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BEFORE THE
CALIFORNIA ENERGY COMMISSION

COMMITTEE CONFERENCE

In the matter of,)
)
STACK Backup Generating Facility) Docket No. 21-SPPE-02
)

IN PERSON AND REMOTE VIA ZOOM VIRTUAL MEETING

Warren-Alquist State Energy Building
Rosenfeld Hearing Room (Hearing Room A)
1516 9th Street,
Sacramento, CA 95814

TUESDAY, AUGUST 2, 2022

1:30 P.M.

Reported By:
Elise Hicks

APPEARANCES

Commissioners

Commissioner Andrew McAllister, Presiding Member
Commissioner Kourtney Vaccaro, Associate Member

Advisors

Bryan Early, Advisor to Commissioner McAllister
Eli Harland, Advisor to Commissioner Vaccaro
Natalie Lee, Advisor to Commissioner Vaccaro

Hearing Officers

Deborah Dyer, Hearing Officer
Ralph Lee, Hearing Officer

Staff

Jared Babula, Staff Counsel
Kari Anderson, Staff Counsel
Eric Knight, Branch Manager, Environmental Branch

Applicant

Chris Kapper, STACK Infrastructure, Director of Strategy
and Development
Scott Galati, Attorney, DayZen, LLC

Public Advisor

Dorothy Murimi

Public Speakers

James Dobson, San Jose Fire Department

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P R O C E E D I N G S

1
2 August 2, 2022 1:54 P.M.

3 COMMISSIONER MCALLISTER: All right.
4 Greetings everyone. First of all, I want to start with
5 an apology for getting my wires crossed on my schedule
6 and that's the reason we're starting late, so that's my
7 bad. I'm Commissioner Andrew McAllister, the lead
8 commissioner on this, the STACK Trade Zone Boulevard
9 Technology Park backup Generating Facility Small Power
10 Plant Exemption case.

11 So, so welcome, everyone. Thanks very much.
12 The time is 1:55 on Tuesday, August 2nd, 2022. So, this
13 is the Committee Conference regarding the proceeding on
14 the application for a Small Power Plant Exemption for
15 the STACK Trade Zone Boulevard Technology Park as SVY
16 Backup Generating Facility.

17 The California Energy Commission has assigned
18 a Committee of two Commissioners to conduct these
19 proceedings. I'm Commissioner Andrew McAllister, the
20 presiding member of this Backup Generating Facility
21 Committee, and I'm joined by Commissioner Kourtney
22 Vaccaro, who is the associate member of the conference—
23 I mean of the Committee, sorry.

24 Now I want to introduce some other people that
25 are in attendance here today, key folks here as well.

1 Brian Early, my advisor. Is Eli here? Perhaps
2 remotely? No. Not sure. Eli Harland and Natalie Lee
3 may be here, advisors to Commissioner Vaccaro. And
4 Ralph Lee and Deborah Dyer are the Hearing Officers for
5 this, for this proceeding.

6 So, I would ask the parties to please
7 introduce themselves and their representatives at this
8 time starting with the Applicant. Applicants, go ahead.

9 MR. GALATI: Good afternoon, this is Scott
10 Galati. I'm pleased to represent STACK Infrastructure.
11 With me we have some members, not as panelists, that
12 could be called in on our team if necessary to answer
13 questions. But primarily who will be speaking today is
14 Chris Kapper, he is the director of strategy and
15 development with STACK and we're excited to bring the
16 Trade Zone Park development to you.

17 COMMISSIONER MCALLISTER: Great, thank you.
18 And Mr. Galati, you are also the attorney for the
19 Applicant?

20 MR. GALATI: Yes, I'm counsel for the
21 Applicant.

22 COMMISSIONER MCALLISTER: Okay, terrific.
23 Then follow up with staff. Staff, please introduce
24 yourself as well.

25 MR. KNIGHT: Good afternoon. This is Eric

1 Knight, manager of the Siting and Environmental office.
2 I'm here on behalf of Lisa Worrall, who is on vacation.
3 She's our project manager for the STACK Small Power
4 Plant Exemption. And I'm joined with Diane Borders, who
5 is Assistant Chief Counsel. And then I believe Jared
6 Babula, also with the Chief Counsel's office, is on the
7 line.

8 COMMISSIONER MCALLISTER: Okay.

9 MR. KNIGHT: And then we also have a number of
10 staff online to chime in if there's any questions that
11 Committee may have.

12 COMMISSIONER MCALLISTER: Great. Thank you,
13 Mr. Knight, and thank you Ms. Borders and Mr. Babula as
14 well. So now I invite any representatives from public
15 agencies or tribal governments to introduce themselves.
16 Do we have any representative of agency or tribes on the
17 line?

18 I see we do not have any in the room. Sounds
19 like not. Okay, none. None, no public agencies or
20 tribal governments on the Zoom call?

21 If you would like to talk, please use the
22 raise hand feature so I can make sure to unmute you.

23 MR. DOBSON: Hi, this is James Dobson with,
24 with— from the San Jose Fire Department.

25 COMMISSIONER MCALLISTER: Great. Well thank

1 you very much for being here. Looking over at the Zoom
2 administrators here to see if we have any other hands
3 up?

4 No other hands, okay. Maybe I'll just run
5 through the list just for completeness here. Do we
6 have, let's see. Any elected or appointed officials
7 from state county or local jurisdictions? In this case,
8 relevant would be the city of San Jose, Santa Clara
9 County, The Bay Area AQMD, Santa Clara Valley Transit
10 Authority, Santa Clara Valley Water District, any public
11 officials listening in? We'd like to know and give you
12 a chance to make any— to announce yourself.

13 Great, okay. Well with that, I will pass the
14 microphone to Commissioner Vaccaro, in case you have any
15 remarks?

16 COMMISSIONER VACCARO: Thank you, Commissioner
17 McAllister. First of all, looking forward to working
18 with you on this case. I think this will be nice for us
19 to partner together. And I just wanted to extend
20 welcome to everyone who's participating today. And just
21 state that I'm looking forward to engaging with the
22 parties, with the intervenors, and other stakeholders as
23 this proceeding progresses.

24 I think it's off to a good start. I've
25 already been able to take a look at the documents in the

1 docket. There's already been, I think, really good
2 diligence on the part of the Applicant and Staff at this
3 early stage. So just looking forward to that continuing
4 effort and for Staff and the Applicant to continue
5 working together on information gathering and moving
6 this forward so that we can meet the timelines that are
7 set for us in the Commission's regulations.

8 COMMISSIONER MCALLISTER: Thank you. Thank
9 you very much Commissioner Vaccaro. And I am really
10 looking forward to partnering with you on this as well.
11 And, yeah, I was a little off balance, because I don't
12 make it a habit of being late. So, thanks, thanks a
13 lot. So anyway, apologies to everyone that's tuned in,
14 again, for that.

15 With that, I think we can begin the rest of
16 the proceeding. And I'll hand it over to Hearing
17 Officer Ralph Lee. Mr. Lee?

18 MR. LEE: Yes, thank you. Good afternoon. My
19 name is Ralph Lee, Hearing Officer with the California
20 Energy Commission. My role is to assist the Committee
21 with conducting committee events like today's Committee
22 Conference, and preparing documents such as orders,
23 notices and decisions.

