

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2022060141

Project Title: _____

Lead Agency: _____ Contact Person: _____

Mailing Address: _____ Phone: _____

City: _____ Zip: _____ County: _____

Project Location: County: _____ City/Nearest Community: _____

Cross Streets: _____ Zip Code: _____

Longitude/Latitude (degrees, minutes and seconds): _____° _____' _____" N / _____° _____' _____" W Total Acres: _____

Assessor's Parcel No.: _____ Section: _____ Twp.: _____ Range: _____ Base: _____

Within 2 Miles: State Hwy #: _____ Waterways: _____

Airports: _____ Railways: _____ Schools: _____

Document Type:

- | | | | |
|--------------------------------------|--|------------------------------------|--|
| CEQA: <input type="checkbox"/> NOP | <input type="checkbox"/> Draft EIR | NEPA: <input type="checkbox"/> NOI | Other: <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons | <input type="checkbox"/> Supplement/Subsequent EIR | <input type="checkbox"/> EA | <input type="checkbox"/> Final Document |
| <input type="checkbox"/> Neg Dec | (Prior SCH No.) _____ | <input type="checkbox"/> Draft EIS | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Mit Neg Dec | Other: _____ | <input type="checkbox"/> FONSI | _____ |

Local Action Type:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> General Plan Update | <input type="checkbox"/> Specific Plan | <input type="checkbox"/> Rezone | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Master Plan | <input type="checkbox"/> Prezone | <input type="checkbox"/> Redevelopment |
| <input type="checkbox"/> General Plan Element | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Use Permit | <input type="checkbox"/> Coastal Permit |
| <input type="checkbox"/> Community Plan | <input type="checkbox"/> Site Plan | <input type="checkbox"/> Land Division (Subdivision, etc.) | <input type="checkbox"/> Other: _____ |

Development Type:

- | | |
|---|--|
| <input type="checkbox"/> Residential: Units _____ Acres _____ | <input type="checkbox"/> Transportation: Type _____ |
| <input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Mining: Mineral _____ |
| <input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Power: Type _____ MW _____ |
| <input type="checkbox"/> Industrial: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Waste Treatment: Type _____ MGD _____ |
| <input type="checkbox"/> Educational: _____ | <input type="checkbox"/> Hazardous Waste: Type _____ |
| <input type="checkbox"/> Recreational: _____ | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Water Facilities: Type _____ MGD _____ | |

Project Issues Discussed in Document:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Aesthetic/Visual | <input type="checkbox"/> Fiscal | <input type="checkbox"/> Recreation/Parks | <input type="checkbox"/> Vegetation |
| <input type="checkbox"/> Agricultural Land | <input type="checkbox"/> Flood Plain/Flooding | <input type="checkbox"/> Schools/Universities | <input type="checkbox"/> Water Quality |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Forest Land/Fire Hazard | <input type="checkbox"/> Septic Systems | <input type="checkbox"/> Water Supply/Groundwater |
| <input type="checkbox"/> Archeological/Historical | <input type="checkbox"/> Geologic/Seismic | <input type="checkbox"/> Sewer Capacity | <input type="checkbox"/> Wetland/Riparian |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Minerals | <input type="checkbox"/> Soil Erosion/Compaction/Grading | <input type="checkbox"/> Growth Inducement |
| <input type="checkbox"/> Coastal Zone | <input type="checkbox"/> Noise | <input type="checkbox"/> Solid Waste | <input type="checkbox"/> Land Use |
| <input type="checkbox"/> Drainage/Absorption | <input type="checkbox"/> Population/Housing Balance | <input type="checkbox"/> Toxic/Hazardous | <input type="checkbox"/> Cumulative Effects |
| <input type="checkbox"/> Economic/Jobs | <input type="checkbox"/> Public Services/Facilities | <input type="checkbox"/> Traffic/Circulation | <input type="checkbox"/> Other: _____ |

Present Land Use/Zoning/General Plan Designation:

Project Description: (please use a separate page if necessary)

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".
If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> California Emergency Management Agency	<input type="checkbox"/> Parks & Recreation, Department of
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Pesticide Regulation, Department of
<input type="checkbox"/> Caltrans District # _____	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Division of Aeronautics	<input type="checkbox"/> Regional WQCB # _____
<input type="checkbox"/> Caltrans Planning	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Recycling and Recovery, Department of
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Fish & Game Region # _____	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> Forestry and Fire Protection, Department of	<input type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> General Services, Department of	
<input type="checkbox"/> Health Services, Department of	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Housing & Community Development	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Native American Heritage Commission	

Local Public Review Period (to be filled in by lead agency)

Starting Date _____ Ending Date _____

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone: _____
Phone: _____	

Signature of Lead Agency Representative: Elizabeth Huber *Elizabeth Huber* Date: 1/27/23

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources

Code.

