

BUSINESS MEETING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 24, 2006

10:00 A.M.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Vice Chairperson

John L. Geesman

Arthur Rosenfeld

STAFF PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Martha Brook

Susan Brown

Lisa DeCarlo, Staff Counsel

Gary Fay, Hearing Officer

Guido Franco

Jim Holland

Mark Hutchison

Mike Messenger

Daryl Mills

Bill Pennington

Chris Scruton

Kerry Willis, Senior Staff Counsel

PUBLIC ADVISER

Margret Kim

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ALSO PRESENT

Michael Boyd, CARE

Donald Brumfield, Hedgehog Enterprises

Steven F. Gilliland, Federal Power, LLC

Jane Luckhardt, Federal Power Avenal

Nancy Rader, California Wind Energy Association

Bob Sarvey, Intervenor

Gene Varanini, City & County of San Francisco

Paul Vercruyssen, Center for Energy Efficiency & Renewable  
Technologies

Scott Walker, California Integrated Waste Management Board

Melissa Whitten, City Manager, City of Avenal

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VICE CHAIRPERSON PFANNENSTIEL: Good morning.

Welcome to the Energy Commission's biweekly meeting.

Please join me in the Pledge of Allegiance.

(Thereupon the Pledge of Allegiance was  
Recited in unison.)

VICE CHAIRPERSON PFANNENSTIEL: Before we begin  
going through the agenda this morning, we have some  
important and noteworthy recognitions and awards. So I'd  
like to take a moment to do what we sometimes think of as  
one of our most important roles, which is to recognize the  
contributions of people here.

First, I have two 25 year service awards for 2  
staff people. We'll start with the Daryl Mills. I don't  
see Daryl. Ah, why don't you come up, Daryl.

Daryl began his career at the State Air Resources  
Board as an Air Pollution Specialist, and 3 and a half  
years later came to the Energy Commission. Among Daryl's  
important contributions to efficiency have been the  
development of the bond program, which, as many people  
know, has allowed the Commission to continue financing  
energy efficiency improvements at schools and local  
governments when all other sources of funding had dried  
up.

He's now a key member of the Green Building

1 Initiatives, various work groups and performs his roles as  
2 Supervisor in the Public Programs Office.

3 So, Daryl, congratulations and thank you.

4 (Applause.)

5 VICE CHAIRPERSON PFANNENSTIEL: Thank you, Daryl.

6 COMMISSIONER ROSENFELD: Congratulations.

7 COMMISSIONER GEESMAN: Thanks, Daryl.

8 VICE CHAIRPERSON PFANNENSTIEL: Next, also a

9 25-year award, for Mike Messenger.

10 And Mike?

11 Mike is a one-agency man. He's been with the  
12 Energy Commission since 1981. He came here as a Special  
13 Advisor to Commissioner Jim Walker. And since those early  
14 days he's been one of the Commission's top experts in  
15 energy efficiency. He's instrumental in developing energy  
16 efficiency goals adopted by the PUC a year ago. His  
17 technical expertise and strategic thinking along with his  
18 cooperative working manner have contributed to his  
19 collaborative work at the PUC in efficiency and demand  
20 response. He's well known and well respected in this  
21 field. We're lucky to have him.

22 Thank you, and congratulations, Mike.

23 (Applause.)

24 VICE CHAIRPERSON PFANNENSTIEL: Congratulations.

25 COMMISSIONER ROSENFELD: Congratulations.

1           COMMISSIONER GEESMAN: Congratulations. Thank  
2 you, Mike.

3           (Applause.)

4           VICE CHAIRPERSON PFANNENSTIEL: But it doesn't  
5 end there. We have others to recognize, others of the  
6 Energy Commission group. And I'd like to start with  
7 recognizing Susan Brown, who was -- and is Susan around?

8           I will ask her to come up and embarrass her in a  
9 moment.

10          MS. BROWN: I didn't know about this.

11          VICE CHAIRPERSON PFANNENSTIEL: Susan was among  
12 the 23 awardees from around the world that the U.S. EPA  
13 recognized this year for efforts to protect the earth's  
14 climate and ozone layer. Susan, along with Seattle,  
15 Washington Mayor, Gregory Nickels, and University of  
16 Michigan Professor Barry Rabe were the only individual  
17 winners for this year's EPA Climate Protection Award.

18          As California's representative on the Tri-State  
19 West Coast Governor's Global Warming Initiative, Susan  
20 coordinates California's stakeholder input process for  
21 climate and action planning. She also leads the State  
22 energy team in strategizing to reduce greenhouse gas  
23 emissions, and advocates for local government  
24 participation in the State's response to global warming.

25          The award citation said Susan has inspired

1 professional and elected officials to take action about  
2 climate change at the State and local levels throughout  
3 the State.