24 A save the date for today's Committee
25 Conference was filed in the docket for this proceeding

1 on June 29th, 2022. Formal notice of today's Committee
2 Conference was filed on July 14th, 2022, in English,
3 Spanish, Vietnamese and Chinese. The Energy Commission
4 created an online docket for documents associated with
5 this proceeding, docket number 21-SPEE-02. The Notice
6 of today's event, and other documents related to this
7 proceeding, are available on the Energy Commission's
8 website in the electronic docket for this proceeding.

9 We're conducting today's Committee Conference
10 in a hybrid format, which means some participants are in
11 person in the Rosenfeld Hearing Room at the Warren
12 Alquist building in Sacramento, and others are
13 participating via Zoom. To those on Zoom, to find your
14 participation options, look for the black bar at the
15 bottom of your Zoom screen.

16 We set the Zoom meeting so that many
17 participants will not be able to mute or unmute
18 themselves to speak. But you will have the opportunity
19 to speak during the public comment period, as I will
20 describe in a moment. You may still mute your phone by
21 pressing star-six, and you should still be able to hear
22 the Committee Conference.

23 The party's representatives may be
24 participating in Zoom as panelists, which means that
25 they may— they will be able to mute and unmute

1 themselves to speak and have the option to use the video
2 feature. If you want to be recognized, please use the
3 raise-hand feature. If you're connected to Zoom by your
4 phone, press star-nine to raise your hand.

5 If you've muted your line by pressing star-
6 six, please be sure to unmute yourself by pressing star-
7 six again. The raise-hand feature creates a list of
8 speakers based on the time when your hand was raised,
9 and we will call on you in that order. Please note that
10 if anyone makes noise that disrupts this meeting, we may
11 mute that person. If that happens, you will need to
12 raise your hand to have your microphone turned back on
13 if you would like to speak.

14 Today we have a court reporter transcribing
15 all the statements made and any questions asked. I
16 therefore must ask that only one person speak at a time.
17 Also, please identify yourself before you speak. When
18 you speak for the first time please say and spell your
19 name slowly for the record. That's important for me and
20 for the court reporter. If you do not identify
21 yourself, either the court reporter or I may interrupt
22 you to ask that you do so to ensure that we have a
23 complete and accurate record of today's Committee
24 Conference.

25 If you run into any technical difficulties

1 with Zoom, please contact the Public Advisor's office or
2 Zoom's Help Center. Contact information for both is
3 listed on page six of the Notice of today's Committee
4 Conference. At this time, I'll ask, are there any
5 questions? And please use the raise-hand feature if you
6 have any questions.

7 Okay, seeing none.

8 Next, to the purpose of today's Committee
9 Conference is to provide the public with an overview of
10 the process the Energy Commission is using to review the
11 application for a Small Power Plant Exemption for this
12 STACK Trade Zone Boulevard Technology Park SVY Backup
13 Generating Facility to provide an overview of
14 opportunities for public participation to hear about the
15 project proposed by the Applicant, to review the current
16 status of this proceeding, and to address any
17 outstanding issues. And finally, to allow the Committee
18 to develop a schedule for this proceeding.

19 To that purpose, first, I will give a brief
20 overview of the application that is the subject of this
21 proceeding. Next, I will describe a Small Power Plant
22 Exemption, known as an SPPE for short. And then I will
23 outline some of the rules applicable to this proceeding.

24 After I give that overview, the Energy
25 Commission's Public Advisor will — Office, will discuss

1 opportunities for public participation in this
2 proceeding. Following that, we will hear from the
3 Applicants about its application for an SPPE. Next the
4 Energy Commission Staff will present on its Issues
5 Identification Report, Status Report, and proposed
6 schedule. Following Staff's presentation, as stated in
7 today's agenda, the Committee and the Parties may
8 discuss the schedule and other topics regarding the
9 application.

10 There will then be an opportunity for public
11 comment toward the end of this Committee Conference.
12 The Committee has also given notice that it may hold a
13 closed session. We will decide whether that will be
14 necessary after we've heard from everyone. After that,
15 we will adjourn this Committee Conference.

16 So now turning to the application at issue in
17 this proceeding. On December 10th, 2021, STACK
18 Infrastructure, which I will refer to as the Applicant,
19 filed an application with the California Energy
20 Commission requesting a Small Power Plant Exemption for
21 the STACK SVY backup generating facility. I will refer
22 to this application simply as the application.

23 The application proposes to build and operate
24 a data center in San Jose, California. The data center
25 will consist of two three-story buildings totaling

1 approximately 522,000 square feet, which would provide
2 secure and environmentally controlled structures to
3 house computer servers. The Applicant also proposed to
4 build and operate a backup generating facility that
5 would ensure reliable backup electricity to the data
6 center in the event of a loss of electrical service from
7 the local utility, Pacific Gas and Electric Company,
8 commonly known as PG&E.

9 The backup generating facility would consist
10 of 36 three-megawatt diesel-fired backup generators, and
11 two one-megawatt diesel-fired backup generators arranged
12 in two generation yards, each designed to serve one of
13 the two data center buildings. The most common
14 operation of the backup generators would occur during
15 routine testing and maintenance.

16 The backup generators will not be
17 interconnected to the electrical transmission system,
18 and therefore no electricity could be delivered off
19 site. The backup generating facility will supply power
20 only to the data center. The maximum electrical demand
21 of the data center would be 90 megawatts.

22 At the same project site, the Applicant also
23 proposes to build and operate an approximately 137,000
24 square foot advanced manufacturing building for light
25 industrial and ancillary support uses, and a multi-story

1 parking garage, on-site substation, and other related
2 project features.

3 I will now describe the SPPE process. The
4 California Energy Commission was created by the passage
5 of the Warren Alquist State Energy Resources
6 Conservation and Development Act, commonly referred to
7 as the Warren Alquist Act, law that may be found in the
8 California Public Resources Code. This law gives the
9 Energy Commission exclusive authority to consider and
10 ultimately approve or deny applications for the
11 construction and operation of thermal power plants that
12 will generate 50 megawatts or more of electricity. This
13 includes backup generating facilities.

14 An exemption from the Energy Commission's
15 exclusive authority is available under the Warren
16 Alquist Act, which allows builders of thermal power
17 plants that will generate less than 100 megawatts to
18 apply to the Energy Commission for an exemption from its
19 exclusive jurisdiction, if the proposed project meets
20 certain criteria.

21 This exemption is known as a Small Power Plant
22 Exemption, or as I mentioned, an SPPE for short. To
23 grant an SPPE, the Warren Alquist Act states that the
24 Energy Commission must make three separate and distinct
25 determinations.

1 First, that the proposed power plant has a
2 generating capacity of no more than 100 megawatts.
3 Second, that no substantial adverse impact on the
4 environment will result from the construction or
5 operation of the power plant. And third, that no
6 substantial adverse impact on energy resources will
7 result from the construction or operation of the power
8 plant.

9 In addition to meeting these Warren Alquist
10 Act requirements, the Energy Commission must also
11 analyze an SPPE application under the Environmental
12 Quality Act, California Environmental Quality Act known
13 as CEQA. The Energy Commission is the CEQA lead agency
14 and considers the whole of an action.

