



NOTICE OF PREPARATION

Notice of Preparation of a Draft Environmental Impact Report

In accordance with Title 14, California Code of Regulations, section 15082, California Energy Commission (CEC) staff has prepared this Notice of Preparation (NOP) to inform the Office of Planning and Research (OPR) and each responsible and trustee agency that an Environmental Impact Report (EIR) will be prepared for the Gilroy Backup Generating Facility (GBGF) (20-SPPE-03) proposed in the City of Gilroy. The GBGF would be part of the Gilroy Data Center (GDC). Both the GDC and GBGF components are collectively referred to as the project.

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 the 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 the California Environmental Quality Act (CEQA), for all facilities seeking an SPPE.

Pursuant to section 15082(b), each responsible and trustee agency and the OPR shall provide the CEC with specific detail about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR. At a minimum, the response shall identify:

- the significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the OPR will need to have explored in the draft EIR; and
- whether the agency will be a responsible agency or trustee agency for the project.

This response is due to CEC within 30 days of receipt of the NOP. If a responsible or trustee agency, or the OPR fails by the end of the 30-day period to provide CEC with either a response to the notice or a well-justified request for additional time, staff will presume that none of those entities have a response to make.

The preferable method to submit responses is via CEC's electronic commenting system. To access this system, commenting agencies should go to CEC's webpage for this proceeding:

<https://ww2.energy.ca.gov/sitingcases/gilroybackupgen/>, click on the "Comment on this Proceeding" link, and follow the instructions in the online form. Please be sure to include the project name in your comments. Once filed, the comments will become part of the proceeding's public record.

If you have any questions or need additional information on how to participate in CEC's review of the proposed project, please contact Leonidas Payne, Project Manager, by email at leonidas.payne@energy.ca.gov.

Project Location and Description

The project site is an undeveloped parcel approximately 56 acres in size located east of Arroyo Circle and between the two segments of Camino Arroyo within the City of Gilroy (APN 841-69-039). The site is near the Highway 101 corridor and immediately adjacent to industrial and commercial development. The site was used for agricultural purposes from 1939 to present. The project site is currently tilled agricultural land but is now proposed for industrial development, consistent with the General Industrial zoning and General Plan designations on the site.

The applicant proposes to construct two data storage center buildings and an on-campus security building totaling approximately 438,500 square feet. The project would also include an onsite switchyard and a new utility substation to accommodate electricity to be delivered to the site by Pacific Gas and Electric Company (PG&E). Interconnection of the new substation to the distribution grid would require PG&E to install approximately 3 new electric transmission poles and approximately 1,000 linear feet of new overhead 115 kilovolt transmission line.

The GBGF would be a backup generating facility with a generation capacity of up to 96 MW to support the need for the GDC to provide uninterruptible power supply for its servers. The GBGF would consist of 50, 2.5 MW diesel-fired emergency backup generators, arranged in two generation yards, each designed to serve one of the two GDC data center buildings. Each of these 50 generators would be a Tier-2 emergency diesel-fired generator equipped with a Rypos HDPF/C diesel particulate filter (DPF) and a Miratech AT-IV abatement package which combines the DPF, SCR, and diesel oxidizing catalyst (DOC). The generators would be 3,634 bhp, Caterpillar Model D3516C. With the DPF and abatement package the backup generators would be Tier 4F-compliant, which is the lowest emission tier established by U.S. Environmental Protection Agency and California Air Resources Board for these types of backup diesel generators.

Project elements would also include switchgear and distribution cabling to interconnect the two generation yards to their respective buildings. In addition, the GBGF would include three smaller emergency generators; two house power diesel fired generators, each capable of generating 600 kilowatts (kW) to support its respective building phase in an emergency; and a 175-kW diesel fired emergency generator to support a security building.

In a project revision submitted by the applicant on August 5, 2021, the applicant confirmed that the GBGF would include two Battery Energy Storage System (BESS) facilities, each with a current maximum estimated storage capacity of up to 50 MW and up to 670 megawatt-hour discharge capacity.