4           Congratulations and thank you, Susan.

5           (Applause.)

6           MS. BROWN: Thank you.

7           VICE CHAIRPERSON PFANNENSTIEL: Thank you, Susan.

8           (Applause.)

9           VICE CHAIRPERSON PFANNENSTIEL: Now, I also want  
10 to recognize, in absentia, Commissioner Boyd. He is over  
11 at the Legislature testifying this morning. He may be  
12 able to be here later depending on how long we go. But  
13 let me just mention that Commissioner Boyd also received  
14 an important award. He was given the Haagen-Smit --

15           COMMISSIONER ROSENFELD: Haagen-Smit.

16           VICE CHAIRPERSON PFANNENSTIEL: Haagen-Smit,  
17 sorry. -- the Haagen-Smit award for the -- which is given  
18 each year to a scientific researcher, a policymaker or a  
19 health researcher. It was presented at this year's  
20 Haagen-Smit Symposium. The citation from the Cal Air  
21 Resources Board said that the awards are given to  
22 individuals who have made significant contributions toward  
23 improving air quality through their lifetime commitment,  
24 perseverance, leadership and innovation in areas of  
25 science, policy, technology, public education and

1 community service.

2           And that certainly describes Commissioner Boyd.

3 I'm sorry he is not here to receive your applause, but

4 I'll tell him that we were thinking of him.

5           (Laughter.)

6           VICE CHAIRPERSON PFANNENSTIEL: And then lest we  
7 leave the award recognition short, I think it's an  
8 opportunity for us all to recognize our favorite,  
9 Commissioner Rosenfeld. We know that Art was the sole  
10 2005 recipient of coveted an Enrico Fermi Award,  
11 American's oldest recognition for scientific achievement.

12           Some of the prior winners of this award have been  
13 Robert Oppenheimer, Hans Bethe, Ernest Lawrence and  
14 others. Governor Schwarzenegger said in his statement,  
15 "That Art's vision, drive and dedication to continue to  
16 position our State as a leader in new technology,  
17 innovative research and energy conservation..." That is a  
18 certainly true.

19           I think that many of us know, and I think it's  
20 important to note, that Art was the last graduate student  
21 at the University of Chicago under Enrico Fermi. In 1973  
22 when the OPEC countries embargoed oil to the United  
23 States, Art redirected his career from particle physics to  
24 finding an answer to the energy crisis. He's been working  
25 with us on that ever since.

1           The Department of Energy, who administers this  
2 award, singled out Art for a number of his energy savings  
3 initiatives. He was personally responsible for developing  
4 DOE-2, a computer program that was designed to make  
5 buildings energy efficient and incorporated -- has been  
6 incorporating in the California Building Code.

7           I don't know that there's enough that we can say  
8 about all that Art has contributed and not just in the  
9 State. He now, as many of us know, has been taking his  
10 energy efficiency gospel out around the world, and I think  
11 with enormous success. We can only hope that in this  
12 world he is able to do as much for other nations as he's  
13 done for California.

14           He will be formally recognized at a ceremony  
15 Washington on June 21st, and with many of his friends and  
16 colleagues from across the country attending. So this is  
17 an opportunity for all of us to say, thank you, Art.

18           (Applause.)

19           (Standing applause.)

20           COMMISSIONER ROSENFELD: I will make the  
21 following remark. The program called DOE-2, which Jackie  
22 mentioned, was originally called Cal-ERTA, because it's so  
23 sold that there was no DOE. And I got my first grant here  
24 in '75, I guess, when the Energy Commission needed a  
25 public program to do building standards. And I'm not sure

1 it makes me popular, but anyway I'm proud of it.

2 (Laughter.)

3 COMMISSIONER ROSENFELD: So thank you so much for  
4 your kind words. And I notice that we don't have a  
5 business meeting on the 21st, so I won't be absent that  
6 day.

7 (Laughter.)

8 COMMISSIONER ROSENFELD: Thank you.

9 (Applause.)

10 VICE CHAIRPERSON PFANNENSTIEL: Well, now to the  
11 agenda.

12 Before we begin the consent calendar, we need to  
13 vote whether or not to consider the 2 items that were on  
14 the addendum, Items 20 and 21.

15 Do I hear a motion to consider that?

16 COMMISSIONER GEESMAN: So moved.

17 COMMISSIONER ROSENFELD: Second.

18 VICE CHAIRPERSON PFANNENSTIEL: In favor?

19 (Ayes.)

