhibit 26), prepared for the project in March 2021 included data on roadway volumes in the project vicinity. The Analysis used in Exhibit 26 relied on traffic volume data as old as 2015 and included the following statement: "...as recommended by the City of San Jose staff, a 1% compounded annual growth factor was applied to traffic counts that are older than two years to estimate traffic conditions in 2020." Exhibit 26, explains at page13 that the reason that actual traffic data from 2020 was not used was, "Due to the current COVID-19 pandemic situation and its effect on traffic patterns, the City of San Jose is requiring that all new traffic counts be put on hold until further notice."

Further, the City considers an annual increase of 1% to be a reasonable estimate of the increase in traffic volumes in the project area. Typically, a doubling (100% increase) of vehicle trips on a roadway is required to increase traffic-related noise by three dB, and a three dB change is considered the minimum change that is detectable with human hearing in outside environments.<sup>1</sup> In other words, unless vehicle trips on roadways in the vicinity of the site have doubled since the past noise measurements were taken, there would be no perceptible change in the ambient noise environment. Although individual development projects have been constructed in the general project area since 2016, no large-scale development has occurred that would result in a doubling of vehicle trips on nearby roadways. As mentioned previously, the City considers a 1% annual increase in traffic volumes to be a reasonable estimate for the project area. As a result, it can be reasonably concluded that ambient noise levels in the project area have not meaningfully changed since the noise measurements were taken in 2016, except for the significant decrease in traffic the City recognized due to the Covid-19 pandemic.

A subsequent update to the noise study was completed in March 2021 (Exhibit 24), at which time traffic volumes in the project area were still significantly altered due to behavioral changes among the public in response to the COVID-19

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<sup>1</sup> U.S. Department of Transportation, Federal Highway Administration. Highway Traffic Noise Analysis and Abatement Policy and Guidance – Noise Fundamentals. August 24, 2017. Available at: [https://www.fhwa.dot.gov/environment/noise/regulations\\_and\\_guidance/polguide/polguide02.cfm](https://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/polguide/polguide02.cfm)

pandemic. As a result, new noise measurements were impractical at that time as they would not represent the typical long term noise environment in the project vicinity and as shown in Exhibit 24, the major source of noise at the residential receptors is traffic.

- 4) ***The Committee Request for Information, request 10, asked the parties how the revised MM GHG-1 mitigates the potentially significant environmental impact of greenhouse gas emissions to less than significant levels.<sup>58</sup> Applicant responded that “the City of San Jose 2030 GHG [Greenhouse Gas] Reduction Strategy (GHG RS) is a qualified greenhouse gas reduction plan pursuant to Title 14 CCR [CEQA Guidelines], Section 15183.5 (b).”<sup>59</sup> Applicant’s response concludes:***

***Since the City will be implementing the Mitigation Measure as an Alternative Measure to comply with its properly adopted 2030 GHG RS, the CEC can rely on both of these facts and can determine that the GOSBGF and GOSDC will not have a significant cumulative impact pursuant to Title 14, CCR 15183.5.<sup>60</sup>***

***Please direct the Committee’s attention to evidence in the record or provide evidence (documentary or witness testimony) that the City of San Jose’s GHG RS satisfies each of the elements of CEQA Guidelines, section 15183.5, subdivisions (b)(1)(A) through (F), which is necessary for it to be deemed a qualified greenhouse gas reduction plan.***

#### **RESPONSE TO COMMITTEE QUESTION 4**

Applicant’s Proposed Exhibit 34, City of San Jose 2030 Greenhouse Gas Reduction Strategy (Exhibit 34), page 3, Section 1.1, and pages 8-9, Section 1.3.3 demonstrate that the purpose of the Exhibit 34 was to allow tiering pursuant to CEQA Guidelines, section 15183.5. Section 2.2.7 and 2.3 of the Exhibit 34 demonstrated specific compliance with CEQA Guidelines, subdivisions (b)(1)(A) through (F), and therefore can be deemed a qualified greenhouse gas reduction plan.