

**January 7, 2019, California Energy Commission Business Meeting**

**Item 2. McLAREN BACKUP GENERATING FACILITY PROJECT SMALL POWER PLANT EXEMPTION (17-SPPE-01). Petition for Reconsideration**

**Energy Commission Final Decision**

<https://efiling.energy.ca.gov/getdocument.aspx?tn=225970>

**Business Meeting Transcript from November 7, 2018**

<https://efiling.energy.ca.gov/getdocument.aspx?tn=225914>

**List of Documents filed in the McLaren Backup Generating Facility Small Power Plant Exemption, including the Petition for Reconsideration, the replies of the parties, and any other documents filed after this list was created on January 2, 2019:**

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=17-SPPE-01>

**Project Web page:**

<https://www.energy.ca.gov/sitingcases/mclaren/>

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<b>Docket Number:</b>	17-SPPE-01
<b>Project Title:</b>	McLaren Backup Generating Facility
<b>TN #:</b>	226041-2
<b>Document Title:</b>	Helping Hand Tools Request for Reconsideration of the Final Decision for the McLaren Data Center
<b>Description:</b>	N/A
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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of  
McLaren Backup Generating Facility

Docket Number 17-SPPE-01

Helping Hand Tools (2HT) Request for Reconsideration of the Final Decision for the McLaren Data Center.

Introduction

On December 7, 2018 the Committee for the McLaren Backup Generating Facility (MBGF) approved its proposed decision, granting a Small Power Plant Exemption (SPPE) for the MBGF. Pursuant to Section 25530 of the Warren Alquist Act and Section 1720 of the Commission's Rules of Practice and procedure 2HT hereby requests reconsideration of the Commission's December 7, 2018 decision granting an SPPE to the McLaren Data Center. Section 1720 (a) of the Commission's Rules of Practice and Procedure provides that, "Within 30 days after a decision or order is final, the Commission may on its own motion order, or any party may petition for, reconsideration thereof. A petition for reconsideration must specifically set forth either: 1) new evidence that despite the diligence of the moving party could not have been produced during evidentiary hearings on the case; or 2) **an error in fact** or change or error of law." The decision is rife with legal and factual errors and misinterprets 2HT's primary arguments. The decision does not even correctly spell Helping Hand Tools acronym which is 2HT not H2T, as the decision incorrectly states 12 times. The decision adopts a method of calculating generating capacity that has never been used in any Energy Commission proceeding since the Commission's inception and lacks any statutory authority in the Commissions regulations. The method of calculation relies on an expected design PUE of 1.43 provided by the applicant, which is nothing more than an estimate. The decision commits factual error when it assumes that the NO<sub>2</sub> and diesel particulate air quality impacts have been evaluated under emergency operation with all 47 generators running simultaneously. The record demonstrates

that NO<sub>2</sub> and diesel particulate matter impacts have not been evaluated under emergency operating conditions. The evidence reveals that with just two diesel generators operating simultaneously the project will likely violate the Federal NO<sub>2</sub> standard which is a significant impact ignored by the decision.<sup>1</sup> The entire proceeding is tainted by a lack of adherence to the Commission's public participation, environmental justice requirements, and the rules of evidence. These matters were raised before and ignored by the commission, hence the need to request reconsideration to correct the factual and legal errors in the decision.

The Commission Rejected the Use of Data Center Load as the Proxy for Generating Capacity of a Data Center in the Santa Clara Data Center Proceeding.

Page 8 of the decision states, *"We recognize that in the Santa Clara decision cited by H2T, (sic) the Energy Commission used the approach of multiplying nameplate capacity times the number of generators. However, in that matter, the upper limit of Section 25541 was not in issue because the calculation only totaled 72 MW—well within the upper jurisdictional limit for consideration of an SPPE."*<sup>2</sup> The decision mischaracterizes 2HT's argument about the calculation of the generating capacity determination in the Santa Clara Data Center. 2HT has consistently argued in this proceeding that the Energy Commission did not accept Santa Clara Data Centers maximum data center load of 49.1 MW as the generating capacity of the data center which would exclude the project from energy commission jurisdiction. Instead in the Santa Clara Data Center proceeding the commission rejected the load of the data center as maximum generating capacity, and instead used nameplate capacity of the 32 2.25 MW diesel generators as maximum generating capacity making the project subject to Energy Commission SPPE jurisdiction. 2HT's argument related to the Santa Clara Data Center has been mischaracterized. That is why 2HT submitted exhibit 306, which is the letter from CEC Executive Director Melissa Jones to the Santa Clara applicant. In that letter the CEC executive director explained that generating capacity is calculated under Section 2003 and did not allow the Santa Clara Data Center to avoid energy commission jurisdiction because the load of the Santa

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<sup>1</sup> Commission Final Decision Page 70 of 361. "the operation of a pair of generators (with one located above the other and both having same stack exit heights and similar locations, or two adjacent generators) could cause eight hours of operation from two generators to impact a given receptor location and result in a significant impact for the 98<sup>th</sup> percentile (eighth highest value) for the NAAQS."

<sup>2</sup> Proposed Decision Page 8

Clara Data Center was only 49.1 MW which is less than the 50 MW which is required for Energy Commission Jurisdiction. In response to 2HT's assertion that the CEC rejected Santa Clara Data Centers maximum load as generating capacity, CEC Staff witness Matt Layton, who helped draft the Santa Clara Data center letter, stated at the recent status conference:

12 MR. LAYTON: I helped craft the Santa Clara letter  
13 and I think we are inconsistent. That being said, I think I  
14 was wrong in Santa Clara. **I don't know how to do data**  
15 **centers. I'm not a data center expert,** but I've learned a  
16 lot. And now staff strongly recommends that load is a way to  
17 make a determination of generating capacity for data centers.  
18 That's what we've done on Vantage 4, 5. That's what we  
19 recommend on McLaren as well. If we went back and looked at  
20 Santa Clara, we might come to the different conclusion.<sup>3</sup>

The CEC has never used generating capacity to determine the load of a project. CEC Staff cannot cite one example where the Commission used the load of a project to compute maximum generating capacity. Utilizing Section 2003 provides a consistent method of computing generating capacity where the load calculation method promoted by the applicant does not provide a consistent method to determine generating capacity of a project that is supported by the Energy Commission Regulations. In this proceeding the applicant has three different methods to compute generating capacity, which results in three different approximations of generating capacity. The applicant's capacity less redundant generation method produces a generating capacity of 97.4 MW.<sup>4</sup> The applicants second method of computing generating capacity, the continuous rating method, results in a generating capacity of 92.51 MW.<sup>5</sup> Lastly the applicant asserts maximum generating capacity of 98.6 MW as the projects maximum load assuming a design value for PUE is achieved of 1.43. Since this is nothing more than a design value there is no guarantee that the PUE will be achieved. In fact, the record indicates that the project engineer for this data center estimated the PUE at 1.5 which would result in a maximum generating capacity above 100 MW. The Energy Commission staff