15 For this application, the whole of an action
16 means not just the backup generating facility, but also
17 the entire data center complex that the backup
18 generating facility would support, and also includes the
19 advanced manufacturing building, the parking garage, and
20 other product features such as the onsite substation and
21 landscaping. This whole of an action is collectively
22 called the project, which again is the backup generating
23 facility, the data center, the advanced manufacturing
24 building, parking garage, and other product features.

25 It is important to note that if the Energy

1 Commission decides to grant the Small Power Plant
2 Exemption, that decision would not constitute approval
3 to build or operate the project. Instead, upon being
4 granted an exemption from the Energy Commission's
5 licensing process, the project owner would then need to
6 seek any necessary permits and licenses from other local
7 agencies. Which, for the STACK project, includes
8 without limitation, the City of San Jose, and the Bay
9 Area Air Quality Management District.

10 The SPPE process begins with the filing of an
11 application. The application for the STACK's backup
12 generating facility was originally filed in the docket
13 for this proceeding on December 10th, 2021. Energy
14 Commission Staff has filed requests for information from
15 the Applicant. We refer to Staff's requests for
16 information as data requests, or discovery.

17 Staff uses this information to prepare an
18 environmental document, which will include the
19 information required by both CEQA and the Warren Alquist
20 Act. And which will be used by the Committee and then
21 the full Energy Commission to decide whether to approve
22 or deny the application for an SPPE exemption.

23 The Energy Commission will review Staff's
24 environmental analysis. During its review, the Energy
25 Commission uses an adjudicative process. The Energy

1 Committee ordinarily conducts an evidentiary hearing,
2 which is similar to a trial. At the evidentiary
3 hearing, the Committee would receive evidence from the
4 parties and any comments from the public about whether
5 to grant or deny the SPPE application.

6 After the evidentiary hearing, the Committee
7 will prepare a proposed decision. The proposed decision
8 will include the Committee's analysis of the project
9 under both the Warren Alquist Act and CEQA. The
10 Committee's proposed decision is then considered by the
11 full Energy Commission at a public business meeting.
12 The Energy Commission will ultimately decide whether to
13 adopt, modify or reject the Committee's proposed
14 decision.

15 At all SPPE proceedings, there are at least
16 two parties. First, the Applicant requesting the
17 exemption. And second, the Energy Commission Staff.
18 Organizations and members of the public may become
19 parties as well by petitioning to intervene. The Public
20 Advisor's office will describe that opportunity as well
21 as other ways to comment on the proposed project in just
22 a few minutes.

23 Now I need to describe the ex parte rules,
24 which prohibit off the record communications with the
25 presiding officers and their advisors. Because we use

1 an adjudicative process, the Energy Commission's
2 regulations and state law require that we ensure a fair
3 process for everyone who participates in this
4 proceeding. The Energy Commission's ultimate decision
5 will be based solely on evidence contained in the
6 record.

7 One way to ensure a fair process is through
8 the ex parte rule, which states that parties to a
9 proceeding and interested persons outside of the Energy
10 Commission, which is to say the general public, are
11 prohibited from communicating with the presiding
12 officers about anything that may be in controversy or in
13 dispute. And last, notice is given that allows an
14 opportunity for all the other parties to participate in
15 that communication, or the communication is shared in
16 writing with the public and the parties.

17 The preferred way to submit a written comment
18 or communication is by filing it in the docket for this
19 proceeding. Prohibited communications include voicemail
20 messages, text messages, emails, letters, telephone
21 calls, and in person discussions, essentially any form
22 of communication. In this proceeding the presiding
23 officers are the members of this committee, both
24 Commissioner McAllister and Commissioner Vaccaro, as
25 well as the other three members of the Energy

1 Commission.

2 Presiding officers also include Deborah Dyer
3 and myself as the Hearing Officers. Ex parte
4 communications are also prohibited with individuals
5 assisting these presiding officers, which for these
6 proceedings includes anyone serving as advisor to the
7 Commissioners and any attorney or other expert assisting
8 the Committee or Commissioners with this proceeding.

9 Now moving on, today's Committee Conference is
10 one of several public events that will extend over the
11 next several months. And do we have a presentation
12 display from the Public Advisor's office? Okay, can we
13 have that on screen please?

14 At these events, members of the public can
15 participate, provide comments about the project. And I
16 now invite the Public Advisors Office to present on how
17 it can assist members of the public, participate in
18 events regarding the application. And after that, we'll
19 move on to the Applicant's presentation of the project.

20 MS. MURIMI: Thank you. Hello, everyone. My
21 name is Dorothy Murimi. I work for the Office of the
22 Public Advisor, Energy Equity and Tribal Affairs. I'm
23 here today to help inform the public about how to
24 navigate and participate in this Small Power Plant
25 Exemption proceeding called STACK.

1 Next slide.

2 The CEC values public participation and wants
3 to hear from an array of stakeholders with different
4 perspectives, because having a robust record helps the
5 Committee make a thoroughly informed decision.
6 Sometimes state processes can be confusing, but the
7 Office of the Public Advisor, Energy Equity and Tribal
8 Affairs, is here to provide guidance. One of the key
9 takeaways from this presentation is that the Public
10 Advisor is here to function as a bridge between the
11 public to help ensure any stakeholder or member of the
12 public can participate meaningfully in this and all
13 other CEC proceedings. Please reach out with any
14 questions for guidance. Our email is
15 PublicAdvisor@energy.ca.gov, or call 916-957-7910. We
16 respond both— to both emails and calls within 24 hours.

17 Next slide.

18 There are two takeaways to participate in SPPE
19 proceedings. Pardon. As a member of the public —
20 informal, as a member of the public, like you would at
21 any CEC event. And the other way is formal as an
22 intervener. I'll start by explaining the informal
23 approach. These — the informal approach. The events in
24 this proceeding may be fully virtual, or fully in
25 person, or hybrid. Most of the time we'll aim to

1 provide a hybrid format to increase accessibility.

2 In the event of — in the — in every event of
3 the STACK proceeding, such as today's Committee
4 Conference, time will be carved out specifically for the
5 public to comment, and that is your opportunity to speak
6 on the issues related to this proceeding. If you're
7 unable to join an event, the Public Advisor can provide
8 your comments on your behalf. You would need to email
9 or call in your comments prior to the start of the
10 event. Finally, you may also submit written comments
11 through our docket system to be included in the record.

12 Next slide.

13 The formal approach to participate in SPPE
14 proceedings is to become an intervener. An intervener
15 is a person or group that is a party to the proceeding.
16 Like any other party to the proceeding, an intervener
17 may present evidence and witnesses, object to other
18 party's evidence, cross examine other witnesses, and
19 file motions.

20 To become an intervener you must file a
21 petition to intervene. No specific form has to be
22 filed. Just the information, your contact info, and
23 interest to participate, which we would submit to the
24 docket.

25 You do not need to be an attorney nor have

1 legal representation. We emphasize that even if you are
2 — even if you're not sure whether you want to become an
3 intervener, or even if you do not end up participating
4 at all in the proceeding, it is best to go ahead and
5 file so that you don't miss key deadlines and
6 opportunities to engage.

7 Next slide.

8 Whether you decide to engage in the proceeding
9 as a member of the public or an intervener, we highly
10 recommend you go to the STACK project webpage to obtain
11 the most current information about the proceeding.
12 Here's what the webpage looks like. The red arrow
13 points to the link where anyone could submit an
14 electronic comment. The blue arrow points to the e-
15 filing link which is the preferred pathway for staff and
16 parties to the proceeding to submit material.