Attachment A to NOC

Waterways within 2 miles of project site:

#	Name	Waterway	Length(mi)
1	Los Coches Creek	stream	0.11
2	Crosley Creek	stream	0.39
3	Penitencia East Channel	drain	0.69
4	Wrigley Ford Creek	stream	0.76
5	Piedmont Creek	stream	0.77
6	Sierra Creek	stream	1.09
7	Lower Penitencia Creek	stream	1.99
8	Berryessa Creek	stream	3.36
9	Coyote Creek	river	4.29

Schools within 2 miles of project site:

Public Schools

#	NAME	ADDRESS	CITY	STATE	ZIP
1	OPPORTUNITY YOUTH ACADEMY	1290 RIDDER PARK DR.	SAN JOSE	CA	95131
2	SAN JOSE CONSERVATION CORPS CHARTER	1560 BERGER DR.	SAN JOSE	CA	95112
3	ROBERT RANDALL ELEMENTARY	1300 EDSEL DR.	MILPITAS	CA	95035
4	JOHN SINNOTT ELEMENTARY	2025 YELLOWSTONE AVE.	MILPITAS	CA	95035
5	SANTA CLARA COUNTY COMMUNITY	1290 RIDDER PARK DR. MC213	SAN JOSE	CA	95131
6	ORCHARD ELEMENTARY	921 FOX LN.	SAN JOSE	CA	95131
7	SANTA CLARA COUNTY COURT	1290 RIDDER PARK DR. MC213	SAN JOSE	CA	95131
8	BROOKTREE ELEMENTARY	1781 OLIVETREE DR.	SAN JOSE	CA	95131
9	RANCHO MILPITAS MIDDLE	1915 YELLOWSTONE AVE.	MILPITAS	CA	95035
10	SANTA CLARA COUNTY SPECIAL EDUCATION	1290 RIDDER PARK DR. MC273	SAN JOSE	CA	95131
11	NORTHWOOD ELEMENTARY	2760 E. TRIMBLE RD.	SAN JOSE	CA	95132
12	MORRILL MIDDLE	1970 MORRILL AVE.	SAN JOSE	CA	95132
13	CHERRYWOOD ELEMENTARY	2550 GREENGATE DR.	SAN JOSE	CA	95132
14	LANEVIEW ELEMENTARY	2095 WARMWOOD LN.	SAN JOSE	CA	95132
15	PEARL ZANKER ELEMENTARY	1585 FALLEN LEAF DR.	MILPITAS	CA	95035
16	VINCI PARK ELEMENTARY	1311 VINCI PARK WAY	SAN JOSE	CA	95131

17	OPPORTUNITY YOUTH ACADEMY	1290 RIDDER PARK DR.	SAN JOSE	CA	95131
18	ROBERT RANDALL ELEMENTARY	1300 EDSEL DR.	MILPITAS	CA	95035
19	JOHN SINNOTT ELEMENTARY	2025 YELLOWSTONE AVE.	MILPITAS	CA	95035
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26	NORTHWOOD ELEMENTARY	2760 E. TRIMBLE RD.	SAN JOSE	CA	95132
27	MORRILL MIDDLE	1970 MORRILL AVE.	SAN JOSE	CA	95132
28	CHERRYWOOD ELEMENTARY	2550 GREENGATE DR.	SAN JOSE	CA	95132
29	LANEVIEW ELEMENTARY	2095 WARMWOOD LN.	SAN JOSE	CA	95132
30	PEARL ZANKER ELEMENTARY	1585 FALLEN LEAF DR.	MILPITAS	CA	95035
31	VINCI PARK ELEMENTARY	1311 VINCI PARK WAY	SAN JOSE	CA	95131
32	MABEL MATTOS ELEMENTARY	1750 MCCANDLESS DR.	MILPITAS	CA	95035
33	SAN JOSE CONSERVATION CORPS CHARTER	1560 BERGER DR.	SAN JOSE	CA	95112