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<sup>3</sup> TN 225108 Transcript of the 10-10-2018 Committee Status Conference Page 36 of 50 Lines 12-20

<sup>4</sup> TN 224897 **VANTAGE DATA CENTERS' RESPONSE TO COMMITTEE'S NOTICE OF STATUS CONFERENCE AND FURTHER ORDERS** Page 11,12 of 50

<sup>5</sup> TN 224897 **VANTAGE DATA CENTERS' RESPONSE TO COMMITTEE'S NOTICE OF STATUS CONFERENCE AND FURTHER ORDERS** Page 12 of 50

calculated the maximum capacity of the MBGS as 94.1 MW.<sup>6</sup> None of these methods are consistent or comply with commission regulations.

2HT has consistently stated that the Energy Commission has already dealt with jurisdictional issues surrounding the generating capacity of multiple back up diesel generators at data center locations. The applicant for the Santa Clara Data Center tried to evade Energy Commission jurisdiction by claiming that the design of the data center would limit the 36 back up diesel generators output to 49.1 megawatts, thereby removing it from Energy Commission jurisdiction. Again, in that case the CEC Executive Director Melissa Jones sent the Santa Clara Data Center applicant a letter explaining that the 32 diesel generators had a combined output of 91.8 MW pursuant to Section 2003 and informed the applicant that the Energy Commission had jurisdiction. The executive director also recommended an AFC proceeding ***“Moreover, the potential for the generators to operate simultaneously should be analyzed in a comprehensive environmental document in accordance with the California Environmental Quality ACT. Such analysis would identify the projects emission, assess their impacts, identify feasible mitigation, and assess the potential health risks from this concertation of diesel engines.”***<sup>7</sup>

The Final Decision for the Santa Clara Data Center<sup>8</sup> correctly applies Section 2003 of Title 20. The decision calculates the generating capacity as follows, *“Each backup generator has a capacity to generate 2,250 kilowatts, or 2.25 megawatts (MW), a total capacity of 72 MW.”*<sup>9</sup> Staff’s proposal to utilize an ad hoc formula<sup>10</sup> to compute the generating capacity of the MBGF at the data center design value has no support in the regulations and no support in any Energy Commission proceeding or any data center siting case.

The Decision adopts Mitigation Measure PD-1 which allegedly limits the demand of the McLaren data center to under 100 MW. First, the Energy Commission has no jurisdiction over the demand of the data center. The demand of the data center is outside the Commission’s jurisdiction. Secondly, the Commission has no verification mechanism to determine if the

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<sup>6</sup> TN 224909 Page 8 of 14

<sup>7</sup> Attachment 1 Page 1 - Appendix F Pages 315-317 of 376 Project to Add 16 Emergency Backup Generators to the Santa Clara SC-1 Data Center Santa Clara, California Application for Small Power Plant Exemption Submitted to the California Energy Commission Submitted by Xeres Ventures LLC November 2011 [https://www.energy.ca.gov/sitingcases/santaclara/documents/applicant/SPPE\\_Application/02\\_Application\\_Appendices\\_A-H.pdf](https://www.energy.ca.gov/sitingcases/santaclara/documents/applicant/SPPE_Application/02_Application_Appendices_A-H.pdf) Pages 315 of 376

<sup>8</sup> Exhibit 304

<sup>9</sup> Exhibit 304 Page 40 of 142

<sup>10</sup> CEC Staff Witness Matt Layton

demand of the data center exceeds 100 MW, as the Commission has no meter on the electricity input to the data center, nor does it have any way of ensuring that the backup generators do not exceed 100 MW of demand. Each data center lessee has his own meter and contracts his own electricity contract. The condition is essentially meaningless, as there is no way for the commission to monitor or enforce it.

The projects NO<sub>2</sub> and diesel particulate matter impacts have not been modeled under emergency operation.

The decision states on page 15 that, *"We find that the Backup Project's emissions of NO<sub>x</sub> are not significant and will not violate any air quality standard or contribute substantially to an existing or projected air quality violation."* The decision bases this on the mistaken assumption that the project's NO<sub>2</sub> emissions have been modeled with all 47 generators operating at once. The evidence demonstrates that NO<sub>2</sub> air quality impacts have been modeled with only 1 diesel engine operating at once. As staff stated in its recent position statement,

"The Order states on page 5 that " ... the potential impacts of the generators based on 50 hours per year per generator have been modeled." While the statement is true, this modeling was done for carbon monoxide (CO) and toxic air contaminants. Short-term CO and acute Health Risk Assessments were based on all the engines operating at the same time for every hour of the 5 modeling years in the analysis. Chronic hazard index and cancer risk were based on all engines operating at the same time for 50 hours/year. **For 1-hour NO<sub>2</sub> (nitrogen dioxide) impacts, staff analyzed testing of each engine one at a time."**

This factual error in the decision, that the projects NO<sub>2</sub> and diesel particulate matter impacts will not cause a significant impact, is based on the false assumption that these impacts have been modeled, when in fact, they haven't. Staff instead argues that emergency operation is speculative so there is no need to model NO<sub>2</sub> and diesel particulate matter impacts under emergency operations. But staff's argument is clearly false, as CO emissions have been modeled under emergency conditions with all 47 diesel backup generators running, so there is no reason that the same modeling cannot be performed for NO<sub>2</sub> and diesel particulate air quality impacts. The Commission Final Decision on Page 70 of 361 states, *"the operation of a pair of generators (with one located above the other and both having same stack exit heights and similar locations, or two adjacent generators) could cause eight hours of operation from two generators to impact a given receptor location and result in a significant impact for the 98th percentile (eighth highest*

value) for the NAAQS.”<sup>11</sup> The evidence is clear that just the operation of two of the diesel generators operating simultaneously will violate the federal NO<sub>2</sub> standard. Operation of all 47 generators at once has not been evaluated because CEC, “Staff contends that analyzing cumulative air quality impacts would be too speculative.”<sup>12</sup>

Potential GHG Emissions are Significant.

As with the other emission estimates for this project, CEC staff only considered engine testing and maintenance emissions for GHG emission estimates. Potential emergency use of the diesel fired engines was not evaluated. There is no limit on GHG emissions from the project under emergency operation. GHG emissions can be significant since there is no limit on the hours of operation of the project under the decision. Without a cap on fuel use there is no limit on GHG emissions during emergency operation and therefore these emissions are significant under CEQA.