20 VICE CHAIRPERSON PFANNENSTIEL: So those items  
21 will be added to the agenda.

22 Consent Calendar.

23 Motion to approve.

24 COMMISSIONER ROSENFELD: I move the consent  
25 calendar.

1 COMMISSIONER GEESMAN: Second.

2 VICE CHAIRPERSON PFANNENSTIEL: In favor?

3 (Ayes.)

4 VICE CHAIRPERSON PFANNENSTIEL: Consent calendar  
5 is approved.

6 I think before we go further in the agenda, the  
7 items -- one of the items on the addendum is a resolution,  
8 Item 21, I believe. And I would like to have that taken  
9 care of now, if that's acceptable to move that on the  
10 agenda.

11 Mr. Pennington was going to present the  
12 resolution.

13 MR. PENNINGTON: Thank you, Commissioners. I'm  
14 very familiar with this program, the Green Builder  
15 Program, that's being recognized in this resolution. I've  
16 been on the advisory committee for the predecessor program  
17 for this program, the Community Energy Efficiency Program,  
18 for the last 5 or 6 years and have watched this program do  
19 very good work.

20 So the Green Builder Program is a derivative  
21 expansion of that program. And I'm pleased to read this  
22 resolution into the record if that's what you wish.

23 VICE CHAIRPERSON PFANNENSTIEL: Please.

24 MR. PENNINGTON: Resolution recognizing the  
25 California Green Builder Program.

1           "Whereas production builders build  
2           on the order of 200,000 new homes every  
3           year in California, predominantly in  
4           hotter, inland climate zones in the  
5           state, and the new homes added each year  
6           provide housing needed for California's  
7           growing population;

8           "And Whereas, the new homes added  
9           each year contributes significantly to  
10          the need for additional energy  
11          infrastructure in the state, and  
12          increased demands for construction  
13          materials and the state's limited water  
14          resources;

15          "And Whereas, California State  
16          policy promotes the development of  
17          highly energy-efficient environmentally  
18          responsible housing through Title 24  
19          Building Standards, energy efficiency  
20          incentive programs and land-use planning  
21          requirements;

22          "And Whereas, the California  
23          Building Industry Association is a  
24          statewide trade association representing  
25          companies that account for approximately

1           80 percent of the new homes built in  
2           California, and which runs the Building  
3           Industry Institute, a nonprofit research  
4           and education entity, specializing in  
5           energy efficiency research and extensive  
6           builder training efforts;

7           "And Whereas, the Building Industry  
8           Institute has developed and implemented  
9           the California Green Builder Program,  
10          which sets builder goals for significant  
11          improvements in energy efficiency,  
12          indoor air quality, on-site waste  
13          recycling, and water and wood  
14          conservation in home construction;

15          "And Whereas, the California Green  
16          Builder Program is a cost-effective  
17          program for builders and home buyers  
18          that meets the needs of builders, buyers  
19          and California's cities and counties by  
20          easing construction requirements,  
21          enhancing and speeding home sales,  
22          saving homeowners money and saving  
23          California's scarce energy, water and  
24          landfill capacity resources;

25          "And Whereas, the California Green

1 Builder Program requires that  
2 participants build homes that exceed  
3 Title 24 energy efficiency standards by  
4 at least 15 percent use at least 20,000  
5 gallons less water than conventionally  
6 constructed homes, use engineered wood  
7 products, primarily from sustainably  
8 harvested forest resources, use  
9 designated practices to reduce wood  
10 waste during construction and diverts at  
11 least 50 percent of construction waste  
12 from landfills;

13 "And Whereas, the California Green  
14 Builder Program results in significant  
15 improvements in indoor air quality in  
16 the homes constructed through the use of  
17 low Volatile Organic Compound paints,  
18 lacquers, floor underlayment and carpet  
19 and better construction, testing and  
20 filtering of ventilation systems  
21 installed in the homes;

22 "And Whereas, the California Energy  
23 Commission has determined that the  
24 California Green Builder Program goals  
25 are consistent with the State's energy

1 policy, waste policy and environmental  
2 goals;

3 "Therefore be it resolved, that  
4 California Energy Commission hereby  
5 recognizes the California Building  
6 Industry Association and the Building  
7 Industry Institute for the development  
8 and implementation of the California  
9 Green Builder Program, and encourages  
10 production home builders in the state to  
11 participate in the program, so as to  
12 contribute to the achievement of  
13 California's energy, water, waste  
14 disposal and environmental policy  
15 goals."

16 VICE CHAIRPERSON PFANNENSTIEL: Thank you very  
17 much, Bill.

18 We need to vote on the resolution.

19 COMMISSIONER GEESMAN: I'll move the item.

20 COMMISSIONER ROSENFELD: I'll second.

21 VICE CHAIRPERSON PFANNENSTIEL: In favor?

22 (Ayes.)