Private Schools

#	NAME	ADDRESS	CITY	STATE	ZIP
1	ST JOHN THE BAPTIST CATHOLIC SCHOOL	360 S ABEL ST	MILPITAS	CA	95035
2	MILPITAS CHRISTIAN SCHOOL	3435 BIRCHWOOD LN	SAN JOSE	CA	95132
3	DAY STAR MONTESSORI SCHOOL	215 DEMPSEY RD	MILPITAS	CA	95035
4	HEADSUP! CHILD DEVELOPMENT CENTER	2841 JCT AVE STE 100	SAN JOSE	CA	95134
5	MERRYHILL SCHOOL 1074	1500 YOSEMITE DR	MILPITAS	CA	95035
6	LITTLE FLOWERS MONTESSORI	200 SERRA WAY STE 50	MILPITAS	CA	95035
7	STRATFORD SCHOOL	341 GREAT MALL PKWY	MILPITAS	CA	95035
8	STRATFORD SCHOOL - MILPITAS	341 GREAT MALL PKWY	MILPITAS	CA	95035
9	ACHIEVING STARS ACADEMY	301 S ABBOTT AVE	MILPITAS	CA	95035

Project Description:

STACK Infrastructure (STACK or applicant) filed an application with the CEC seeking an exemption from the CEC's jurisdiction for the Trade Zone Park (21-SPPE-02). The STACK Trade Zone Park would be located on two parcels of land encompassing approximately 9.8 acres at the corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive) in the city of San José. STACK Trade Zone Park would include one four-story advanced manufacturing building (approximately 136,573 square feet), two three-story data center buildings (approximately 522,194 square feet), a parking garage, related utility infrastructure, and a 91 MW backup generating facility.

The CEC has the exclusive authority to certify all thermal power plants (50 megawatts [MW] and greater) and related facilities proposed for construction in California. The Small Power Plant Exemption (SPPE) process allows applicants with facilities not exceeding 100 MW to obtain an exemption from the CEC's jurisdiction and proceed with local permitting rather than requiring the CEC's certification. The CEC can grant an exemption if it finds that the proposed facility would not create a substantial adverse impact on the environment or energy resources. Public Resources Code section 25519(c) designates the CEC as the lead agency, in accordance with CEQA, for all facilities seeking an SPPE.

The 90 MW SVYBGF would support the need for the SVYDC to provide uninterruptible power supply for its tenant's servers. The SVYBGF would serve only the SVYDC. The 36 3-MW and 3 1-MW diesel-fired backup generators would be arranged in two generation yards, each designed to serve one of the two data center buildings (SVYDC 05 and SVYDC 06) that make up the SVYDC and next to the AMB. All the generators would be dedicated to replace the electricity needs of the data center buildings and the emergency power needs of the AMB (with redundancy) in case of a loss of utility power. The larger generators are designed to replace the electricity needed to serve the data halls, and all three of the smaller generators would be used to support redundant house critical cooling equipment and other general building and life safety services (house generators). Switchgear and distribution cabling would be included to interconnect the generators to their respective portions of the buildings.

The project would construct a new 100 MVA (mega volt-ampere) electrical substation along the eastern boundary of the site to be owned and operated by Pacific Gas and Electric Company (PG&E). To serve the project, PG&E would be constructing a "looped" transmission interconnection involving two offsite transmission lines. The first extension would involve a line from the west that comprises a single circuit 115 kilovolt (kV) overhead (OH) transmission line (T-Line) from an existing PG&E Newark-Milpitas #2 115 kV Line which is located on the southwest side of Trade Zone Boulevard and Montague Expressway. The route would be approximately 0.25 mile and would be supported on existing OH transmission towers, located along the south side of Trade Zone Boulevard. It is possible that up to three or more of the existing seven OH transmission towers may need to be replaced. The second transmission line would be a single circuit 115 kV underground (UG) T-Line that would interconnect the existing

PG&E Newark-Milpitas #2 115 kV Line which is located on the southeast side of the intersection of Trade Zone Boulevard and Montague Expressway. The route to the site for the second line would be approximately 0.25 mile and would be underground within the northern side of Trade Zone Boulevard right of way then cross from north to south to the site.