Under normal operation according to CEC Staff in the initial study, “*With implementation of the efficiency measures included in the project in combination with the green power mix utilized by SVP, the project would comply with the City’s CAP, and would not conflict with plans, policies or regulation adopted for the purpose of reducing the emissions of GHG*”<sup>13</sup> McLaren Data center has already responded to the BAAQMD which recommended the use of SVP Green Power. According to the applicant, “*In response to the portion of this comment that suggests the project applicant purchase Santa Clara Green Power from SVP, it is important to note that the project would be a **multi-tenant data center with each tenant independently purchasing electricity measured by separate sub-meters.** The project applicant has confirmed that for its own offices and building support spaces, the applicant will purchase Santa Clara Green Power. In addition, the applicant will offer the purchase of Santa Clara Green Power as an alternative for its tenants as part of its commitment to reducing GHG from electricity use, **but cannot guarantee that every tenant will choose to enroll in the program.***”<sup>14</sup> The CEC Staff’s mitigation measure is ineffective because it is unenforceable and the applicant is operating a multi-tenant data center, where each lessee independently purchases their electricity. The

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<sup>11</sup> Decision Page 135 of 361 Initial Study Page 5.7-15

<sup>12</sup> Decision Page 15

<sup>13</sup> Decision Page 135 of 361 Initial Study Page 5.7-15

<sup>14</sup> [santaclaraca.gov/home/showdocument?id=51500](http://santaclaraca.gov/home/showdocument?id=51500) Page 4 of 13



mitigation measure is unenforceable. Under emergency operation GHG emissions are not limited and have not been evaluated because CEC, “*Staff contends that analyzing cumulative air quality impacts would be too speculative.*”<sup>15</sup> The final decision concurs with 2HT that emergency operation is not speculative. The final decision states, “*We agree with Staff that the likelihood of the Backup Project being required to run is unlikely. However, unlikely operation does not equal speculative impacts.*” Despite this CEC staff has not analyzed GHG emissions under emergency operation to determine if they are significant.<sup>16</sup>

### Public Participation and Environmental Justice

The Energy Commission failed to engage the general public, much less the confirmed environmental justice community that will be impacted by this proposal. The Commission failed to hold the traditional Informational Hearing and Site Visit.<sup>17</sup> An informational hearing is sponsored by the Energy Commission to inform the public about the project and to invite public participation in the review process. Staff never filed an issues identification report for the public.<sup>18</sup> The issues identification report is published to aid the parties and the public in understanding the project and potential environmental impacts. Staff never held any meetings for the public in Santa Clara to provide and exchange information with the public.<sup>19</sup> No document handling memo was sent out to the librarians informing the public where the proceedings documents could be accessed. No project materials were provided to the public in Spanish or other appropriate foreign languages. No hearings were held in Santa Clara. No workshop on the initial study was conducted in Santa Clara. All of the customary procedures for Energy Commission proceedings

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<sup>15</sup>Decision Page 15

<sup>16</sup> Final Decision Page 14 (Page 20 of 361)

<sup>17</sup> Title 20 § 1709.7. Informational Hearing, Site Visit, and Schedule

(a) Within 45 days after the acceptance of a notice of intent or application for certification, the presiding member shall hold one or more informational hearings and site visits as close as practicable to the proposed sites. Notice of the first informational hearing shall comply with section 1209, shall include information on how to participate in the proceeding, and shall be provided to all persons identified by the applicant under section (a)(1)(E) of the information requirements in Appendix B.

<sup>18</sup> Title 20 § 1709.7. Informational Hearing, Site Visit, and Schedule (b) At least five days before the first informational hearing, the staff shall file a written statement summarizing the major issues that the staff believes will be presented in the case.

<sup>19</sup> Title 20 § 1207.5. Staff Meetings; Purposes.

(a) At any time, staff may initiate voluntary meetings with the applicant, other parties, interested agencies, stakeholders, or the public on matters relevant to a proceeding. Such meetings may include workshops, site visits, or other information exchanges.

designed to engage the public were not performed. The environmental justice community within 400 feet of the project was not engaged, in violation of the environmental justice requirements normally conducted for Energy Commission proceedings.

The Commission's December 15 Notice of Determination is Erroneous.

On December 15, 2018 the Commission filed its notice of determination with the Resources Agency. In the notice of determination it states that, "*Mitigation measures were not made a condition of the approval of the project.*" That is incorrect because the Final Decision contains mitigation measure PD-1.<sup>20</sup>

## Conclusion

The Commission has failed to follow its own regulations in computing the generating capacity of the MBGF and has allowed it to proceed through the SPPE process illegally. While the Commission Decision agrees that emergency operation of the MBGF is not speculative, the Commission has failed to evaluate emergency operations because CEC staff insists that emergency operation is speculative. The Commission Decision ignored substantial evidence in the record that the MBGF will cause an exceedance of the national NO<sub>2</sub> standard with only two of the 47 generators operating. The NO<sub>2</sub> and diesel particulate matter impacts from operation of all 47 generators simultaneously has not been analyzed by anyone and just the operation of two of the generators simultaneously can result in a significant impact. Because the project has no limits on GHG emissions from emergency operation, GHG emissions are significant. The decision is erroneous and unlawful and the Commission must now require the applicant to file an

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<sup>20</sup> **Condition of Exemption PD-1. Notice of Events Affecting Electrical Demand of the Facility.**

The granting of the Small Power Plant Exemption for the McLaren Backup Generating Facility Project is specifically conditioned on the existing configuration of the McLaren Data Center and that its demand for electricity does not exceed 100 megawatts. In the event that the Project Owner seeks to alter the configuration or equipment of the McLaren Data Center so that the demand for electricity would then exceed 100 megawatts, the Project Owner shall notify the Energy Commission of any such planned change to the Data Center.

Verification. The Project Owner shall notify the Executive Director of the California Energy Commission of any proposed change to the existing configuration of the McLaren Data Center that would result in an increase of demand over 100 megawatts at least ninety (90) days prior to the change being effective. (Final Decision Page 9, Page 15 of 361)

Application for Certification, where a complete environmental analysis and appropriate public outreach can be conducted in the environmental justice community.

