

DOCKETED

Docket Number:	21-SPPE-02
Project Title:	STACK Trade Zone Park
TN #:	248914
Document Title:	STACK's Comments on the DEIR - TZP
Description:	N/A
Filer:	Scott Galati
Organization:	DayZenLLC
Submitter Role:	Applicant Representative
Submission Date:	2/22/2023 1:47:35 PM
Docketed Date:	2/22/2023

Scott A. Galati
DAYZEN LLC
1720 Park Place Drive
Carmichael, CA 95608
(916) 900-8026

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application For Small Power Plant
Exemption for the **TRADE ZONE
PARK**

DOCKET NO: 21-SPPE-2

**STACK'S COMMENTS ON THE
DRAFT ENVIRONMENTAL IMPACT
REPORT**

STACK Infrastructure (STACK) provides these comments on the Draft Environmental Impact Report (DEIR) published on January 27, 2023. STACK greatly appreciates Staff meeting its commitment to publish the DEIR on January 27, 2023 and is in agreement with the analysis, findings, and conclusions contained in the DEIR. These comments are provided below to further strengthen the DEIR and to request minor changes for clarity. The requested additions are shown in ***bold italics*** and deletions are shown in ~~strikethrough~~.

CALIFORNIA PUBLIC UTILITIES COMMISSION

The project will be served by Pacific Gas & Electric (PG&E) through a new interconnection into PG&E's existing system. This interconnection will consist of a PG&E-owned switching station constructed on the project site, and a new underground circuit and a new upgrade to an existing above ground transmission line by using existing or new poles to support the additional conductors. PG&E has informed STACK that after the CEC completes its SPPE process it will file an advice letter and a Notice of Construction (AL/NOC) with the California Public Utilities Commission (CPUC) pursuant to CPUC General Order 131-D to authorize construction of the PG&E new underground and above ground transmission lines and its new switching station. The CPUC will rely on the CEC Final EIR for approval of the advice letter and NOC. Therefore, we request that the CPUC be identified as a responsible agency where appropriate throughout the EIR.

Specifically, we request the following modifications to the DEIR:

Page 2-1, Section 2.2

In accordance with Public Resources Code, section 25519(c) and the California Environmental Quality Act (CEQA), CEC serves as the lead agency to review an SPPE application and perform any required environmental analyses. Upon granting of an exemption, the local **and sister state** permitting authorities—in this case the City of San José, **California Public Utilities Commission (PG&E-owned facilities)**, and the Bay Area Air Quality Management District—would perform any follow-up CEQA analysis and impose mitigation, as necessary, for granting approval of the project.

Page 2-2, Section 2.4.3

If the project is determined as qualifying for an exemption, the applicant would seek permits from the responsible agencies, in this case, the City of San José, **California Public Utilities Commission (PG&E-owned facilities)**, and Bay Area Air Quality Management District. Any required mitigation measures would be enforced by the appropriate responsible agency.

Page 2-3, Section 2.5.1.1

In accordance with section 1714, staff provided notification to stakeholder agencies via an Agency Request for Participation letter. This letter provided information on how to participate in CEC's evaluation and decision-making process to agencies with potential interest in the project, most notably the California Department of Fish and Wildlife, **the California Public Utilities Commission**, the Regional Water Quality Control Board, the local Air Pollution Control District, and various departments of the City of San José's local government. The mailing list used to engage with stakeholder agencies can be found in Appendix E.

Page 3-17, Section 3.10

If the exemption is granted, the EIR is expected to be used by the city of San José in its consideration of permitting the project as well as by the BAAQMD for its issuance of various air quality permits. Upon exempting the project, the CEC would have no permitting authority over the project and would not be responsible for any mitigation or permit conditions imposed by the city of San José, **the California Public Utilities Commission**, or the BAAQMD.

AIR QUALITY

Staff evaluated STACK's proposed project design feature PD AQ-1 and added additional Best Management Practices (BMPs) identified in the BAAQMD CEQA Guidelines. STACK does not believe such additional BMPs are warranted as the additions are intended for projects that have construction related significant impacts. Notwithstanding, STACK agrees to the additions with a few minor modifications as follows:

AQ-1: To incorporate the Bay Area Air Quality Management District (BAAQMD) recommendations for Best Management Practices to control fugitive dust, the project owner shall implement a fugitive dust control plan that has been reviewed and approved by the Director or Director's designee with the City of San José Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or building permits, whichever occurs earliest. The project owner shall implement the following measures during construction:

- Water all exposed areas (e.g. parking areas, graded areas, unpaved access roads) twice a day.
- Maintain a minimum soil moisture of 12% in exposed areas by maintaining proper watering frequency.
- Cover all haul trucks carrying sand, soil, or other loose material.
- Suspend excavation, grading, and/or demolition activities when average wind speed exceeds 20 miles per hour.
- Pave all roadways, driveways, and sidewalks as soon as possible. Lay building pads as soon as grading is completed, unless seeding or soil binders are used.
- Use a power vacuum to sweep and remove any mud or dirt-track next to public streets, if visible soil material is carried onto the streets.
- Limit vehicle speeds on unpaved roads to 15 miles per hour (mph).
- Minimize idling time for all engines by shutting engines when not in use or limiting idling time to a maximum of five minutes. Provide clear signage for construction workers at all access points.
- Properly tune and maintain construction equipment in accordance with manufacturer's specifications. ~~Check all equipment against a certified visible emissions calculator.~~
- Post a publicly visible sign with the telephone number and name of the person to contact regarding dust complaints and the BAAQMD telephone number. The contact person shall implement corrective measures, as

needed, within 48 hours, and the BAAQMD shall be informed of any legitimate complaints received to verify compliance with applicable regulations.

- Limit simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
- Minimize idling time of diesel-powered construction vehicles to two minutes.
- All contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

STACK requests the requirement to check all equipment against a certified visual emission calculator be eliminated on the grounds that such equipment does not exist and is not included in the BAAQMD CEQA Guidelines.

Additionally, STACK requests that the modification be made consistent throughout the document where **AQ-1** is reproduced. There is also a typographical error in **AQ-1** contained in the Mitigation Monitoring and Reporting Plan mistakenly referring to the City of Santa Clara. The reference should be changed to City of San José.

BIOLOGICAL RESOURCES

STACK requests removal of the Santa Clara Valley Habitat Agency (SCVHA) as a reviewing agency for the Worker Environmental Awareness Program (WEAP) identified in Mitigation Measure **BIO-1**. The SCVHA is not an enforcement or approving agency with jurisdiction over the WEAP. That authority lies completely with the City of San Jose and therefore STACK requests references to the SCVHA be deleted.

PROJECT DESCRIPTION

Page 1-2, Section 1.1, Project Summary

The first sentence of the last paragraph of this section should be modified as follows to reflect that the Project will include a substation (owned by STACK) and a switching station (owned by PG&E), consistent with the description elsewhere in the DEIR.

The project would construct a new 100 MVA (mega volt-ampere) electrical substation along the eastern boundary of the site **to be owned by STACK and a switching station** to be owned and operated by PG&E.

STACK has filed these comments prior to close of the public comment period to allow Staff to consider and incorporate them into the Final EIR as soon as possible to assist the TZP to be considered at the CEC Business Meeting on April 12, 2023. This will enable to City of San Jose to consider approving the project as soon as possible to enable the start of construction of this important addition to the City's state of the art technology development portfolio.

Dated: February 22, 2023

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott A. Galati", written over a horizontal line.

Scott A. Galati
Counsel to STACK Infrastructure