17 And the first green arrow points to the docket
18 log link. The docket log is a repository for documents
19 filed by all parties to the proceeding and for public
20 comments. Basically, it's where you'll find all
21 materials submitted for this proceeding.

22 The second green arrow at the bottom is a
23 section where you will sign up for the STACK
24 subscription, formerly known as Listserv. This will be
25 a lifeline to the proceeding. Additionally, this

1 webpage also contains the contact information for staff
2 who can answer more questions about the STACK proceeding
3 and contains the Public Advisors office contact
4 information. If you need assistance with any of the
5 processes, please reach out to public — to the Office of
6 the Public Advisor, Energy Equity and Tribal Affairs.

7 Next slide.

8 Signing up for the preceding subscription or
9 Listserv is a voluntary procedure. We highly recommend
10 it because it is the most efficient way to receive the
11 most current information about the proceedings. This
12 includes alerts about what is happening in the
13 proceeding, and notifications about material that has
14 been docketed. Signing up for the — for that
15 subscription is a quick process.

16 First you will go to the pro— the project
17 webpage noted here. Then you'll scroll down to the web
18 page. There, you will find a box that looks like this
19 one titled, "Subscribe to STACK Trade Zone Park." Enter
20 your email address and then click Subscribe. You'll see
21 a message saying you have successfully subscribed to CEC
22 STACK Trade Zone Park, from our California Natural
23 Resources Agency. Click, "Finish."

24 Next, you'll see our privacy policy. Review
25 that and click the box and close out. You'll also

1 receive an email showing you've subscribed to CEC STACK
2 Trade Zone Park. If you do this successfully, you'll
3 receive via email the latest material and notifications
4 about the STACK proceeding.

5 Next slide.

6 Today is the first Committee Conference for
7 this proceeding and a schedule with specific deadlines
8 for the rest of the proceeding is forthcoming. You'll
9 be able to locate these materials on our webpages.
10 You'll receive email notifications and alerts when you
11 sign up for the subscription.

12 We want to emphasize a few significant
13 opportunities you'll have to participate. First, is the
14 publication of the Staff's environmental assessment
15 document. CEQA allows for a public review and comment
16 period on Staff's environmental assessment document.
17 This is a period during which Staff will prepare a
18 proposed mitigated negative—a mitigated negative
19 declaration, or an environmental impact report, based
20 upon the assessment of potential environmental impacts
21 outlined in the Staff initial study.

22 Staff will respond to comments and questions
23 in the proposed decision if necessary. If necessary, a
24 workshop will be held to address any unresolved issues.
25 Next, a pre-hearing conference and evidentiary hearing

1 are other opportunities.

2 Subsequent to the environmental assessment is
3 a pre-hearing conference, followed by an evidentiary
4 hearing. The pre-hearing conference is a public forum
5 where the Committee will assess the party's readiness
6 for an evidentiary hearing and public comment will be
7 taken. The evidentiary hearing is an administrative
8 adjunctory proceeding to receive evidence into the
9 formal hearing record from the parties. Members of the
10 public may present comments at the evidentiary hearing
11 that become part of the hearing record.

12 And the Commission decision and — at the
13 business meeting. Towards the end of the proceeding,
14 the Commission will decide on whether to approve or deny
15 the proposed decision during a regularly scheduled CEC
16 business meeting. Public comment will also be accepted
17 and considered prior to the vote of the Commissioner.

18 Next slide.

19 This is the contact information for the Public
20 Advisor. The best way to get a hold of us is via email
21 at PublicAdvisor@energy.ca.gov, or give us a call at
22 916-957-7910. Our website link is here. You may mail
23 items to the Public Advisor office at 9— at 715 P
24 Street. Our mailstop is mailstop number 12. And that's
25 for the California Energy Commission.

1 To conclude I'd like to note that by the end
2 of this week, we'll post this presentation through our
3 online docket system for public access. Thank you, and
4 back to Hearing Officer Lee.

5 MR. LEE: Yes, thank you. Commissioner
6 Vaccaro?

7 COMMISSIONER VACCARO: This is Commissioner
8 Vaccaro, for the record. Dorothy, I just wanted to
9 thank you and acknowledge your presentation. That was
10 really good information. And also, just express the
11 appreciation for the work that the Public Advisor's, or
12 your office, does to assist the public in participating
13 in our proceedings.

14 There's just one point of clarification I
15 wanted to make because I might have misunderstood
16 something. There was a lot of rich information in your
17 presentation, and it relates to would-be intervenors.

18 And I just wanted to underscore that while
19 there is no specific Energy Commission form that an
20 intervener needs to complete, we do have very specific
21 content requirements that must be met that are set forth
22 in our regulations. And I know that your office is very
23 good about working with intervenors so that they
24 understand what those requirements are, so that they can
25 submit a petition that meets all of the regulatory

1 requirements.

2 So, thank you for allowing me to just make
3 that point of clarification. And again, thank you for
4 the presentation, Dorothy.

5 MR. LEE: Yes, thank you. I would now invite
6 the Applicant to present an overview of the SPPE
7 application and after that we'll hear from staff.

8 MR. KAPPER: Good afternoon, everyone. Chris
9 Kapper, C-H-R-I-S K-A-P-P-E-R, Director of Strategy and
10 Development for STACK Infrastructure, based in Denver,
11 Colorado. I appreciate the opportunity to talk about
12 our project.

13 Can we move to the next slide please?

14 This is an image of STACK's footprint
15 currently, domestically and abroad, with the intention
16 of demonstrating our pipeline, our continual growth
17 capacity, and our excitement about this project to
18 anchor another campus of ours in Silicon Valley.

19 Next slide please.

20 This is a site overview for orientation.
21 We've offered a imagery of the proposed project in blue
22 on the right side of your screen, highlighting the data
23 centers as well as the advanced manufacturing building.
24 The on-site substation is grayed out there, and the
25 existing improvements that are shown to the east of the

1 proposed project are in relation to our existing campus.

2 Next slide please.

3 Here's a visual representation of the existing
4 conditions on site. This is really intended to
5 highlight the blighted nature of one of the buildings
6 we're intending to redevelop here as part of this
7 project.

8 Next slide, please.

9 Here's some renderings of our proposed
10 project. We attempted to give views of all of the view
11 corridors available from the public right of ways.

12 Next slide, please.

13 Overview of our project. The— Hearing Officer
14 Lee really provided a great introduction here. This is
15 a redevelopment of a 9.78-acre site. As mentioned,
16 we'll be bringing online two three-story data centers.
17 One three-story advanced manufacturing building, an on-
18 site substation, as well as a multi-story parking
19 garage.

20 The existing improvements are located at 2400
21 Ringwood Drive, and 1849 Fortune drive in San Jose,
22 California. The project boundaries include Trade Zone
23 Boulevard to the north, Ringwood Road to the west, our
24 existing facility, SVY-01 one to the east, and Fortune
25 Drive to the south. As I previously mentioned, this

1 project does include the redevelopment of a blighted
2 manufacturing building and associated parking, as well
3 as a single-story office building and the associated
4 parking there.