Respectfully Submitted,

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Rob Simpson Director 2HT  
Original signed and in possession of 2HT  
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<b>DOCKETED</b>	
<b>Docket Number:</b>	17-SPPE-01
<b>Project Title:</b>	McLaren Backup Generating Facility
<b>TN #:</b>	226162
<b>Document Title:</b>	Energy Commission Staff's Reply to Helping Hand Tools Petition
<b>Description:</b>	N/A
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**Before the Energy Resources Conservation and Development  
Commission of the State of California**  
1516 Ninth Street, Sacramento, CA 95814  
1-800-822-6228 – [www.energy.ca.gov](http://www.energy.ca.gov)

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

**MCLAREN BACKUP GENERATING FACILITY**

**Docket No. 17-SPPE-01**

## **ENERGY COMMISSION STAFF'S REPLY TO HELPING HAND TOOLS PETITION FOR RECONSIDERATION**

### **I. INTRODUCTION**

On November 7, 2018, after a public hearing, the California Energy Commission issued an order granting a small power plant exemption (SPPE) for the McLaren Backup Generating Facility (MBGF). The exemption allows the local jurisdiction, in this case the City of Santa Clara, to permit the project. On December 7, 2018, Helping Hand Tools (2HT) filed a petition requesting the Commission reconsider its order exempting the MBGF from the Commission's jurisdiction. On December 19, 2018, the Commission invited parties to the MBGF proceeding to submit comments on the petition. The following is Staff's response to the petition.

### **II. BACKGROUND ON THE SPPE PROCESS**

The SPPE process allows the Commission to exempt from its jurisdiction small power plant projects, 100 megawatts (MW) or less, that do not have significant impacts on the environment or energy resources. With the exemption, the local jurisdiction would then complete its own process under the California Environmental Quality Act (CEQA) and ultimately decide on whether the project gets approved or denied. (Pub. Resources Code, § 25541.) If the Commission denies the SPPE because the project is over 100 MW or because there are significant impacts to the environment or energy resources, the applicant would have to file an application for certification with the Commission. (Pub. Resources Code, § 25500.) It is important to note that the end result of an SPPE proceeding is never an approval of the project, only a determination of the appropriate jurisdiction to approve or deny the project.

### III. PUBLIC RESOURCES CODE SECTION 25530 AND TITLE 20 SECTION 1720 DO NOT APPLY TO SPPE PROCEEDINGS

Two authorities are cited by 2HT in its petition for reconsideration, Public Resources Code section 25530 and Title 20, California Code of Regulations, section 1720.<sup>1</sup> These provisions allowing reconsideration only apply to the Commission's application for certification process, not the SPPE process. This limitation makes sense in the case of an SPPE because once the Commission approves an exemption, the local government has jurisdiction over the project, at which point, project specific issues should be taken up with the jurisdiction that will actually permit the construction of the facility and implement any mitigation. In this case, the City of Santa Clara currently has jurisdiction over MBGS. Therefore, from a purely procedural perspective, the petition for reconsideration should be denied because there is no right to reconsideration of an Energy Commission decision granting an SPPE.

#### A. Public Resources Code section 25530

The Commission's authorizing statute states, "*the commission may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.*" (Pub. Resources Code, § 25530.) This permissive provision is contained in chapter 6 of the Public Resources Code covering the Commission's siting process. The single provision covering the authorization for SPPE exemptions is contained in Public Resource Code section 25541 also in Chapter 6. The operative language of section 25541 states, "*the commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts... if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility....*" Thus, once an SPPE is granted, the provisions of Chapter 6 no longer apply, including the provision allowing for reconsideration, and the project automatically transfers to the local government's jurisdiction. Had the Legislature intended otherwise, it either would have moved the reconsideration provision to another chapter (perhaps Chapter 3, which applies more generally to Energy Commission proceedings) or would have qualified section 25541 to say that an SPPE is exempt from the chapter *except for the reconsideration provision in section 25530*. That the Legislature chose to do neither strongly indicates that it did not intend for reconsideration to apply to decisions on an SPPE.

Even if it could be argued that section 25530 applies to all siting related proceedings, including SPPEs, the operative language of *may order a reconsideration* means the action is permissive. The Commission's regulations provide the operational detail

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<sup>1</sup> All references are to Title 20, California Code of Regulations unless otherwise noted.

lacking in Public Resources Code section 25530 and further limit the applicability of a petition for reconsideration to applications for certification.<sup>2</sup>

B. Title 20, section 1720

Section 1720 sets forth the details of the petition for reconsideration including the timing and mechanics of filing and the basis for the reconsideration. (Cal. Code Regs., tit. 20, § 1720.) Section 1720 is contained in Article 1 and the scope of Article 1 is found in section 1701.

*Article 1 applies to all notice of intent proceedings and all application for certification proceedings... Article 5 of this chapter shall apply to all applications for a Small Power Plant Exemption. (Cal. Code Regs., tit. 20, § 1701.)*

The scope provides the general rule that the provisions in Article 1 only apply to applications for certification and notice of intent proceedings. The provisions setting forth the SPPE process are primarily contained in Article 5 which correspond to sections 1934-1947 of the regulations. There is no provision in the SPPE section that provides for the equivalent of the section 1720 petition for reconsideration.<sup>3</sup>

Because the Commission actually permits the construction, operation and closure of a facility it licenses through the application for certification process, having a motion to reconsider is an important mechanism to allow for errors in fact or law to be addressed. In the case of the SPPE, the Commission's decision is not a decision on whether the project can or cannot be built but is designed to be a relatively quick jurisdictional proceeding, preferably taking no longer than 135 days, from initial filing to a decision on the exemption application. (Cal. Code Regs., tit. 20, § 1945.) Once the exemption has been granted, reconsideration is not necessary given the opportunity for issues to be presented before the jurisdiction actually permitting the facility. In this case, the City of Santa Clara and the Bay Area Air Quality Management District will be providing the permits and are each statutorily required to address public comments.

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<sup>2</sup> Specifically the provision of the regulations covering reconsideration covers both applications for certification and notices of intent, but notices of intent are not relevant to the discussion and need not be considered in this reply.

<sup>3</sup> While currently there are a few provisions in Article 1 that specifically apply to SPPE proceedings based on specific language in the text, such as sections 1710, 1714, and 1720.2, effective January 1, 2019, these provision will no longer contain reference to SPPEs as all sections related to the SPPE proceeding will be contained in Article 5. This change improves the clarity of the SPPE process and ensures consistency with the existing scope of Articles 1 and 5 as set forth in section 1701. (See TN# 226043 <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=17-OIR-02>.)

#### **IV. EVEN IF SECTION 1720 APPLIED, NO NEW EVIDENCE OR ERRORS OF LAW OR FACT HAVE BEEN IDENTIFIED AS REQUIRED**

Although section 1720 does not apply to SPPE proceedings, if the Commission is inclined to hear the petition to reconsider under its general authority to manage proceedings as set forth in section 1203, and apply the requirements of section 1720, the petition should be denied because it has failed to identify any new evidence or error in law or fact, or otherwise raise an issue that was not already fully adjudicated. (Cal. Code Regs., tit. 20, § 1720.)