Summary Form for Electronic Document Submittal**Form F**

Lead agencies may include 15 hardcopies of this document when submitting electronic copies of Environmental Impact Reports, Negative Declarations, Mitigated Negative Declarations, or Notices of Preparation to the State Clearinghouse (SCH). The SCH also accepts other summaries, such as EIR Executive Summaries prepared pursuant to CEQA Guidelines Section 15123. Please include one copy of the Notice of Completion Form (NOC) with your submission and attach the summary to each electronic copy of the document.

SCH #: 2022060141Project Title: STACK Trade Zone ParkLead Agency: California Energy CommissionContact Name: Lisa WorrallEmail: Lisa.Worrall@energy.ca.gov Phone Number: 916-661-8367Project Location: San Jose Santa Clara County
City *County*

Project Description (Proposed actions, location, and/or consequences).

See Attachment A

Identify the project's significant or potentially significant effects and briefly describe any proposed mitigation measures that would reduce or avoid that effect.

See Attachment A

If applicable, describe any of the project's areas of controversy known to the Lead Agency, including issues raised by agencies and the public.

See Attachment A

Provide a list of the responsible or trustee agencies for the project.

Responsible Agencies

City of San Jose

Bay Area Air Quality Management District

Trustee Agencies

California Department of Fish and Wildlife

Santa Clara Valley Habitat Agency

Summary Form Attachment A

Project Description (Proposed actions, location, and/or consequences)

STACK Infrastructure (applicant) is seeking a Small Power Plant Exemption (SPPE) from the CEC's jurisdiction to proceed with local approval rather than requiring certification by the CEC for the project. The DEIR also may be used by the City of San José and Bay Area Air Quality Management District (BAAQMD), as responsible agencies as defined by CEQA, in their respective permitting processes for the project. The DEIR describes the proposed project and evaluates the potential environmental impacts associated with its construction and operation. The DEIR also analyzes one project alternative in addition to a "no project" alternative. Pursuant to CEQA, the DEIR includes sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.

The project includes diesel generators (to provide emergency backup power) that would constitute a thermal powerplant with a generating capacity in excess of 50 megawatts (MW). The generating capacity of the backup generators would not exceed 100 MW. The CEC has the exclusive authority to certify all thermal power plants (50 megawatts [MW] and greater) and related facilities proposed for construction in California. The Small Power Plant Exemption (SPPE) process allows applicants with facilities between 50 and 100 MW to obtain an exemption from CEC's jurisdiction and proceed with local permitting rather than requiring CEC certification. CEC can grant an exemption if it finds that proposed facility would not create a substantial adverse impact on the environment or energy resources. Public Resources Code section 25519(c) designates CEC as the lead agency, in accordance with CEQA, for all facilities seeking an SPPE.

The STACK Trade Zone Park would be located on two parcels of land encompassing approximately 9.8 acres at the corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive) in San José.

The proposed STACK Trade Zone Park would include one, four-story advanced manufacturing building (approximately 136,573 square feet), two, four-story data center buildings (approximately 522,194 square feet), a parking garage, related utility infrastructure, and a backup generating facility with a generation capacity of up to 91 MW. The backup generating facility would consist of thirty-six 3-MW and three 1-MW diesel-fired emergency backup generators (gensets) arranged in two generation yards, each designed to serve one of the two data center buildings (SVYDC 05 and SVYDC 06). One of the 1 MW diesel-fired backup generators would be installed near the southwest corner of the advanced manufacturing building. All the gensets would be dedicated to replacing the electricity needs (with redundancy) of the data center buildings in case of a loss of electrical power from the utility, Pacific Gas and Electric Company. The larger generators are designed to replace the electricity needed to serve the data halls, and all three of the smaller generators would be used to support redundant house critical

cooling equipment and other general building and life safety services (house generators).

Identify the projects significant or potentially significant effects and briefly describe any proposed mitigation measures that would reduce or avoid that effect.

Less Than Significant Impact

Project impacts in the environmental topic areas of Aesthetics, Energy and Energy Resources, Hydrology and Water Quality, Land Use, Population and Housing, Public Services, Recreation, and Utilities and Service Systems, and Environmental Justice are less than significant.