23 VICE CHAIRPERSON PFANNENSTIEL: Thank you. Back  
24 to the agenda. I would note that items 4, 5 and 20 have  
25 been held for a future meeting.

1           Item 2, possible approval you \$930,000 PIER work  
2 authorization under the master agreement 500-02-004 for a  
3 study to improve the performance of existing California  
4 regional climate precipitation models.

5           Mr. Franco.

6           MR. FRANCO: Good morning, Commissioners. My  
7 name is Guido Franco. I'm with the Public Interest Energy  
8 Research Program.

9           I'm here to ask you for approval of a project  
10 designed to compare the simulation of regional climate  
11 models with historical meteorological observations. We  
12 need to know how these models are performing from their  
13 close to ideal situations, before we use this model to  
14 estimate how climate will change in the future in  
15 California.

16           The research associated with UC Santa Cruz,  
17 Scripps Institute of Oceanography, Lawrence Berkeley  
18 National Laboratory and Lawrence Livermore National Lab  
19 will participate in this project.

20           The 2005 Integrated Policy Report indicates that  
21 the Commission should prepare climate changes in areas for  
22 California at adequate level of geographical and temporary  
23 solution, not only for research purposes, but also for the  
24 development of long-term management plans in California,  
25 such as the 2010 State Water Plan.

1           The work done under this project will allows us  
2 to start in developing climate projections for California  
3 in the near future after the completion of this project.

4           And with that, I'm ready to answer any questions  
5 that you may have.

6           VICE CHAIRPERSON PFANNENSTIEL: Are there  
7 questions?

8           Issues?

9           COMMISSIONER ROSENFELD: I move the Item.

10          COMMISSIONER GEESMAN: Second.

11          VICE CHAIRPERSON PFANNENSTIEL: In favor?

12          (Ayes.)

13          VICE CHAIRPERSON PFANNENSTIEL: Item 3, Possible  
14 approval of contract 500-05-039 to Landfills +, Inc. for  
15 \$339,929 to develop and validate a new method to estimate  
16 methane emissions from landfills for the greenhouse gas  
17 inventory.

18          Mr. Franco.

19          MR. FRANCO: Yes. Commissioners, under funding  
20 from the PIER Program, researchers at UC Berkeley and  
21 Lawrence Berkeley National Lab to develop a search and  
22 inventory methods to find out what is needed in order to  
23 improve our statewide emissions inventory.

24          They suggested that improving the method used to  
25 estimate methane emission from landfills should be a

1 priority, given the estimated contribution of landfills to  
2 the total statewide inventories, and the level of  
3 uncertainty associated with the estimated emissions.

4           The Integrated Waste Management Board will be our  
5 partner agency in this case for this project. We  
6 developed together the work for this project. Mr. Scott  
7 Walker from the Integrated Waste Management Board is here  
8 with me to show the support of his agency for this  
9 project.

10           With that, I'd be ready to answer any questions  
11 you may have.

12           VICE CHAIRPERSON PFANNENSTIEL: Thank you. Mr.  
13 Walker, did you have comments on the project?

14           MR. WALKER: No comments, other than I'm here to  
15 answer questions if you have them, but again we are  
16 supportive of pursuing this study.

17           VICE CHAIRPERSON PFANNENSTIEL: Thank you for  
18 that.

19           Questions, comments?

20           COMMISSIONER ROSENFELD: This went through the  
21 Committee and sounds like a wonderful project, so I move  
22 it.

23           COMMISSIONER GEESMAN: Second.

24           VICE CHAIRPERSON PFANNENSTIEL: In favor?

25           (Ayes.)

1           VICE CHAIRPERSON PFANNENSTIEL: The item is  
2 moved.

3           Thank you.

4           Item 6, possible approval of PIER contract  
5 500-05-042 for \$250,211 to develop materials to educate  
6 air conditioning technicians on the best methods of  
7 evaluating, diagnosing and correcting faults in air  
8 conditioning equipment for residential and small  
9 commercial buildings.

10          MR. SCRUTON: Good morning, Commissioners. I'm  
11 Chris Scruton with the PIER Buildings Program. The PIER  
12 efficiency program has devoted substantial resources to  
13 developing the science and technology of making buildings  
14 operate as well as they can. As a result, new tools and  
15 practices are available for technicians and contractors.  
16 However, that technology will not produce energy savings  
17 and other benefits unless these practitioners understand  
18 how to use it.

19          This project proposes to develop training  
20 materials for the people who install and service air  
21 conditioning equipment, primarily based on PIER research.  
22 These materials will be used in union apprentice training  
23 programs and in community colleges.

24          This program thus addresses the directive in the  
25 Warren-Alquist Act to provide for the future market

1 utilization of projects funded through the PIER Program.  
2 It has been approved by the R&D Committee and staff  
3 recommends Commission approval.