A petition for reconsideration must specifically set forth either:

*1) new evidence that despite the diligence of the moving party could not have been produced during evidentiary hearings on the case; or 2) an error in fact or change or error of law. The petition must fully explain why the matters set forth could not have been considered during the evidentiary hearings, and their effects upon a substantive element of the decision.* (Cal. Code Regs., tit. 20, § 1720.)

2HT identifies three claimed errors: 1) the calculation of the project's generating capacity, 2) NO<sub>2</sub> emissions impacts, and 3) the public noticing and outreach of the Commission's proceeding. (Petition to Reconsider, pp. 2-7.)

##### **1) Calculating Generating Capacity**

It is undisputed that 2HT simply does not agree with the method of calculating generating capacity utilized by Staff, the Applicant, and ultimately adopted by the Commission. Specifically, the issue is the use of the building demand in the generating capacity calculation. 2HT argues this methodology is not appropriate and 2HT was given ample opportunity to make its argument. Not agreeing with the calculation does not provide a basis for reconsideration. On the contrary, considerable time and effort was given to fully flesh out the various methodologies for determining generating capacity, including all parties responding to specific questions by the Committee on this exact issue. (See Exhibit 202, pp. 3-5, 7-9; Exhibit 205, pp. 1-5, Staff Issue Statement, pp. 1-6, RT 10/10/18, pp. 18-23.)

2HT relies primarily on a 10-year old letter from the Commission's former executive director regarding one of the first data centers to be evaluated by Commission Staff. The letter was introduced as evidence in the SPPE proceeding. (Exhibit 306.) In assessing generating capacity, the letter outlines a methodology acceptable to 2HT because the building demand was not included in the calculation. (Exhibit 306.) Subsequent to issuance of this letter, Staff further refined its approach to calculating



generating capacity where data centers are concerned, and concluded that it was appropriate to consider building demand in the calculation. Staff provided evidence in the record to support this approach. There is no authority that prevents Staff from learning more about how data centers operate and improving its methodology to more appropriately reflect the unique operating parameters of data centers. The 2008 letter is not binding authority and was never ratified by the Commission in any type of decision and does not provide evidence of an error in law or fact.

All the issues raised regarding generating capacity in 2HT's petition for reconsideration (Petition to Reconsider, pp. 2-5.) were addressed in detail during the two hearings and multiple filings by the parties on the topic. No new evidence was included in the motion to reconsider. A disagreement with a result does not equate to an error in law or fact.

## 2) NO<sub>2</sub> Emissions Impacts

In its petition to reconsider, 2HT next asserts that the decision mistakenly assumes the project's nitrogen oxide (NO<sub>x</sub>)<sup>4</sup> emissions have been modeled with all 47 generators operating at once. (Petition to Reconsider, p. 5.) Again air quality issues, and NO<sub>x</sub> emissions in particular, were fully discussed during the multiple hearings and evidentiary filings.

The record establishes that for the 1-hour NO<sub>2</sub> NAAQS and CAAQS analyses for the emergency back-up generators, a typical operating scenario was modeled that includes one 4-hour load banking test that is conducted for *one generator at a time*, once annually, for maintenance and readiness testing. During this 4-hour test, the generator is ramped up in load. The first hour of testing is at 50 percent load, the second hour is at 75 percent load, and the last two hours are at 100 percent load. (Exhibit 23, p.5, Staff Issue Statement, p. 10.)

There is no language in the decision which is inconsistent with this modeling analysis. The decision includes a discussion of the annual NO<sub>x</sub> emissions based on testing and maintenance of the backup generators.

*The evidence establishes that at 50 hours of operation, the Backup Project would generate 40 tons of nitrogen oxide (NO<sub>x</sub>) annually; this exceeds the BAAQMD mass emissions threshold. Under BAAQMD's Rule 2-2-302, new sources that emit more than 10 tons per year (tpy) of NO<sub>x</sub> must fully offset emissions.*

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<sup>4</sup> The petition to reconsider uses the nomenclature, NO<sub>2</sub>. For purposes of this response, the generic NO<sub>x</sub> (both (NO<sub>2</sub> and NO) is used, except when referring to the health based standards specific to NO<sub>2</sub>.

*To offset emissions, the Applicant intends to use BAAQMD's small facility bank; use of that bank would require the Backup Project's total NOx emissions be below 35 tpy. The significance thresholds in the BAAQMD CEQA guidelines for mass emissions of NOx are 10 tons per year, and 54 pounds on an average daily basis. In order to qualify for the small facility bank, the Draft Authority to Construct provided by the BAAQMD limits emissions from testing and maintenance from Backup Project to 35 tpy NOx by limiting the annual testing and operating hours to 43. Thus, the Backup Project's NOx emissions will be offset to zero on both an annual basis and an average daily basis. (Final Decision, p. 15.)*

The only time all generators might possibly be running at the same time would be if there was an emergency scenario. But as noted in the record, NOx emissions from emergency operation (and source testing) are exempt from permitting per Title 17, California Code of Regulations, section 93115, ATCM for Stationary CI Engines. (Staff Issue Statement, p. 10.) While the final decision considered the feasibility of modeling cumulative air quality impacts from emergency operations, i.e. all generators running simultaneously, the Commission agreed with staff when it found cumulative air quality impacts for emergency operations is speculative, as defined in CEQA Guidelines, section 15145, because of the number of unknown variables. (Final Decision, p. 15.)

Therefore, there is no inconsistency between the decision and the facts in the record and no error in law or fact. In addition, 2HT has not provided any new information in its petition to reconsider.

### 3) Public Participation

Finally, 2HT argues, as it did during the hearings, that the Commission failed to engage the general public and environmental justice community in the MBGF proceeding. There can be no error of law or fact as to public participation or engagement because information about public participation or engagement is not a component of a decision in an SPPE proceeding. (Cal. Code Regs., tit. 20, §§ 1720, 1946.) Nevertheless, the petition fails to acknowledge the public proceedings at both the City of Santa Clara and at the Commission. Prior to the Commission's proceeding, MBGF was publicly reviewed by the City of Santa Clara for over a year, and the Commission held two publicly noticed hearings in addition to complying with CEQA for the noticing of the Initial Study and proposed Mitigated Negative Declaration. (Cal. Code Regs., tit. 14, § 15072(b)(3).) The Public Adviser also conducted outreach to the local community prior to the evidentiary hearing. Therefore, the section of the petition for reconsideration covering public participation and engagement is neither new evidence nor shows an error in law or fact.