Less Than Significant with Mitigation Incorporated

Air Quality. The project would not conflict with or obstruct implementation of the applicable air quality plan. The project would not expose sensitive receptors to substantial pollutant concentrations. The project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. Air quality impacts during project construction would be reduced with implementation of mitigation measure **AQ-1**. This measure requires incorporation of the BAAQMD's best management practices to control fugitive dust. This measure also incorporates exhaust control measures to reduce emissions from construction equipment. During operation of the engines, the oxides of nitrogen (NO_x [as an ozone precursor]) emissions of the standby generators would be fully offset through the permitting process with the BAAQMD. With implementation of these measures during construction and NO_x offsets for operations through BAAQMD's permitting requirements, the project would not cause a cumulatively considerable net increase of any criteria pollutant, and impacts would be reduced to a less than significant level.

Biological Resources. The project would not adversely affect any species identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), with mitigation incorporated. Staff proposes **BIO-1** entailing development and use of a worker environmental awareness program (WEAP) to actively train on-site personnel in identifying and avoiding special-status species, specifically burrowing owl as well as nesting migratory birds. **BIO-2** includes measures to prevent and reduce impacts on burrowing owls to less-than-significant levels, including pre-construction surveys, establishing buffer zones during the breeding and non-breeding season, monitoring, discouraging re-colonization, and passive relocation. **BIO-3** includes requirements to conduct tree removal outside the migratory bird nesting period if possible, to conduct nesting bird surveys prior to the initiation of any construction activities during the nesting period, to establish buffers to avoid the disturbance of nesting birds if active nests are detected, and to conduct monitoring of

active bird nests. With implementation of **BIO-1**, **BIO-2** and **BIO-3**, impacts to burrowing owl and associated habitat and nesting migratory birds would be reduced to a less than significant level.

BIO-4 creates a detailed reporting structure for bird surveys, avian protection measures by compiling these reports and measures within an Avian Protection Plan. With implementation of **BIO-1** through **BIO-4** impacts to avian species would be reduced to a less than significant level.

Nitrogen deposition may adversely affect special status plants, and in turn, the wildlife dependent upon them. The proposed project contributes to nitrogen deposition through stationary (i.e., point source) and mobile (i.e., vehicle trips over current conditions as a “non-point” source) emissions. While staff considered both types of emissions, staff analysis showed that only mobile emissions would result in a significant impact. Implementation of **BIO-5**, requiring the applicant to pay a one-time nitrogen deposition fee payment pursuant to the Santa Clara Valley Habitat Plan would reduce the projects impacts from nitrogen deposition to a less than significant level.

Impacts arising from a conflict with the Santa Clara Valley Habitat Plan would be reduced to a less than significant level with the implementation of **BIO-2** and **BIO-5**.

Cultural and Tribal Cultural Resources. The project would not impact any known resources that could meet CEQA's criteria for historical resources, unique archaeological resources, or tribal cultural resources. However, previous cultural resources studies in the project area indicate that buried archaeological or ethnographic resources could be encountered during ground disturbing activities at the site. Staff recommends a series of mitigation measures, **CUL-1** through **CUL-3**, to address the discovery of previously unknown buried cultural resources, including human remains. In addition, **CUL-1** proposes to require monitoring by both a qualified archaeological resources specialist and a Native American monitor and implementing a worker environmental awareness program. With implementation of these mitigation measures, potential impacts on cultural and tribal cultural resources would be reduced to a less than significant level.

Geology and Soils. Earth moving during project construction has the potential to disturb paleontological resources. Staff proposes **GEO-1**, to train construction personnel and guide recovery and processing of any significant paleontological finds. Staff concludes that with implementation of **GEO-1**, impacts to unique paleontological resources would be reduced to a less than significant level. All of impacts under the other CEQA criterion related to geology and soils would either have no impact or have a less than significant impact.