5 On the right-hand side of your screen, you'll
6 see our proposed improvements for the data centers. We
7 have about a total of 16 megawatts of capacity coming
8 online warehoused in 527,000 square feet of new
9 development. As well as our advanced manufacturing
10 building, which is about 135,000 square feet right now.

11 We do have an onsite substation and the backup
12 generation facility. The backup generation facility
13 will include 36 three-megawatt backup generators, two
14 one-megawatt backup house generators that are located
15 within the project equipment yards. The next slide will
16 show you that. The backup generation facilities are
17 intended only to be operated for maintenance, testing
18 and utility outages with PG&E.

19 The primary objective of this backup
20 generation facility is to ensure that the servers
21 warehoused within the data center development continue
22 to operate in the event of a power outage. And our
23 primary fuel source will be renewable diesel fuels as
24 practicable.

25 Next slide please.

1 This is an overview of the site plan. You can
2 see in between the two data center buildings, which are
3 labeled SVY-05 and SVY-06, is where the backup
4 generation facility will be warehoused.

5 Next slide please.

6 Some of the project benefits that we wanted to
7 talk about with the group today is our use of air-cooled
8 chillers and a low GWP refrigerant usage here. The
9 project also offers multimodal access points utilizing
10 the BART system, some bike paths that we're developing
11 as part of the project, as well as pedestrian walkways
12 to access the site. As previously mentioned, the
13 intention here is to use renewable diesel fuel as
14 practicable. Our generators are tier-four rated.

15 We are redeveloping a blighted site. This
16 project will qualify for LEED Silver certification. We
17 have an advanced manufacturing that's intended to meet
18 some of the employment and job creation initiatives in
19 place with the city of San Jose, and STACK does intend
20 to deploy our renewable positions and objectives on this
21 project.

22 Next slide, please.

23 STACK's One Purpose Program is our approach to
24 sustainability, and it encompasses everything we do for
25 people planet to progress. On the renewable front,

1 we're shifting to 100 percent renewables across our
2 portfolio. This is something that we're proud of and
3 we're pleased to represent. In relation to water
4 efficiency, we value water as a resource. So, we
5 utilize air cooled chillers and our basis of design
6 offers a 1.3 PUE and leverages air for cooling instead
7 of water.

8 Next slide please.

9 And our appendix, just offering some
10 elevations of the project here. If you can go to the
11 next slide.

12 This is— these are the renderings that you
13 previously saw. These are converted into formal
14 elevations here of the advanced manufacturing building.
15 This is looking head-on to the site from Trade Zone.

16 Next slide please.

17 This offers a view of the first data center
18 building, SVY-05. This is SVY-06. Sorry, you can go to
19 the next slide. SVY-06 is shown here. This is a view
20 from Fortune drive.

21 And then next slide, please.

22 These are renderings of our parking garage
23 facility that will be viewable from Trade Zone as well.
24 Our intention here is just to show you that our goal is
25 to develop a best-in-class type product for this project

1 here.

2 And that is all I have.

3 MR. LEE: Thank you. Would either
4 Commissioner Vaccaro or Commissioner McAllister like to
5 make a comment?

6 COMMISSIONER VACCARO: Yeah, thank you Hearing
7 Officer Lee, this is Commissioner Vaccaro for the
8 record. Thanks so much for that, for that presentation.
9 It looks like the breadth of the lead agency
10 environmental review is broader than typical with this
11 project. But really appreciate getting a sense and
12 seeing the renderings and sort of the full scope of what
13 we're going to be considering from a CEQA perspective.

14 I do have a question though. If you could
15 please elaborate on what you mean when you say that the
16 project will use renewable diesel as practicable? What
17 happens if not practicable, then what will be used? So,
18 if you could just sort of you know explain that to us a
19 little bit. Really appreciate it.

20 MR. GALATI: If I could, I'd like to field
21 that question. Is that okay, Commissioner?

22 COMMISSIONER VACCARO: Oh, yes, please, Mr.
23 Galati. Please do.

24 MR. GALATI: Thank you. What we've been
25 finding in the market is there may be, during an

1 emergency, a supply problem associated with renewable
2 diesel. So, as we hope to never have to operate during
3 an emergency, we hope that doesn't come up. We will and
4 intend to use renewable diesel in our tanks for our
5 testing and maintenance as others have as well. We
6 think we probably can manage any potential supply chain
7 problem during that time because we can schedule
8 deliveries and we know our consumption.

9 But if there were a 24, or 48-hour emergency,
10 it is possible that the competition for renewable diesel
11 is certainly— at this time may not be as readily
12 available to us. So, we want to maintain the ability to
13 use diesel fuel in such a case. And that would be CARB-
14 2 diesel. What we've done is we've evaluated all the
15 emissions based on CARB-2 diesel so that we can ensure
16 that should we use that fuel, that we're not resulting
17 in any significant impacts.

18 We are responding to a series of data requests
19 that have also turned into— also responding to some
20 comments by the city, in which we're revising the
21 project descriptions slightly. Not much from what
22 you've seen here, but our drawings are slightly changed.
23 And so, in that, we're proposing a design measure that
24 is very similar time design measures — the mitigation
25 measures that you've approved in other projects for

1 renewable diesel as the primary fuel, and CARB-2 diesel
2 in the case that that fuel is not available.

3 COMMISSIONER VACCARO: Again, Commissioner
4 Vaccaro for the record. Thank you for that Mr. Galati.
5 That was a thoughtful and helpful response. Appreciate
6 it.

7 MR. LEE: Can we please display the Staff's
8 PowerPoint on the screen? In the July 14th Notice of
9 today's Committee Conference, we directed Staff to file
10 an Issues Identification Report, Status Report, and
11 proposed schedule. Staff kindly filed that document in
12 the docket for this proceeding on July 20th, 2022.

13 The Notice also ordered the Applicant to file
14 a response to Staff's Issues Identification and Status
15 Report and proposed schedule. The Applicant timely
16 filed his response on June 27th, 2022. We thank staff
17 and — July 27th, 2022. We thank staff and Applicant for
18 their timely submissions. Now Energy Commission Staff
19 will present its Issues Identification Report, Status
20 Report and proposed schedule.

21 MR. KNIGHT: Thank you hearing officer Lee.
22 This is Eric Knight on behalf of Staff. Excuse me. So,
23 the Applicant filed their application on December 10th,
24 2021. That was an incomplete application. Then in a
25 series of filings between March 8th and April 11th, the

1 Applicant submitted their application. So, at that
2 point, I think it was in May, that the Committee was
3 assigned and Staff jumped into this proceeding full
4 force with a series of data requests.

5 So, on May 16th, we filed our first set of
6 data requests. Applicant has responded to most of those
7 questions on June 7th. And then a subsequent filing on
8 July 27th. Staff filed a second set of data requests on
9 July 10th. And we expect the Applicant's responses to
10 those data requests on August 10th.

11 So, we'd like to thank the Applicant for their
12 responsiveness to our requests to date, and we're
13 looking forward to the further data responses on the
14 10th. We actually have a meeting scheduled for this
15 Friday with the Applicants to go over some of our data
16 requests to clarify them.

