

**DOCKETED**

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<b>Project Title:</b>	SJ2
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*Comment Received From: Ada Marquez*  
*Submitted On: 11/1/2021*  
*Docket Number: 19-SPPE-04*

**Air Quality Data Request Letter**

Attachment

*Additional submitted attachment is included below.*

November 1, 2021

Lisa Worrall  
California Energy Commission  
1516 Ninth Street, MS 40  
Sacramento, CA 95814  
[lisa.worrall@energy.ca.gov](mailto:lisa.worrall@energy.ca.gov)

**Re: San Jose Data Center- Applicant Microsoft Corporation (19-SPPE-4) Data Response Set 6 Submitted October 2021**

Dear Lisa Worrall:

I would greatly appreciate your assistance on the following questions and concerns:

1. **For Attachment DR-86 Bay Area Air Quality Management District (BAAQMD) Correspondence**, the emails are included but does not include any of the unzip datasets (9/27/2021) and the attachments are not included of the images (10/4/2021). Can you please make these files and images available on the Docket?
2. **Data Request (64) and (65) and Responses for Construction Criteria Pollutant Impacts:**
  - Can you please clarify the CalEEMod version used by the applicant? Since the project description was changed, please confirm whether the analysis used CalEEMod 2020.40. [Tools and Methodologies \(baaqmd.gov\)](https://www.baaqmd.gov/tools-and-methodologies)
  - Please include all of the most updated CalEEMod outputs based on the updated project description.
  - Note: The BAAQMD thresholds have not been updated since 2010. The 2017 version solely reflects the *California Supreme Court's 2015 opinion in Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt. Dist., 62 Cal.4th 369*. Per BAAQMD's website: "The Guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the Guidelines are advisory and should be followed by local governments at their own discretion. These Guidelines may inform environmental review for development projects in the Bay Area, but do not commit local governments or the Air District to any specific course of regulatory action."<sup>1</sup>
  - **Applicant's Response:** *"Notwithstanding that this analysis is not required by any other lead agency pursuant to CEQA nor the BAAQMD for permitting, in the interests of time and with the understanding that Staff will diligently continue preparation of the DEIR quickly, the analysis will be submitted under separate*

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<sup>1</sup> [CEQA Guidelines Update \(baaqmd.gov\) https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines?outercontent\\_1\\_sidenavcontainercontent\\_1\\_twocolumnmd39block2\\_0\\_innercontent\\_7\\_radGridChangePage=2\\_5](https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines?outercontent_1_sidenavcontainercontent_1_twocolumnmd39block2_0_innercontent_7_radGridChangePage=2_5) date accessed November 1, 2021.

*cover on or before November 5, 2021.*” Statement is erroneous and concerning for the community of Alviso. (Per CA Public Resources Code 2100-21189, §15003, 15040, 15121, 15126.2)

Per CEQA 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

- (a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.
- (b) (2) Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. **Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project’s environmental effects may still be significant.**

Thank you,

Ada E. Márquez  
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