4 I'd be happy to answer any of your questions.

5 VICE CHAIRPERSON PFANNENSTIEL: Questions or  
6 discussion?

7 COMMISSIONER ROSENFELD: I move it. Good work.

8 COMMISSIONER GEESMAN: Second.

9 VICE CHAIRPERSON PFANNENSTIEL: In favor?

10 (Ayes.)

11 VICE CHAIRPERSON PFANNENSTIEL: Thank you.

12 COMMISSIONER ROSENFELD: This is sort of a PIER  
13 morning, isn't it?

14 (Laughter.)

15 VICE CHAIRPERSON PFANNENSTIEL: Item 7, Possible  
16 approval of PIER contract 500-05-016 for \$200,000 with the  
17 U.S. Department of Energy Oak Ridge National Laboratory to  
18 analyze the 2002 Commercial End Use Survey data originally  
19 directed by the Energy Commission.

20 Ms. Brook.

21 MS. BROOK: Good morning. I'm Martha Brook with  
22 the PIER Buildings Program.

23 This project will initiate collaborative work  
24 between the Commission and the U.S. EPA to update the  
25 EnergyStar Commercial Building Benchmarking Program using

1 new building characterization data available from the most  
2 recent California Commercial End Use Survey. Oak Ridge  
3 National Laboratory will provide statistical analysis of  
4 CEUS data and the results will be incorporated into the  
5 EnergyStar benchmarking models.

6 U.S. EPA is providing co-funding to Oak Ridge to  
7 complete these benchmarking model updates. Commission  
8 staff developed the method to provide the contractor a  
9 subset of the CEUS data that will not include any  
10 indication of commercial business name or address and also  
11 eliminates or aggregates other variables such as building  
12 dimensions, age and location to further protect the  
13 confidentiality of the CEUS data.

14 The contract also includes terms of nondisclosure  
15 for this data. We believe we have taken every reasonable  
16 effort to protect the confidentiality of the CEUS  
17 participants and still provide detailed building  
18 characterization data that's necessary to develop energy  
19 benchmarking models. This project has been approved by  
20 the R&D Committee. And I'm here to answer any questions  
21 that you have.

22 VICE CHAIRPERSON PFANNENSTIEL: Are there  
23 questions or discussion?

24 COMMISSIONER ROSENFELD: I just want to say,  
25 Martha, thanks. This is a nice example of interagency

1 collaboration. It involves EPA, LBL, Oak Ridge, the  
2 Energy Commission and the utilities. I know it's like  
3 herding cats, but anyway, you did it.

4 I move the item.

5 COMMISSIONER GEESMAN: Second.

6 VICE CHAIRPERSON PFANNENSTIEL: I also would note  
7 that it was a very important item that we have been  
8 pushing on for a year now, and I'm delighted to see it  
9 finally moving forward, so thank you.

10 All in favor?

11 (Ayes.)

12 VICE CHAIRPERSON PFANNENSTIEL: It was approved

13 Thank you.

14 Item 8, Possible adoption of proposed amendments  
15 to the Appliance Efficiency Regulations (Docket No  
16 06-AAER-1) published as Express Terms of Proposed  
17 Regulations (15-day Language) on April 24, 2006. These  
18 amendments are for external power supplies.

19 Mr. Holland.

20 MR. HOLLAND: Good morning, Commissioners. I'm  
21 Jim Holland from the Appliance Office.

22 The Efficiency Committee is recommending that the  
23 Commission adopt the proposed amendments to the appliance  
24 efficiency regulations that are dated April 24, 2006.  
25 These proposed amendments deal only with external power

1 suppliers and not with digital television adaptors as was  
2 initially put forth in the Notice of Proposed Action and  
3 reflected in the 45-day language dated February 14, 2006.

4           The rule-making will continue for digital  
5 television adaptors. The reasoning behind the delay in  
6 dealing with the digital television adaptors is that the  
7 effective date of the standards for external power  
8 supplies, as currently written in the Appliance Efficiency  
9 Regulations is July 1st, 2006.

10           In order to change this effective date prior to  
11 taking effect, we needed to act immediately to make this  
12 change. As such, we felt it was necessary to deal with  
13 any possible changes to the digital television adaptor  
14 standards at a later time and not cause a possible delay  
15 in enacting changes to the power supply effective dates.

16           The primary function of these proposed amendments  
17 is to delay the first tier effective date of the standards  
18 for external power supplies by either 6 months or 12  
19 months depending on the application of the external power  
20 supply. The second tier standards effective date would be  
21 delayed by 6 months for all applications.