17 So, we'd also like to thank the Applicant for
18 their commitment. As you just heard from Mr. Galati,
19 the proposed design measure to use renewable diesel to
20 the great extent feasible, and also their commitment to
21 reducing GHG, greenhouse gas emissions excuse me, from
22 the datacenter's electricity use.

23 So, staff is presently preparing the
24 environmental assessment document. At this point just
25 like in all the more recent SPPE proceedings, we're

1 preparing a draft environmental impact report under
2 CEQA, which I'll refer to as a draft EIR going forward
3 here. So currently, staff doesn't see any issues in
4 many of the environmental topic areas we'll see in the
5 draft EIR. Oh, thank you for advancing the next slide.

6 But there's, on this slide here, we've noted
7 the areas where— not to say that there will be major
8 issues, but just that discovery is not complete. So,
9 staff is not in a position to say there won't be, you
10 know, a significant impact that cannot be mitigated at
11 this juncture. But when we're through discovery, we're
12 hoping to resolve any issues.

13 So, right now, it's in the areas of air
14 quality. So, they were reviewing— I believe the revised
15 modeling and health risk analysis was docketed just
16 recently and staff is revealing that. There's
17 outstanding information regarding biological resources
18 in terms of nitrogen deposition modeling, and that's one
19 of the topic areas we'll be discussing on Friday.

20 There is a need for a revised cultural
21 resources report. And then some information regarding
22 land use is of interest to the local government. And we
23 need a vehicle miles traveled analysis, VMT analysis.
24 Any required mitigation to bring the project vehicle
25 miles traveled below the target threshold set by the

1 local agency.

2 And what's not on this list, and probably
3 should have been on here, is utilities and service
4 systems. There was a set of data requests about water
5 use. And so those are pen— those responses are pending
6 as well.

7 And then the topic areas of environmental
8 justice, mandatory findings of significance, they're
9 dependent on pretty much all the other topic areas in
10 the draft EIR so those can't be completed as yet.

11 Next slide, please.

12 So, Staff's schedule pretty much just
13 identifies what we've done to date, because looking
14 forward is very difficult with discovery being still,
15 you know, being— not being finished. So, staff has done
16 all the required Noticing as required by our — CEC's
17 siting regulations and the California Environmental
18 Quality Act.

19 As noted before we issued a series of data
20 requests. There's potential for additional data
21 requests depending on the responses to those questions
22 so far. So, what we would like to see in our proposal,
23 and this has been something that other Committees have
24 adopted, is to set sort of a performance-based timeline
25 for a draft EIR. And that that be published within 60

1 days of Staff receiving complete answers to all of its
2 data requests. And we would notify the Committee in a
3 status report of when that 60-day clock would start.

4 I'll note that, you know, the Applicant, in
5 their response to our Issues ID report, noted that
6 they'd like to see 30 days. You know, some of the topic
7 areas that are the last to be completed are the most
8 complicated areas, controversial areas, such as air
9 quality, and then they feed into other sections.

10 So, Staff thinks it's reasonable to set that
11 deadline at 60 days. And we, of course, would strive to
12 issue it sooner than that if possible. You know, if the
13 areas get done earlier, we wouldn't hold it for 60 days,
14 we would publish sooner, but we'd like to have that 60
15 days.

16 The other area where we've set a performance
17 timeline would be for the preparing the final
18 environmental impact report. So, we would like to have
19 30 days before the end of the public comment period on
20 the draft EIR.

21 Again, we would strive to publish sooner. But
22 although the comments so far have not been extensive,
23 we've all experienced comments coming in late. And if
24 those comments are extensive, it takes time to ensure
25 that we've appropriately responded to all the comments

1 and make appropriate revisions to the draft EIR
2 sections. And then there's a bunch of ripple effects
3 throughout the document too, that we'll have to take
4 care of. So, we'd like to have that time, that 30 days,
5 to ensure that the document is complete and accurate.

6 And I think that completes my presentation.

7 MR. LEE: Thank you. Mr. Galati, does
8 Applicant have any response to Staff's presentation,
9 including regarding the scheduling issues?

10 MR. GALATI: I understand Staff's— Yes, you
11 said. Thank you. Scott Galati, representing the
12 Applicant. And I'm sorry, Elise, G-A-L-A-T-I. I
13 haven't spelled my name yet.

14 I understand Staff's reluctance to agree to 30
15 days for a draft EIR. And maybe I'm seeing the glass
16 half full, and they're seeing the glass half empty.
17 We've done quite a few of these projects. And I'm not
18 just— not to say that they don't have unique issues, but
19 they're relatively constrained to a couple of technical
20 areas. I'm happy to hear staff say that they'll try to
21 meet that— to meet and beat the 60 day clock. One of
22 the things that I'd like to focus on less on that
23 timeline and more on the 15 days for response to
24 comments.

25 One of the things that I have found that works

1 very well during the AFC process, that we kind of lost
2 track of here in the Small Power Plant Exemption
3 application process. We could have a workshop between
4 the draft EIR and the final DIR, in which I think will
5 tease comments on the draft EIR out quicker than the
6 last day, allowing staff to respond to those comments
7 that are raised earlier.

8 I think we're missing that, maybe because of
9 COVID, but we're missing the roll up your sleeves and
10 answer questions and get things resolved. That we do—
11 that we then end up trying to have to do that during
12 evidentiary period. So, I would amend my request to
13 say, maybe the Committee could ask us to do a workshop
14 during the 45-day comment period on the draft EIR, and
15 then have the final EIR comments due 15 days after the
16 end of the comment period.

17 As always, if Staff— if a huge comment letter
18 came in on the last day, we certainly would not object
19 to Staff asking for more time. But we wouldn't like to
20 have that time built into the process. I don't know
21 about you. If I'm given a deadline and it's out, even
22 though I intend to try to do it quicker, it seems like I
23 get close to that deadline before I actually produce my
24 own work.

25 So, I'd like— just like the Committee to

1 consider that on this proposed schedule, as well as the
2 other items that I've had about encouraging intervenors
3 to participate early. Oh, it would certainly be great
4 if an intervener came to a workshop and raised their
5 issues and we could all discuss it. As we've done with
6 a lot of projects on the power plant side, we've
7 developed mitigation, we have developed some design
8 changes.

9 We've done quite a bit to accommodate
10 reasonable requests from the public if we know about
11 them. It's very, very hard if we don't know what those
12 are, and we're trying to deal with them in evidentiary
13 hearing. It's just not the right place. So that's my
14 presentation. I understand where Mr. Knight is coming
15 from and respect him. But I would ask the Committee to
16 consider my comments. Thank you.

17 MR. LEE: Yes, this is Ralph Lee. Thank you.
18 And I wanted to point out that the two other requests
19 that Mr. Galati is speaking of, is the Applicant
20 requested the potential intervenors petition 10 days
21 before the close of public comment period on the file to
22 petition to intervene at least 10 days before the close
23 of public comment period on the draft EIR.

24 And that the Committee require the
25 intervenors, if any, to file comments on the draft EIR

1 as a prerequisite to presenting further oral and written
2 testimony on the hearings. And that that'd be
3 considered their opening testimony. Does Staff have any
4 response to what Mr. Galati stated or those other two
5 points?

6 MR. KNIGHT: I think staff would be more than
7 happy to hold a workshop during the public comment
8 period. I think that's a good suggestion by Mr. Galati.
9 The other two points that were raised in the status— and
10 their response to the Status Report, Issue ID report.
11 Don't really have an opinion on those topics. I think I
12 defer to the Committee's judgment on that.