## V. CONCLUSION

The 2HT petition should be denied because section 1720 is only applicable to applications for certification and not SPPEs. In addition, a petition for reconsideration is not appropriate because the Commission is not permitting the MBGF. With the granting of the exemption, the project is now with the City of Santa Clara for permitting. Even if the Commission, under its general authority to manage a proceeding, chooses to consider the petition for reconsideration, it should be denied as the petition conflates disagreement with the findings and conclusions of the final decision with an error of law or fact. The petition failed to identify any new information or issue not already fully addressed during the evidentiary proceeding and therefore, does not meet the elements of section 1720.

Date: December 20, 2018

Respectfully submitted,

***Original signed by:***

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<b>DOCKETED</b>	
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<b>TN #:</b>	226222
<b>Document Title:</b>	Vantage Data Centers' Response to Intervenor's Petition For Reconsideration
<b>Description:</b>	N/A
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<b>Organization:</b>	DayZenLLC
<b>Submitter Role:</b>	Applicant Representative
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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

Application For Small Power Plant  
Exemption for the **McLAREN BACKUP  
GENERATING FACILITY**

**DOCKET NO: 17-SPPE-01**

**VANTAGE DATA CENTERS'  
RESPONSE TO INTERVENOR  
HELPING HAND TOOLS PETITION  
FOR RECONSIDERATION**

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**INTRODUCTION**

Vantage Data Centers (Vantage) in accordance with the Committee Notice of Hearing, dated December 19, 2018, for the Helping Hand Tools (Petitioner) Petition For Reconsideration (Petition), hereby files its Response in support of its Application for a Small Power Plant Exemption (SPPE) for the McLaren Backup Generating Facility (MBGF). For the reasons articulated by Staff in its Response to the Petition (Staff Response)<sup>1</sup> and summarized below, the Commission should summarily reject the Petition because it is not allowed by statute or regulation for a SPPE Decision. The Commission should also reject the Petition it fails to raise any new factual or legal issues or errors. All of the issues raised by the Petition were thoroughly adjudicated by the Committee and the Commission. Simple disagreement with the legal and factual conclusions made by the Committee in its Proposed Decision and the Commission in its Final Decision are not grounds for reconsideration.

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<sup>1</sup> TN226162.

## **REBUTTAL OF PETITIONER'S CONTENTIONS**

### **I. Petitioner has no right to file a Petition for Reconsideration under Section 1720 of the CEC Regulations**

As articulated in the Staff Response, Section 1720 allows the filing of a Petition For Reconsideration only for Commission Orders or Decisions for either a Notice of Intent (NOI) or Application For Certification (AFC) proceedings. This interpretation is entirely consistent with the “permissive” language contained in Public Resources Code Section 25530. The Commission’s exercise of the “permissive” language of the statute authorized it to adopt Section 1720 and apply it only to NOI and AFC proceedings. Evidence that the Commission intended Section 1720 to apply only to NOI and AFC proceedings include the placement of the section in Article 1 and the specific language in Section 1701 that Article 1 governs NOI and AFC proceedings and specifically excludes SPPEs which are governed by a different section (Article 5 of the regulations). Article 5 does not include any provision for filing a Petition For Reconsideration for a decision on a SPPE.

### **II. Petitioner has failed to raise any new evidence or errors of facts or laws.**

Petitioner has not alleged that the Committee excluded relevant evidence or did not consider evidence in the record. Petitioner has not proffered new evidence that could not have been considered during the SPPE proceedings. The Petition simply disagrees with the ultimate conclusions articulated in the Final Decision. Disagreement after a fair opportunity to be heard is not grounds for the Commission to reconsider the Final Decision. Doing so would set a harmful precedent for eliminating the burden of proof that is properly based on a Petitioner. Petitioner bears the burden to bring specific evidence of errors of fact or law that could not have been brought to the Committee’s attention prior to its proposed decision or brought to the Commission’s attention prior to its approval of the Final Decision. The limitations on Petitions For Reconsideration are not only clearly articulated to prevent a “rehashing” of the same arguments, such limitations serve a very important public policy of encouraging parties to fairly make all arguments and bring all relevant evidence to the decision makers at the hearing stage. This enables a Final Decision to be based on the record. Allowing another opportunity to make the same arguments and pointing to the same facts after the Commission reaches a Final Decision unnecessarily prolongs the Commission’s rigorous process and is fundamentally unfair to those parties that have followed the rules.

Petitioner has participated fully in this proceeding, filing documentary evidence, oral testimony, conducting cross-examination of Staff and VDC witnesses, and filing briefs containing legal argument. Petitioner made oral argument to the Committee, provided comments on the Proposed Decision, and urged the Commission to reject the Proposed Decision. For each issue raised in the Petition, we have provided specific citations to the record documenting that the issue, fact, or argument was already considered, is not new, and is not an error as the Petition contends.

A. Generating Capacity and Commission Jurisdiction

The methodology for calculation of generating capacity for the McLaren Petitioner consistently urged the Committee to calculate the generating capacity by simply multiplying the nameplate capacity of each generator times the number of generators. Also, the Petitioner consistently, and incorrectly, cited the Santa Clara Data Center Project as precedent in support of the simplified calculation. However, the Committee and Commission considered and rejected these arguments. Petitioner has simply repeated these same arguments in its Petition, often copying verbatim the arguments contained in previous filings. To document to the Commission that the Petitioner has had a fair opportunity to be heard throughout this proceeding, we have provided the following summary of Petitioner's comments, evidence and arguments regarding generating capacity.

- TN 224284, Petitioner's comments on the Initial Study – claims the Commission should calculate generating capacity using the nameplate rating only and cites to the Santa Clara SPPE proceeding.
- TN 224402, Petitioner's motion to dismiss the proceeding where Petitioner alleges that the Commission is bound by Section 2003 to multiply the nameplate rating by the total number of generators and again cites to the Santa Clara proceeding.
- TN 224462, Petitioner's comments on evidentiary hearing in which Petitioner includes a copy of documents in the Santa Clara proceeding and again contends nameplate rating must be used to calculate generating capacity.
- TN 224636, Petitioner's Response to Committee Questions seeking information about methodology to calculate generating capacity. Petitioner repeated the same argument made in previous filings – identical to the argument made in the current Petition.
- TN 224681, Petitioner's Closing Argument at pages 7-10, where the same argument contained in the Petition is made.

