

DOCKETED

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**STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

***APPLICATION FOR SMALL POWER
PLANT EXEMPTION FOR THE:***

**GREAT OAKS SOUTH BACKUP
GENERATING FACILITY**

Docket No. 20-SPPE-01

**ENERGY COMMISSION STAFF'S COMMENTS ON THE COMMITTEE
PROPOSED DECISION**

On November 24, 2021, the Committee overseeing the Great Oaks South Backup Generating Facility Small Power Plant Exemption application published the Committee Proposed Decision¹ and Notice of Availability of the Committee Proposed Decision, Notice of Public Comment Period, and Notice of California Energy Commission Hearing² and directed parties to submit any comments by December 6, 2021. Staff greatly appreciates the Committee's efforts in this proceeding and respectfully submits the following comments.

Procedural History, page 10

Page 10 of the Committee Proposed Decision states that comments from the City of San Jose were submitted after the end of the comment period. While these comments were indeed submitted after the end of the comment period noted in staff's Draft Environmental Impact Report (EIR), the city had reached out to staff prior to the end of the comment period to request an extension of this comment period to allow them more time to comment. In Staff Status Report #11³, published on July 9, 2021, staff memorialized its granting of the city's request to extend the comment period for their comments to July 13, 2021.

¹ [TN 240715](#)

² [TN 240724](#)

³ [TN 238769](#)

Therefore, staff recommends the Committee Proposed Decision be modified as follows:

When the public review and comment period on the Draft EIR ended, comments had been received from Claire A. Warshaw, BAAQMD, and the Applicant. **Staff granted a request to extend the comment period to July 13, 2021, for the City of San Jose, who submitted comments within that extended comment period.** After the end of the original comment period, the CEC also received written comments from ~~the City of San Jose and~~ Enchanted Rock.

Air Quality: Criteria Pollutants and Fugitive Dust discussion, page 29

Staff recommends the following clarification to the conclusion on page 29:

The Final EIR concludes that, **with NOx emissions fully offset through the permitting process with BAAQMD,** criteria pollutant emissions from routine operation of the Project would not exceed any BAAQMD Threshold, cause a cumulatively considerable net increase of any criteria pollutant, conflict with or obstruct any applicable air quality plan, or expose sensitive receptors to substantial pollutant concentrations, and would thus be less than significant.

This addition clarifies that staff's conclusion that the project would not exceed any Bay Area Air Quality Management District (BAAQMD) threshold is dependent upon the project obtaining NOx offsets through the BAAQMD permitting process.

DATED: December 6, 2021

Respectfully submitted,

/s/
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