13 MR. LEE: Okay, thank you.

14 The Committee has a comment and a question
15 that I'll ask, unless either Commissioner wants to ask
16 anything now?

17 Yeah, go ahead.

18 COMMISSIONER MCALLISTER: This is Commissioner
19 McAllister. So, I just want to first thank everyone for
20 very clear, precise, concise presentations. The STACK
21 team applicant staff, and the Public Advisor as well.
22 And thanks, thanks to all of you.

23 Also want to thank those who have already
24 submitted comments. Those were helpful. We had the
25 Native American Heritage Commission and the Santa Clara

1 Valley Water District, as well as the Department of
2 Toxic Substances Control, as well as a member of the
3 public, Claire Warshaw (PHONETIC). So, thanks to all of
4 them for submitting on the docket.

5 So, let's see. There are a couple of other
6 just— a couple questions that I had just for
7 clarification. There's this rezoning need for the, for
8 the land and I guess I want to— I didn't quite sort of
9 get the reasoning behind that, the need for it. And
10 maybe that's a little bit, you know, technocratic
11 specific to San Jose. But I'd just kind of like to know
12 a little bit more about that and whether, you know,
13 there's any timing constraint associated with that.

14 And then I wanted to also just point out that
15 there's a— and this probably has to do with
16 transportation and air quality and a few other, few
17 other issue areas. But there is a church to the
18 northwest of a site and a school to the southeast of the
19 site. And just wanted to sort of invite the Applicant
20 to comment on sort of how those, how those facts kind of
21 influence the scope of the project.

22 MR. GALATI: Thank you, Commissioner
23 McAllister. Scott Galati, representing the Applicant.
24 I guess I'd start with the first— the second question
25 first. I will have to get back to you on that. I know

1 that our air quality analysis and noise analysis picked
2 the closest sensitive receptors, which I believe are
3 closer than those. And all of our evaluations on
4 potential health impacts were done at a closer receptor
5 and found to be within the thresholds for the Bay Area
6 Air Quality Management District CEQA guidelines. But I
7 will file something right away, answering that question
8 with someone who's much more expert than me on this
9 topic area.

10 With respect to the zoning, it is not as
11 complicated as I'm going to make it sound. We comply
12 with the zoning, which is industrial park. There is a
13 general plan overlay for a transportation employment
14 center, and a couple of the requirements of that overlay
15 we do not meet, which primarily is more parking.

16 And so, the way the city asked us to deal with
17 this was to request a PD permit, a PD rezoning permit to
18 take the zoning out of industrial park, which we comply
19 with all of the requirements with industrial park, and
20 make it PD and include all of the things we comply with
21 on the TVC overlay, but specify that this area could be
22 designed and built with the reduced parking that we've
23 required.

24 So, it still would be a transit employment
25 center because we have the advanced manufacturing

1 building. And the entire site was worked out and in
2 collaboration with the city of San Jose over the last
3 couple of years. But that is the way that they asked us
4 to do it. And so, this is one of those issues where the
5 only thing that we do not comply with is a overlay in
6 the general plan, which I don't believe—which would be
7 the excess parking—which I don't believe would be a
8 significant impact in and of itself, because reduced
9 parking would be reduced impact.

10 So, I don't believe that the zoning has to
11 take place before the Commission can finalize its
12 decision. I do believe that the CEQA analysis needs to
13 point it out. And I believe that it will be taken into
14 account when the city undertakes our project, they'll be
15 undertaking not only approving the special use permit,
16 but the actual PD zoning change. Did I make that
17 absolutely clear as mud?

18 COMMISSIONER MCALLISTER: Clear as mud,
19 exactly. No, I appreciate that context. And the point
20 that I'm taking away is that the city requested it, that
21 there's no reason to believe that it won't actually be
22 something that they'll approve expeditiously. But
23 certainly it ought to be described in the CEQA analysis,
24 and preferably backed up by the city of San Jose
25 directly.

1 MR. GALATI: Correct, Commissioner. Your
2 staff has asked a quite a bit of questions about that.
3 And including asking us to show how we are going to
4 comply with all of those requirements. We're working on
5 that. We have revised our drawings to show those notes,
6 and we're making a table for them and we hope to be able
7 to file that on Monday in our revised project
8 description. And then obviously, we will then work
9 closely to get the city of San Jose to be more
10 definitive that we will comply with their codes

11 COMMISSIONER MCALLISTER: Okay, great. Thanks
12 very much. And also, I just wanted to give some, some
13 kudos really to the, to the team for scoping out some of
14 the environmental aspects of this and presenting those.
15 And to certainly the biodiesel, or the renewable diesel
16 piece, and any issues there. Renewable diesel is a
17 little bit different from regular diesel. It does tend
18 to stratify and have some issues. So hopefully those
19 can be, you know, when it's stored for long periods, so
20 hopefully those can be addressed.

21 But the low GWP Refrigerant, certainly
22 interested in that piece and I understand you're working
23 on that. I'm making a filing on that. And the air-
24 cooled aspect for the chillers. I think that's also
25 very important. So, thanks for all those

1 characteristics among others.

2 MR. GALATI: And our largest water use will be
3 reclaimed water for landscape.

4 MR. LEE: Thank you. Did Staff have anything
5 to add?

6 MR. KNIGHT: I just wanted to say,
7 Commissioner McAllister, Kenny, we are working very
8 closely with the city. And we're actually sharing
9 draft— administrative drafts of the sections of the EIR
10 and getting their feedback and comments on them. So, in
11 particular land use, when it's written, we'll share with
12 them. And so, we're in constant communication with the
13 city.

14 COMMISSIONER MCALLISTER: Great, thanks a lot.

15 MR. LEE: Thank you. And I wanted to make a
16 comment regarding the Applicant's revised noise
17 analysis. The Committee doesn't have any questions for
18 the parties at this time, but notes that the analysis
19 states that the individual operation of a few of the
20 generators would result in noise levels that are above
21 San Jose's 60-decibel noise threshold.

22 The Applicant proposed to limit scheduled
23 maintenance on those generators to only between 5pm and
24 7pm on weekdays. The Committee, as I mentioned, doesn't
25 have any questions about that at this time, but the

1 Committee is interested to see Staff's analysis on
2 whether that would be a potentially significant impact.
3 And if so, how that would be mitigated.

4 Next, the Committee believes that Staff's
5 environmental document, when it's prepared, should
6 include a water supply assessment. Because the Santa
7 Clara Valley Water District requested one in its comment
8 filed July 21st, 2022. Which states in the comment one
9 — and I'll just quote that for the record, states that
10 it:

11 "Impacts related to water use and an analysis
12 of water supply should be conducted as part of the
13 environmental impact report."

14 And the Committee wanted to ask if the
15 parties have any reason the Committee should not require
16 a water supply assessment? Does the Applicant have any
17 comments on that?

18 MR. GALATI: Yes, the water code does not
19 require it. There is a confusion in the Small Power
20 Plant Exemption Application in which the water— to do
21 the environmental impacts, there was a model run based
22 on square footages of large commercial buildings. Not
23 the type of use that we're planning. That model is
24 called CALI-MOD (PHONETIC). It doesn't have a ability
25 to do some identification of a data center and how much

1 a data center really uses.