- Exhibit 304 was provided by the Petitioner and the Committee entered into the evidentiary record. It is the Executive Director's jurisdictional determination for the Santa Clara SPPE mentioned in the Petition. While it does not address methodology specifically, it does calculate generating capacity using nameplate capacity.
- TN 224912, Petitioner's Comments and Answers to Committee Questions concerning generating capacity and other issues. This document included the exact argument made by Petitioner in its Petition and included references to the Santa Clara project and Exhibit 304.
- TN 225014, Exhibit 307, Petitioner's Supplemental Reply Testimony after the Committee Status Conference and further evidentiary hearing, noticed specifically to address generating capacity and Petitioner's contentions.
- TN 225008, Exhibit 308 and TN 225007, 309, which are letters estimating Power Utilization Equivalent efficiency factors (PUE) proposed by Petitioner and entered into the evidentiary record. The Committee considered Petitioner's claims that Vantage had incorrectly allocated the electrical demand of the data center and rejected them.
- TN 225830, Petitioner's Comments on the Proposed Decision, where Petitioner reproduces the exact argument contained in the Petition at pages 2-4.

In addition to the written arguments the Petitioner filed above, the Petitioner made the same argument concerning generating capacity to the Committee on two separate occasions. They are documented in the following transcripts.

- TN 224793, Transcript of PreHearing Conference and Evidentiary Hearing conducted on August 30, 2018. Petitioner's argument is located at pages 24, 32-34.
- TN 225108, Transcript of Status Conference and Further Evidentiary Hearing conducted to address generating capacity on October 10, 2018. Petitioner made the exact arguments contained in the current Petition and was afforded the opportunity to cross-examine witnesses; pages 23-24; 29-31; and 36.

Petitioner has made the argument contained in the Petition challenging the generating capacity methodology proposed by Applicant and Staff, in eight separate written documents and orally at two evidentiary hearings and at the Commission Business Meeting on November 7, 2018. The Final Decision, at pages 7-9, includes an accurate discussion of Petitioner's argument and ultimately rejects it on well-reasoned legal and factual grounds. The Final Decision concludes that the generating capacity of the



MBGF is best calculated using the maximum demand of the data center buildings it would serve during times that Silicon Valley Power was unable to supply it with electricity. The Final Decision recognizes that simply multiplying the number of generators times the nameplate rating of the each generator overestimates the generating capacity because many of the generators are redundant. Due to this redundancy in design, all of the generators cannot be operated at maximum generating capacity of each generator because the MBGF is not connected to the transmission grid and the data center buildings are not designed, nor will be constructed to receive electricity in a quantity more than Vantage's customers can use.

The Commission should reject the generating capacity argument contained in the Petition on the grounds that Petitioner has failed to provide any new information or identify an error of law of fact.

B. NO<sub>x</sub> and Diesel Particulate Matter Impacts

The Commission should reject the argument that it made an error of fact related to NO<sub>x</sub> and Diesel Particulate Matter (DPM) emissions impacts. Petitioner argued consistently throughout the proceedings that the Commission needed to conduct a specific type of modeling in order to determine whether the MBGF would result in significant impacts. Petitioner made these arguments in the following written documents and orally at hearings and the Commission Business Meeting.

- TN 224284, Petitioner's comments on the Initial Study, pages 2 and 3.
- TN 224462, Petitioner's comments on evidentiary hearing at pages 3-6.
- TN 224536, Petitioner's Reply Testimony, pages 2-4.
- TN 224681, Petitioner's Closing Argument at pages 1-6.
- TN 225014, Exhibit 307, Petitioner's Supplemental Reply Testimony after the Committee Status Conference and further evidentiary hearing, pages 1 and 2.
- TN 224793, Transcript of PreHearing Conference and Evidentiary Hearing conducted on August 30, 2018. Petitioner's cross examination and argument is located at pages 107-114.
- TN 225108, Transcript of Status Conference and Further Evidentiary Hearing conducted to address air quality impacts on October 10, 2018. Petitioner's argument is located at pages 39 and 40.
- TN 225830, Petitioner's Comments on the Proposed Decision, where Petitioner reproduces the exact argument contained in the Petition at pages 5-6.

Petitioner has been heard on the modeling issue several times. Petitioner's sole ground for reconsideration is that the Commission "mistakenly" misunderstood the extent of the NOx modeling performed by Vantage and Staff experts. Petitioner offers proof of this mistake by referring to Staff's responses to Committee questions (TN 224909) which was filed by Staff ***prior to the last evidentiary hearing***, making it clear that the modeling proposed by Petitioner was not performed. The Committee clearly considered this fact as the Final Decision does not include any statement that the Committee mistakenly thought Petitioner's proposed NOx and DPM modeling were performed by either Vantage or Staff. In fact, as evidenced during the discussion at the evidentiary hearing (10/10/18:RT:39-45), it was made clear that the Committee could rely on the modeling that had been performed combined with the fact that NOx emissions will be offset are sufficient to conclude the project will not result in significant NOx impacts. Petitioner has failed to meet its burden that the Final Decision contains an error of fact or law with respect to the air quality modeling issues and therefore the Petition should be rejected.

C. Greenhouse Gas Emissions

Petitioner has also failed to meet its burden that the Final Decision contains an error of law or fact or that there is new evidence relating to Greenhouse Gas Emissions (GHGs) that could not have been presented prior to the granting of the SPPE. Petitioner similarly reiterates arguments it made in the documents cited above that were considered by the Commission and rejected. Therefore, the Commission should reject the Petition.

D. Public Participation and Environmental Justice

The Petition simply reiterates verbatim arguments made by Petitioner in earlier filed documents. The majority of Petitioner's objections are that the SPPE process conducted by the Commission must follow the process the Commission conducts for an AFC for projects over which the Commission is performing the equivalent of an EIR and conducting a thorough analysis of the laws, ordinance, regulations and standards that are preempted by the Commission's authorizing statute. The Commission regulations contained in Article 1 are not applicable to SPPE proceedings, presumably because for SPPE proceedings the Commission is complying with the California Environmental Quality Act (CEQA) requirements.

Staff addresses the public outreach and analyses conducted in its Response to the Petition. However, the Committee should also note that City of Santa Clara conducted public notices during the preparation of its Initial Study/Mitigated Negative Declaration pursuant to CEQA. Attached is a list of addresses used by the City of Santa Clara to send notices including the latest meeting of the Architectural Review Committee concerning the McLaren Data Center.<sup>2</sup>

It is important to note that two members of the public have provided comments on the Petition.<sup>3</sup> Mr. Nordmo is the owner of Off The Wall Soccer, whose address is 700 Mathews Street. Ms. Benassi is the manager of Off The Wall Soccer. According to the City record of notices<sup>4</sup>, Mr. Nordmo received the City notices at Off The Wall Soccer at 700 Mathews Street.

There has been no violation of any public outreach or Environmental Justice requirement, as the Committee concluded after hearing Petitioner's earlier procedural arguments.