Probable Environmental Effects

The EIR will analyze the reasonably foreseeable direct, indirect, and cumulative effects of the proposed project in the topic areas specified in CEQA Appendix G, plus Environmental Justice.

CEC staff has produced environmental analysis documents for six data center SPPE applications since 2017. Five of those projects were ultimately granted SPPEs, and the sixth is an active proceeding.

Based on its analysis to date and prior experience evaluating other data centers in industrial settings, staff has identified that this project would have either no or less-than-significant impacts in the following environmental topic areas: aesthetics, agriculture and forestry resources, mineral resources, population and housing, public services, recreation, and wildfire. Topics that are likely to have no or less-than-significant impacts include energy, hazards and hazardous materials, hydrology and water quality, land use and planning, and utilities and service systems.

In prior evaluations, CEC staff has recommended mitigation measures (or, in some cases, modification of project design features originally suggested by the applicant) in the technical areas of air quality, biological resources, cultural and tribal cultural resources, geology and soils, greenhouse gas emissions, noise, and transportation. These technical areas, therefore, are given increased scrutiny and comments from other agencies on these topics are of particular interest.

CEC staff is still conducting information gathering activities, including any information provided by other agencies in response to this notice that can inform the CEC's environmental review.

Air Quality (including Public Health)

The proposed project would be located in the City of Gilroy, Santa Clara County in the San Francisco Bay Area Air Basin (SFBAAB), under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The SFBAAB is in non-attainment for ozone and particulate matter (PM) ambient air quality standards. The backup diesel generators proposed for the project would result in diesel PM emissions and emissions of ozone precursors (nitrogen oxides [NO_x] and reactive organic gases [ROG]). The NO_x emissions of the project may result in significant air quality impacts under BAAQMD's CEQA significance threshold and require mitigation; however, CEC staff has not completed its analysis of the significance of the project's potential impacts and is yet to reach a definitive conclusion. The EIR will discuss whether the project would result in a potential cumulatively considerable net increase of a criteria pollutant(s) for which the project region is non-attainment under an applicable federal or state ambient air quality standard. The EIR will also discuss whether the project would: conflict with or obstruct implementation of the applicable air quality plan; expose sensitive receptors to substantial pollutant concentrations, including impacts from criteria pollutants and toxic air contaminants; or result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. If project impacts related to air quality and public health are determined to be significant, mitigation will be identified to reduce impacts to a less than significant level, as feasible.

Biological Resources

The EIR will discuss the project's potential incremental effects to federally listed species and rare plants that may experience adverse direct or indirect significant impacts. Cumulatively considerable significant impacts from habitat modification (increase in non-native weed invasions) through nitrogen deposition from point source emissions (backup generators) on sensitive habitat may also occur. Nitrogen deposition from non-point sources (vehicle traffic) will require mitigation pursuant to the Santa Clara Valley Habitat Conservation Plan (SCVHCP). Adverse impacts may likely be reduced to less than significant levels with the incorporation of mitigation. CEC staff has worked with regulatory agencies (Santa Clara Valley Habitat Agency, California Department of Fish and Wildlife, United States Fish and Wildlife Service) to develop mitigation that would mitigate impacts to less than significant.

Nesting birds may be impacted by the project; however, impacts would be less than significant as the project would conduct pre-construction surveys and employ appropriate avoidance management techniques.

Cultural and Tribal Cultural Resources

To date, no previously recorded cultural resources have been found within the project site. Literature reviews reveal that numerous archaeological sites are in the project vicinity, some of which previous investigators only found below the ground surface after project excavations started. The Native American Heritage Commission informed CEC staff that a search of the Heritage Commission's Sacred Lands File yielded positive results. Staff's consultation with California Native American tribes has not yet identified tribal cultural resources within the project site. Regardless, tribal cultural resources could exist in similar contexts as buried prehistoric archaeological sites and further consultation is in progress to identify any additional potential impacts. Ground disturbance proposed as part of the project could encounter and damage buried resources that meet CEQA's criteria for historical, unique archaeological, or tribal cultural resources. The resulting impacts would likely be significant under CEQA. The applicant has proposed a comprehensive project design measure to reduce the severity of any impacts.