22           Another significant function of the proposed  
23 amendments would be to exempt external power supplies used  
24 with medical devices that require FDA approval. This  
25 external power supply application is a very small fraction

1 of total external power supply energy usage.

2 We are also proposing to remove the requirement  
3 for testing external power supplies at 230 volts and 50  
4 Hertz, which will not have any effect on energy savings,  
5 since this voltage infrequency combination is not used in  
6 California or the U.S. in general.

7 We had originally required testing of both 150  
8 volts 60 Hertz and 230 volt, 50 Hertz in order to  
9 synchronize our requirements with that of the EnergyStar  
10 Program, which has a global reach.

11 And with that, I conclude my statement.

12 VICE CHAIRPERSON PFANNENSTIEL: As Commissioner  
13 Rosenfeld and I know this has been a long process. And I  
14 know that there are still some loose ends to tie up with  
15 the DTAs and others, but I think that we can commend the  
16 staff for excellent work in both a technical sense and, I  
17 think, in working with the many stakeholders in this  
18 effort.

19 Are there questions or further discussion?

20 COMMISSIONER ROSENFELD: I think we should also  
21 thank our advisors Tim Tutt and John Wilson for their long  
22 hours.

23 I move the item.

24 COMMISSIONER GEESMAN: Second.

25 VICE CHAIRPERSON PFANNENSTIEL: In favor?

1 (Ayes.)

2 VICE CHAIRPERSON PFANNENSTIEL: Thank you.

3 Item 9, Possible adoption of Order Instituting  
4 Informational Proceeding as proposed by the Energy  
5 Commission's Renewable Committee to develop statewide  
6 Avian/Wind Monitoring Protocols and Mitigation Guidelines.

7 SENIOR STAFF COUNSEL WILLIS: Good morning. My  
8 name is Kerry Willis, senior staff counsel. And with me  
9 is Rick York, senior biologist. You have before you an  
10 order instituting an informational proceeding. Your  
11 approval delegates to the Renewables Committee the  
12 authority to preside over that proceeding.

13 The Energy Commission is working along with the  
14 California Department of Fish and Game and various  
15 interested stakeholders and members of the public to  
16 develop statewide guidelines to help reduce the impacts of  
17 wind energy development on birds and bats. These  
18 voluntary guidelines will be designed to be used by local  
19 governments, cities and counties, and will include pre-  
20 and post-construction monitoring protocols and suggested  
21 mitigation strategies.

22 The Energy Commission will develop these  
23 guidelines using the best available science and  
24 collaborative approach. The goal of the proceeding is to  
25 encourage the development of wind energy in the state

1 while minimizing the impacts to Avian wildlife. Upon  
2 approval of this order, the Renewables Committee will be  
3 issuing a notice of its first hearing on June 9th here in  
4 Sacramento.

5 The purpose that hearing will be to discuss a  
6 proposed outline of the draft guidelines and to hear  
7 additional comments from the stakeholders and the public  
8 If you have any questions, either of us are available to  
9 answer them.

10 VICE CHAIRPERSON PFANNENSTIEL: Thank you. We do  
11 have 2 people who have asked to speak on this, so why  
12 don't we go there. Nancy Rader.

13 MS. RADER: Good morning, Commissioners. My name  
14 is Nancy Rader, executive director of the California Wind  
15 Energy Association.

16 CalWEA is prepared to participate fully and  
17 constructively in the siting guidelines process. During  
18 the last IEPR process, however, we made our position on  
19 the need for such guidelines clear, but the Commission had  
20 not yet studied local siting processes, let alone  
21 documented any problem with them. So we're not at all  
22 clear what problem this process is aiming to solve.

23 The agenda items states that the guidelines will  
24 help reduce the impacts of wind energy development on  
25 birds and bats. This statement presumes that there is a

1 significant level of impact that warrants reduction, and  
2 also presumes that where there may be impacts that they  
3 are not being addressed appropriately at the county level.

4 But outside the Altamont Pass, there's no  
5 indication that there are significant impacts that warrant  
6 further reduction. And inside the Altamont industry is  
7 actively engaged in solving the problem.

8 That said, we do believe that it would be  
9 possible to devise a set of statewide guidelines to make  
10 the expectations of all parties clear regarding the  
11 appropriate level of study at proposed project sites and  
12 when mitigation efforts are warranted.

13 What gives us great pause however, is that we're  
14 not confident that this Commission is committed to  
15 ensuring that its decisions are based on good science.  
16 And the reason we're concerned is that the Commission has  
17 been unwilling to look into the data and calculations  
18 underlying a report issued by this agency, which has done  
19 significant damage to the wind industry, not only in  
20 California but globally.