E. Notice of Determination

Any comment the Petitioner may have on the Notice of Determination is not subject to a Petition For Reconsideration. Even if the Commission believes Section 1720 would apply to an SPPE, the Notice of Determination is not such a Decision by the Commission.

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<sup>2</sup> Provided by City of Santa Clara on January 3, 2019.

<sup>3</sup> TN 226201, Comments by Jan Eric Nordmo; TN 226200, Comments by Janet Benassi.

<sup>4</sup> See yellow highlight on attached City of Santa Clara mailing list.

## **CONCLUSION**

The Commission should dismiss the Petition on the grounds that regulations or statute do not allow the Petition for a SPPE decision. Notwithstanding, The Petitioner has failed to raise any error of law or fact or provide new evidence which support reconsideration. We request the Commission dismiss the Petition with prejudice and include a firm statement that such Petitions are inappropriate for SPPE proceedings.

Dated: January 4, 2019

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Scott A. Galati", with a stylized flourish at the end.

Scott A. Galati  
Counsel to Vantage Data Centers

APN	OWNER	MAIL1	MAIL2
224-03-085	2045-2055 LAFAYETTE STREET LLC	16600 WOODRUFF AV 200	BELLFLOWER, CA 90706
224-40-006	ANTHONY ERLUND	4386 MILLER CT	PALO ALTO, CA 94306
224-40-010	BOWLES, ECKSTROM & ASSOCIATES LLC	2290 10TH ST	SAN JOSE, CA 95112
230-03-069	CALVIN AND JEAN MCGILLIS TRUSTEE	100 LYELL ST	LOS ALTOS, CA 94022
224-67-040	CHESTER AND MARLENE O'DONNELL TRUSTEE	2318 LAFAYETTE ST	SANTA CLARA, CA 95050
	CITY OF SANTA CLARA, PLANNING DIVISION (PLN2016-11732 - 917 WARBURTON AVENUE/JEFF)	1500 WARBURTON AVE	SANTA CLARA, CA 95050
224-40-005	CLAUDIA BRADEN ET. AL.	835 MATHEW STREET	SANTA CLARA, CA 95050
224-35-014	D&R MILLER PROPERTIES LLC	630 MARTIN AV	SANTA CLARA, CA 95050
224-40-001	DIANA LAND COMPANY, LTD.	651 MATHEW ST	SANTA CLARA, CA 95050
224-03-086	JAN ERIC NORDMO	700 MATHEW ST	SANTA CLARA, CA 95050
224-03-081	JITENDRA AND SHASHI PATEL TRUSTEE	800 MATHEW ST	SANTA CLARA, CA 95050
224-40-008	JUDITH AND BRUCE WHITNEY TRUSTEE	2311 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-03-087	KAN FAN CHEUNG AND YIM HO LEUNG	2201 LAFAYETTE ST	SANTA CLARA, CA 95050
230-03-071	LONG RICHARD D AND DOROTHY A LONG REV	17810 FOSTER RD	LOS GATOS, CA 95030
230-03-022	LONG RICHARD D AND DOROTHY A REVOCAB	17810 FOSTER RD	LOS GATOS, CA 95032
224-40-002	MATHEW STREET PROPERTY LLC	5911 VISTA LP	SAN JOSE, CA 95124
224-40-011	MATHEW STREET PROPERTY LLC	5911 VISTA LP	SAN JOSE, CA 95124
224-35-020	MIRACLE HOME INVESTMENT LLC	2435 LAFAYETTE STREET	SANTA CLARA, CA 95050
230-03-090	NEWARK GROUP INDUSTRIES INC.	525 MATHEW ST	SANTA CLARA, CA 95050
224-03-080	OWNER/RESIDENT	2265 LAFAYETTE STREET	
224-03-085	OWNER/RESIDENT	2055 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-03-085	OWNER/RESIDENT	2045 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-03-085	OWNER/RESIDENT	2199 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-03-087	OWNER/RESIDENT	650 MATHEW STREET	SANTA CLARA, CA 95050
224-03-087	OWNER/RESIDENT	2201 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-35-017	OWNER/RESIDENT	650 MARTIN AVENUE	SANTA CLARA, CA 95050
224-35-017	OWNER/RESIDENT	680 MARTIN AVENUE	SANTA CLARA, CA 95050
224-35-017	OWNER/RESIDENT	640 MARTIN AVENUE	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	785 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	765 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	705 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	795 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	715 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	775 MATHEW STREET	SANTA CLARA, CA 95050

224-40-002	OWNER/RESIDENT	725 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	745 MATHEW STREET	SANTA CLARA, CA 95050
224-40-002	OWNER/RESIDENT	765 MATHEW STREET	SANTA CLARA, CA 95050
224-40-006	OWNER/RESIDENT	855 MATHEW STREET	SANTA CLARA, CA 95050
224-67-041	OWNER/RESIDENT	2304 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-67-041	OWNER/RESIDENT	2314 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-67-041	OWNER/RESIDENT	2314 LAFAYETTE STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	555 REED STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	535 REED STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	504 MATHEW STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	512 MATHEW STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	520 MATHEW STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	500 MATHEW STREET	SANTA CLARA, CA 95050
230-03-104	OWNER/RESIDENT	505 REED STREET	SANTA CLARA, CA 95050
224-40-009	RICHARD & DOROTHY LONG REVOCABLE	17810 FOSTER RD	LOS GATOS, CA 95030
230-03-070	RICHARD AND DOROTHY LONG	17810 FOSTER RD	LOS GATOS, CA 95030
224-03-080	SEW LLC	2156 O'TOOLE AV	SAN JOSE, CA 95131
230-03-047	SOUTHERN PACIFIC TRANSPORTATION CO.	65 CAHILL ST	SAN JOSE, CA 95110
230-03-094	SOUTHERN PACIFIC TRANSPORTATION CO.	65 CAHILL ST	SAN JOSE, CA 95110
230-03-095	SOUTHERN PACIFIC TRANSPORTATION CO.	65 CAHILL ST	SAN JOSE, CA 95110
224-35-017	SUNSET PROPERTIES, INC.	160 PACIFIC AV 200	SAN FRANCISCO, CA 94111
224-67-041	TONY AND REBECCA GARZA	2304 LAFAYETTE ST	SANTA CLARA, CA 95050
224-40-007	WILLIAM AND ANN MEUSER TRUSTEE	2301 LAFAYETTE STREET	SANTA CLARA, CA 95050
224-67-006	WILLIAM CAVALIERI ET. AL.	675 CLARA VISTA AV	SANTA CLARA, CA 95050
230-03-104	XERES VENTURES LLC	1212 NEW YORK AV NW 900	WASHINGTON, DC 20005