At this time, there is not enough information to conclude whether the project would result in significant impacts to cultural or tribal cultural resources and whether they can be mitigated to less than significant. Project impacts will be analyzed consistent with CEQA criteria for cultural and tribal cultural resources identified in Appendix G of the CEQA Guidelines.

Geology and Soils

The project site is in the Santa Clara Valley, an area known to have scientifically significant but widespread or intermittent fossil discoveries. Surficial sediment at the project site is generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. However, Pleistocene age (2.6 million to 11,700 years before present) sediments may also be present at or near the surface. Although unlikely, paleontological resources could be encountered during construction requiring earth moving, such as grading, trenching for utilities, excavation for foundations, and installation of support structures where native soil would be disturbed. The EIR will discuss the project's potentially significant impacts due to the possible direct or indirect destruction of a unique paleontological resource if discovered during project construction. These impacts could be reduced to less than significant levels with the incorporation of applicant proposed mitigation that has been incorporated into the project design.

Greenhouse Gas Emissions

The project would result in greenhouse gas (GHG) emissions from three categories of activities: direct emissions from construction, direct emissions from the testing and maintenance of the backup diesel generators, and indirect emissions from the data center's electricity use. CEC staff expects the temporary direct emissions from construction will be adequately addressed through the use of best management practices. It is expected that emissions from testing and maintenance would be less than significant as emissions would be below all relevant significance thresholds. GHG emissions associated with electricity consumption represent the largest source of GHG emissions from the project. To offset these emissions, the facility would obtain electricity from Silicon Valley Clean Energy (SVCE). CEC staff may evaluate the feasibility of the project enrolling in SVCE GreenPrime service (Carbon Free 100% Renewable), which would further reduce the indirect GHG emissions associated with electricity use.

Transportation

The EIR will discuss the project's potentially significant impacts from vehicle miles traveled (VMT). The applicant is working with a transportation consultant to prepare a transportation analysis report in accordance with the Santa Clara Valley Transportation Authority (VTA) VMT Evaluation Tool and the Office of Planning and Research's technical recommendations regarding assessment of VMT, thresholds of significance, and mitigation measures contained in the Technical Advisory on Evaluating Transportation Impacts, which will identify appropriate mitigation to reduce transportation impacts to less than significant, if feasible.

Alternatives

The EIR will consider a reasonable range of potentially feasible alternatives to the project. In addition to a no project alternative, the EIR will likely consider fuel cell technology, alternative fuels (renewable diesel and biodiesel), and natural gas internal combustion engines.

Responsible Agencies

CEC has identified the BAAQMD and the City of Gilroy as responsible agencies for this project. The project will require the following approvals and permits if exempted:

- BAAQMD – authority to construct and permit to operate
- City of Gilroy – Special Use Permit and encroachment permit

Trustee Agencies

CEC has identified the California Department of Fish and Wildlife and the Santa Clara Valley Habitat Agency as trustee agencies for this project.

Scoping Meeting(s)

Staff has determined that the project is not a project of statewide, regional or areawide significance pursuant to CEQA Guidelines section 15206, and thus does not intend to hold a scoping meeting. Please note, however, that pursuant to the provisions of section 15082(c), a responsible agency, a trustee agency, OPR, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the lead agency in determining the scope and content of the environmental information that the responsible or trustee agency may require. Requests for such a meeting should be directed to CEC staff Project Manager Leonidas Payne at the email listed above.