21 There are serious and widespread errors in the  
22 report that the industry has documented. Not only that,  
23 but the Agency has refused even to disclose much of the  
24 data underlying that report, so that it can be scrutinized  
25 by the public, which is usually standard practice for

1 publicly funded studies. We're baffled as to why the  
2 agency is not willing to share this information.

3           And so as we participate in this proceeding,  
4 we'll be paying very close attention to the factual and  
5 scientific basis for whatever guidelines may be adopted to  
6 ensure that they meet the goal that we believe you do  
7 intend, and that is to promote wind development in an  
8 environmentally sound way so that the industry can help  
9 the State meet its important renewable energy and  
10 greenhouse gas reduction goals.

11           Thank you.

12           VICE CHAIRPERSON PFANNENSTIEL: Thank you, Ms.  
13 Rader.

14           We also have Paul Vercruyssen, I'm sorry, from  
15 CEERT.

16           MR. VERCRUYSEN: Good morning, Commissioners.  
17 My name is Paul Vercruyssen. I'm here from the Center for  
18 Energy Efficiency and Renewable Technologies.

19           I want to first say that CEERT is in strong  
20 support of this effort. And Commissioner Geesman was at  
21 the conference down in Pasadena that was referenced in the  
22 OII. And we greatly appreciated his presence there. I  
23 think it was really helpful in moving this process forward  
24 again. The Commissioner's leadership is very important in  
25 this. We would like to ask that that continue, as we

1 think that your engagement and your leadership is of  
2 crucial importance.

3           Lastly, I want to say I realize that there is, as  
4 Nancy mentioned, some ongoing localized conflicts that are  
5 very well known on this issue in the state. And we very  
6 much appreciate the efforts being made to sort of separate  
7 the 2 out, this statewide process from whatever is going  
8 on at the local level. And we feel like that is  
9 incredibly important to the success of this effort.

10           Thank you very much.

11           VICE CHAIRPERSON PFANNENSTIEL: Thank you.

12           Commissioner Geesman.

13           COMMISSIONER GEESMAN: Madam Chair, this is a  
14 follow-up to a recommendation that the Commission adopted  
15 in last year's Integrated Energy Policy Report.

16           With respect to some of the comments Ms. Rader  
17 made, it's my impression that Mr. Blevins still has under  
18 way a management initiated review of that earlier PIER  
19 report.

20           EXECUTIVE DIRECTOR BLEVINS: That's correct.

21           COMMISSIONER GEESMAN: As you can tell, this is  
22 going to be an exciting and enjoyable experience for you  
23 and I.

24           (Laughter.)

25           COMMISSIONER GEESMAN: So I would move the item

1 and suggest that we all get started with it.

2 COMMISSIONER ROSENFELD: Second.

3 VICE CHAIRPERSON PFANNENSTIEL: In favor?

4 (Ayes.)

5 VICE CHAIRPERSON PFANNENSTIEL: The item is  
6 carried.

7 Thank you.

8 Item 10, Commission Review of the Appeal of the  
9 Committee's Ruling, re: Californians For Renewable Energy  
10 (CARE) Motion for Extension of Time and Change of Schedule  
11 in the San Francisco Electric Reliability proceeding.

12 And we have Mr. Fay.

13 MR. FAY: Thank you, Madam Chair. I would like  
14 to take a few moments to review the process in this case,  
15 because I think the Commission has to judge this appeal  
16 against the background of the Committee's process that's  
17 been afforded the appellant.

18 The Committee and the San Francisco Efficiency  
19 Project case held a pre-hearing conference on April 3rd,  
20 where all the parties, including CARE, were allowed to  
21 issue pre-filed statements and discuss those statements in  
22 an informal setting and declare what topics they wished to  
23 offer evidence on.

24 After the pre-hearing conference, all the parties  
25 were mailed a tentative witness listed based on the

1 discussion at the conference and invited to provide  
2 revisions. And, in fact, CARE did extensively revise  
3 their initial opportunity.

4           On April 10th, the Committee issued a notice of  
5 the first set of evidentiary hearings. Those hearings to  
6 be on April 27th and May 1st. And the notice scheduled  
7 the appearances of witnesses and the filing of testimony  
8 based upon the parties' presentations at pre-hearing  
9 conference, that discussion, the pre-hearing conference  
10 statements that were filed, and also their later responses  
11 by Email.

12           Near the close of business on the April 14th,  
13 CARE filed electronically its motion for extension of time  
14 and change of evidentiary hearing schedule. And in the  
15 motion they asserted that CARE needed additional time to  
16 prepare testimony on various topics and that certain of  
17 the topics should be delayed from the scheduled date. It  
18 was a sufficient number of topics that it essentially  
19 would have entirely rescheduled the case.