Greenhouse Gas Emissions. With the use of renewable diesel for 100 percent of total energy use by the emergency standby generators and ultra-low sulfur diesel as a secondary fuel in the event of supply challenges or disruption in obtaining renewable diesel, the greenhouse gas (GHG) emissions from the facility's stationary sources would

not exceed the 10,000 metric tons of carbon dioxide equivalent per year (MTCO₂e/yr) BAAQMD significance threshold for GHG emissions from stationary sources. The fuel-cycle GHG emissions from the emergency backup generators would also be lower than 2,000 MTCO₂e/yr, which has been proposed by the BAAQMD staff as an updated GHG threshold of significance but has not been adopted as of the date of this analysis. Staff proposes mitigation measure GHG-1 to ensure the project owner would use renewable diesel for 100 percent of total energy use by the emergency backup generators, and only use ultra-low sulfur diesel as a secondary fuel in the event of supply challenges or disruption in obtaining renewable diesel. The City of San José Planning, Building and Code Enforcement (PBCE) may grant temporary relief from the 100 percent renewable diesel requirement if the project owner can demonstrate a good faith effort to comply with the requirement and that compliance is not practical. With this measure, the project's GHG emissions from stationary sources would not have a significant direct or indirect impact on the environment.

The City of San José's 2030 GHG Reduction Strategy (GHGRS) is a Qualified Climate Action Plan under CEQA. This project would comply with the requirements of that plan with the proposed design measures and implementation of GHG-2, which would require the project owner to participate in San José Clean Energy at the Total Green level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project, or enter into an electricity contract with San José Clean Energy or participate in a clean energy program that achieves the same goals of 100 percent carbon-free electricity as the Total Green level.

Pursuant to California Code of Regulations, title 14, section 15183.5, the CEC may rely on that compliance in its analysis of GHG emissions impacts. Accordingly, staff concludes with implementation of GHG-2, the project's indirect GHG emissions from electricity use would not have a significant direct or indirect impact on the environment. With implementation of the efficiency measures to be incorporated into the project and mitigation measures **GHG-1** and **GHG-2**, GHG emissions related to the project would not conflict with the City's GHG Reduction Strategy or other plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs. Because the project would be consistent with applicable plans and policies adopted to reduce GHG emissions and would comply with all regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions, the potential for the project to conflict with an applicable plan, policy or regulation for GHG reductions would be less than significant. With implementation of **GHG-1** and **GHG-2**, impacts related to GHG emissions would be reduced to a less than significant level.

Hazards and Hazardous Materials. Ground disturbing activities associated with the removal of underground utilities, and construction of the project would have the potential to encounter the identified contaminated soil. Staff proposes mitigation measures requiring the preparation of a Site Management Plan to establish proper procedures to be taken when contaminated soil is found and how to dispose of the contaminated soil properly (**HAZ-1**) and a Health and Safety Plan to establish

provisions for personal protection and procedures if contaminated soil is encountered (**HAZ-2**). Staff concludes that with implementation of **HAZ-1** and **HAZ-2**, impacts to the public or the environment due to contaminated soils, would be reduced to a less than significant level.

Noise. The loudest construction activities could elevate the existing ambient noise levels at the nearest residences by up to 11 dBA and could be perceived as noisy. The loudest construction work could elevate the existing ambient noise levels at the nearby commercial and office buildings by up to about 9 dBA. The implementation of mitigation measure **NOI-1**, requiring a noise complaint and redress process, would ensure construction noise impacts as perceived by the community would be less than significant. **NOI-1** would also include several appropriate measures to reduce and control construction-related noise, limit construction work to daytime hours and require notifying project site neighbors of the construction schedule.

Since the project is near a residential land use, noise reduction measures, such as mechanical equipment enclosures and parapet walls, would be required (incorporated in the operational noise modeling). Thus, the operational noise levels would comply with the City's noise limits and would not elevate the existing ambient noise levels at the nearest residences.

The project's construction impacts would be reduced to a less than significant level and operational noise impacts would be less than significant.

Transportation. Project-generated vehicle miles traveled (VMT) per employee would exceed the City's industrial threshold of 14.37 VMT per employee. Staff proposes **TRANS-1**, which would require the project owner to implement multi-modal infrastructure improvements and Transportation Demand Management (TDM) measures, to reduce the project VMT to a less than significant level. Staff concludes that with implementation of **TRANS-1** to lower project generated VMT to a level below the city's industrial VMT threshold, impacts to VMT would be reduced to a less than significant level.

If applicable, describe any of the project's areas of controversy known to the Lead Agency, including issues raised by agencies and the public.