Attachments:

Regional Map (Figure 3.2-1)

Aerial Photograph and Surrounding Land Uses (Figure 3.2-3)

Site Plan from SPPE Application (Figure 3.2-4)

Updated Site Plan including BESS (Figure 3.2-5)



REGIONAL MAP

FIGURE 3.2-1



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 3.2-3

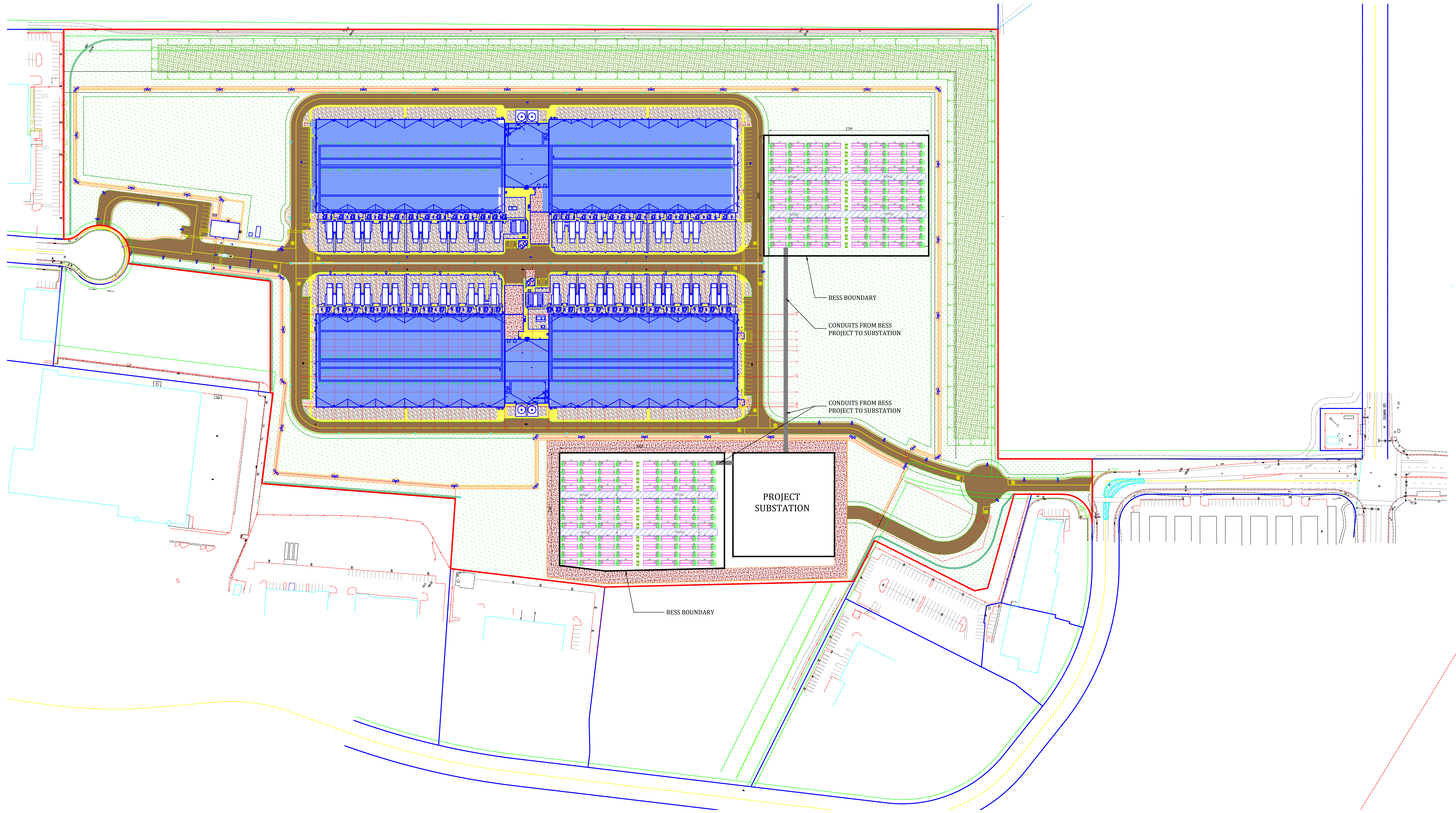


Figure 3.2-5 BESS Site Plan