2 So, it treats our square footage like we have
3 a lot of people in that building. And so, it over
4 predicted the water use. That slipped by in the water
5 section as a determination of how much water we were
6 using, which was significant and it— and that number was
7 above the normal threshold that the water districts
8 would use for determining a water supply assessment.

9 We have revised that. I included it in my
10 status report that, you know, in my reply, how little
11 water we're using. And other projects have not had to
12 do a water supply assessment. We spoke to the city, and
13 the city who contracts that water from Valley Water to
14 deliver to us, they will be the retailer. They do not
15 als— they also do not believe that a water supply
16 assessment is necessary due to the very minimal water
17 that we're using. We will make that more clear in our
18 response to data requests.

19 MR. LEE: Thank you, Mr. Galati. One mo— one
20 moment, please.

21 (Pause)

22 This is Ralph Lee, again. Mr. Galati, are you
23 still there?

24 MR. GALATI: Yes, I am.

25 MR. LEE: One of my— one question about that

1 response is— I did read. I reviewed your response about
2 the minimal— the water usage of the project. But I
3 wondered if a water supply assessment might additionally
4 be required based on it being an industrial facility and
5 its square footage under CEQA guidelines, Section
6 15155(a)(1)(e).

7 I wondered if that was an additional basis for
8 potentially requiring a water supply assessment in this
9 proceeding? And I don't necessarily need a response to
10 that now, but I wanted to throw that out there. And
11 maybe I'll hear your response, or if while you're
12 thinking I could ask the staff to respond.

13 MR. GALATI: Yeah, I can— I can respond to
14 you. I believe that that is highly dependent upon the
15 use, and how the uses are characterized. I don't
16 believe that the— if you looked at the square footages,
17 you would have 600— over 650,000 of actual industrial
18 use. There's some office use that is in the data
19 centers, and there are some office use that is in the
20 advanced manufacturing building. And if we looked and
21 predicted what the actual industrial use would be, I
22 would argue that those are the server rooms, and it
23 would be very little in the advanced manufacturing
24 building that would constitute industrial use.

1 But I would like to respond to that, after I
2 take a closer look at that and talk to our design team.
3 And what we'll try to do is, we're doing our best to
4 respond to the data request set due by the 10th of
5 August. And there is a question directly on point here
6 with respect to the water supply assessment. And we'll
7 provide that, our opinion more detailed out so that you
8 can follow it, rather than, rather than my assertions at
9 the moment.

10 MR. LEE: Thank you. Would our staff like to
11 add anything?

12 MR. KNIGHT: I was trying to get an answer in
13 the chat here, but not successful right now. I think
14 we, you know, we wrote the data request because based on
15 the amount of water that was shown to be being used in
16 the application, it's suggested that water supplies
17 assessment is necessary. But it sounds like maybe
18 that's not the case.

19 But I don't know if it would—the Committee
20 would like Staff to file something in the record after
21 receipt of the Applicants responses to the questions?
22 And then maybe after Staff's own independent
23 consultation, internal discussions, we could file
24 something that would let the Committee know what we
25 believe, if that's an issue that maybe the Committee

1 would like it to be, you know, water supply assessment
2 be conducted anyway? You know, or for other reasons.
3 And we'd like to know that sooner than later, I guess.
4 So, it that makes sense.

5 MR. LEE: Yes, thank you.

6 MR. BABULA: This is Jared Babula, Staff
7 Counsel. I just would add that in these projects, we
8 have always looked at whether a water supply assessment
9 is required and it gets a little tricky because there's
10 different metrics to consider. So, an example would be
11 500 homes. The amount of water used in 500 homes as one
12 metric. So, you could calculate that and then say,
13 well, are they using this equivalent amount?

14 And there's a number of issues with square
15 footage. And sometimes, as Mr. Galati pointed out,
16 there's some unique aspects to data centers which make
17 addressing the need for a water supply assessment not as
18 straightforward.

19 And so, I think definitely Staff will look at
20 the information that they— we get from the Applicant, as
21 well as contacting the water entity, and the county, and
22 the city, and so forth as necessary to get it hashed
23 out. And certainly we'll take a deep dive on that
24 issue, as we do in all these cases regarding water
25 issues.

1 MR. LEE: Thank you. As usual, the Committee
2 with be issuing an order and a schedule following this
3 proceeding, and we can address that issue in that
4 document. And that was all the comments and questions
5 that the Committee has for now. So, we'll take that
6 information under submission.

7 Commissioner McAllister, or Commissioner
8 Vaccaro, do either of you have any additional questions
9 for the parties at this time?

10 Okay. That concludes our discussion with the
11 parties, we will now take public comment. I would like
12 to start by inviting any representatives from public
13 agencies to comment first, or tribal governments. And
14 then, we can move on to the general public. There will
15 be no limit if an agency or tribal government would like
16 to speak.

17 For everyone else, we would ask that you limit
18 your comment to three minutes. We have the Public
19 Advisor's office here with us today. Is the Public
20 Advisor's office able to assist with public comment?

21 MS. MURIMI: Yes, we are.

22 MR. LEE: Okay, thank you. Then I'll turn it
23 over to the Public Advisor's office to conduct public
24 comment.

25 MS. MURIMI: Thank you, Hearing Officer Lee.

1 So, this is the period for any person wishing to make
2 comment. Again, each person has up to three minutes to
3 comment. And comments are limited to one representative
4 per organization. Public agencies or tribal governments
5 are not restricted to three minutes. We may reduce the
6 comment time depending on the number of commenters. Use
7 the raised-hand icon, looks like a high-five or an open
8 palm, at the bottom of your screen or device, if you are
9 interested in making public comment.

10 If you are on the phone, press star-nine to
11 raise your hand, and star-six to unmute. After you are
12 called on, please re-state and spell your first and last
13 name. Do not use the speaker phone feature, it will
14 make it difficult to hear you.

15 We'll start with agencies or tribal
16 governments. Give that a moment.

17 (Pause)

18 Seeing none, we will move to all other
19 individuals wishing to make a comment. Again, use the
20 raise-hand feature, looks like an open palm or a high
21 five at the bottom of your screen or device. And for
22 those calling in, press star-nine to indicate that you
23 would like to make a comment, and star-six to unmute on
24 your end.

25 Seeing no comment in the room, or on Zoom.

1 That concludes public comment for this period of time.

2 Back to you, Hearing Officer Lee.

3 MR. LEE: Yes, thank you. That concludes
4 public comment. Do either Commissioner McAllister or
5 Commissioner Vaccaro desire to hold a closed session?

6 COMMISSIONER VACCARO: No.

7 COMMISSIONER MCALLISTER: I do not see the
8 need at this time.

9 MR. LEE: Okay. Then with that, I will return
10 the conduct of this proceeding back to Commissioner
11 McAllister to adjourn.

12 COMMISSIONER MCALLISTER: I want to just thank
13 everyone for participating. And, with that, we will
14 adjourn. Thank you.

15 (Whereupon the meeting was adjourned at 3:09
16 P.M.)

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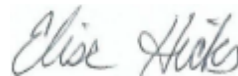
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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of August, 2022.



ELISE HICKS, IAPRT
CERT**2176

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

August 15, 2022