The CEC issued a Notice of Preparation (NOP) on June 7, 2022, seeking input from responsible and trustee agencies and the public regarding the scope and context of environmental areas in the EIR. The comment period began on June 7, 2022, and ended on July 6; however, Santa Clara Valley Water District requested, and was granted, an extension until July 13, 2022. In total, 5 comment letters were received¹. CEC staff also hosted a public scoping meeting on November 1, 2022, during which environmental areas identified in the NOP were discussed, including project design changes made by the applicant and an issue discovered during the drafting of the EIR. The scope of staff's analysis was considered still sufficient given these changes. There

was one public comment that was heard. Issues of concern reflected in these letters and emails include, but are not limited to, the following verbatim excerpts:

- Air Quality and Greenhouse Gas Emissions (GHG):
 - Please review the comments Bay Area Air Quality Management District (BAAQMD) have made in previous proceedings with the CEC, CA3 Backup Generating Facility (21-SPPE-01) and Gilroy Backup Generating Facility (20-SPPE-03) and BAAQMD's recently adopted revisions to the CEQA Thresholds and Guidelines.
 - Concerned about the project's use of diesel as I understand diesel emissions are significant respiratory public health hazards. I greatly appreciate filters and vastly improved machinery if this fuel is to be utilized. I understand renewable diesel, which suggests less emissions, is not readily available at large quantities yet.
- Cultural Tribal Resources
 - Assembly Bill 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.
 - If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18).
- General:
 - If diesel availability is impacted during emergencies, would, diesel be considered a limiting energy resource during long time period emergencies, potentially such as a large earthquake, which could impact diesel's value for an emergency backup system of many data centers in one area.
- Hazardous Waste:
 - The DEIR should acknowledge the potential for historic or future activities on or near the Project site to result in the release of hazardous wastes/substances on the Project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The DEIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.
 - Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aeri ally deposited lead (ADL) being deposited in and along roadways throughout the state. Due to the potential for ADL-

contaminated soil, DTSC recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the Project described in the DEIR.

- If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Paint, Termiticides, and Electrical Transformers.
- If any projects initiated as part of the proposed Project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 Information Advisory Clean Imported Fill Material.
- If any sites included as part of the proposed Project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the DEIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties (Third Revision).
- Noise
 - This project specifies what appears to potentially be an extremely noisy chiller system, plus backup diesel generation which can also be unusual in sound. I am concerned not only for existing project neighbors and businesses, but also potentially for building occupants and workers. Noisy machinery seems particularly difficult to mitigate well.
 - "Understanding Noise Exposure Limits: Occupational vs. General Environmental Noise", Centers for Disease Control and Prevention (CDC) website, "NIOSH Science Blog," Posted February 8, 2016, by Chuck Kardous, MS, PE; Christa L. Themann, MA, CCC-A; Thais C. Morata, Ph.D. and W. Gregory Lotz, Ph.D.²
 - U.S. Environmental Protection Agency, "Clean Air Act Title IV - Noise Pollution," authors not listed (as of July 6th, 2022, near 11 am PT)³, "Noise pollution adversely affects the lives of millions of people. Studies have shown that there are direct links between noise and health. Problems related to noise include stress related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. Noise Induced Hearing Loss (NIHL) is the most common and often discussed health effect, but research has shown that exposure to constant or high levels of noise can cause countless adverse health affects."

- Concerns about cumulative noise impacts affecting public health.
- Water Resources:
 - Data centers and manufacturing facilities can use significant amounts of water. Impacts related to water use and an analysis of water supply should be conducted as part of the EIR. Should significant volumes of water be necessary for the project options related to recycled water should be explored.
 - The EIR should include an analysis of Water Quality impacts
 - Valley Water has no right of way at this location; therefore, no encroachment permit will be required. The proposed project is located in FEMA Flood Zone AO (River or stream flood hazard areas with a 1 percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet) and may present a flood hazard. The EIR should analyze any flooding impacts.
 - Valley Water records indicate that there are no ground water wells at the project location. While Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. For more information, please call Valley Water's Well Ordinance Program Hotline at 408-630-2660.

In addition to the comments received during the NOP comment period, several comments were received during the development of the Draft EIR. Comments and concerns include concerns that "white noise" might increase due to the project cumulative noise created by different heating and air conditioning machinery, plus street noise, possibly landscaper leaf blowers, construction and/or other machined equipment. Staff has reviewed and considered the comments received and address them as appropriate in the applicable section.