20           The Committee responded to the motion on April  
21 20th issuing its ruling that denied CARE's motion. And in  
22 the ruling the Committee noted that CARE had not  
23 previously indicated a desire to present witnesses,  
24 despite having had multiple chances to do so.

25           In the Committee's estimation, CARE's motion

1 sought to delay the proceeding without providing any valid  
2 reason. Then CARE appealed the Committee's ruling and it  
3 is before you today.

4 I would just note that in its petition for  
5 appeal, CARE cited what the Committee believes is a  
6 preposterous allegation, that the Committee is retaliating  
7 against CARE for bringing a Title 6 Complaint of Racial  
8 Discrimination against the Commission.

9 Since CARE's motion was filed, the Committee did  
10 move forward and held its April 27th evidentiary hearing  
11 as well as one on May 1st and May 22nd. And the one on  
12 May 22nd and the upcoming one on May 31st was and will be  
13 held in San Francisco. And the topics that will be taken  
14 are the topics that were stated by the parties at the  
15 pre-hearing conference to be of particular concern to the  
16 San Francisco community.

17 And the Committee recommends that the Commission  
18 reject this appeal and support the Committee's motion.

19 VICE CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
20 Fay. We have 3 parties who would like to speak on this, 1  
21 in person and 2 on the phone.

22 Why don't we begin with the person here Gene  
23 Varanini of the City and County of San Francisco.

24 MR. VARANINI: Thank you very much,  
25 Commissioners. I'm Gene Varanini and I'm representing the

1 City and County of San Francisco. And we filed papers on  
2 April 17th in regards to the motion of CARE. And, of  
3 course, we support the decision of the Committee.

4 VICE CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
5 Varanini.

6 On the phone we have first Michael Boyd, would  
7 you like to speak first, Mr. Boyd

8 MR. BOYD: Yes, ma'am. First, there were a  
9 couple of issues, but the overriding issue was that CARE  
10 doesn't think it's appropriate to inspect the file of  
11 testimony on topics where the evidentiary record is not  
12 yet been complete. Or in this case our major concern  
13 being the presence of toxic contamination on the project  
14 site, deferring the mitigation measures. There have been  
15 no mitigation measures have yet to be adopted by the  
16 applicant in regards to the contamination of the proposed  
17 site.

18 But first dealing with the issue of the -- there  
19 was one issue that came up that we were asking for more  
20 time on was the -- there were transmission related issues,  
21 transmission systems, engineering, transmission line  
22 safety nuisance, powerplant reliability, and the other one  
23 was the -- what's it called? -- the local system was the  
24 other issue.

25 And the issue we had there is, as Gary said

1 correctly, at the pre-hearing conference we didn't raise  
2 any issue or offer up any witness or testimony on those  
3 subjects at that time, because we weren't aware of the  
4 ISO's testimony in that regard. And it wasn't actually  
5 posted on the website, and that's when we first became  
6 aware of it, not until April 14th, about 10 days after  
7 that. You know, several days after the pre-hearing  
8 conference is when it was actually posted.

9           At that time, when we heard -- when we saw the  
10 testimony of the ISO at that time, we found a witness and  
11 we attempted to offer testimony as soon as it was  
12 available, which I think was posted on the 27th of April  
13 from Martin Homec.

14           Now, I spoke to Gary on the 22nd about this, and  
15 it's my understanding, at this time, that he's going to  
16 let us present that testimony under Alternatives on the  
17 31st here. And if that's the case, that I assume is  
18 sufficient to meet our concerns.

19           Although, we still are concerned that we didn't  
20 have an opportunity really to respond to the ISO's  
21 testimony on the reliability aspect of the project.  
22 Basically, he appears to be arguing in his testimony that  
23 the project is needed for reliability. And we would have  
24 appreciated having an opportunity to cross-examine him on  
25 that, and would appreciate an opportunity if possible of

1 bringing him back on the 31st to cross-examine him on  
2 that.

3           Since he was listed on the tentative schedule as  
4 just testifying over -- on global system effects, yet his  
5 testimony includes reliability. So basically that's the  
6 ISO-related concerns.

7           Now, the other issue, which is the overriding  
8 issue, was our concern for basically expecting testimony  
9 on some of the major subjects that remain open in waste  
10 management, soil and Other Resources, Public Health and  
11 Air Quality, and also to the degree it's affected, Geology  
12 and Cultural Resources and Hazardous Materials Management.

13           And basically what the issue is here, I asked the  
14 Public Adviser's Office to make copies of an objection to  
15 the request for a subpoena that the Chair requested of  
16 Nancy Katyl of the California Regional Water Quality  
17 Control Board. And if they haven't handed that out, I'd  
18 appreciate taking a minute to have that handed out to the  
19 Commissioners so they're looking at the same objection  
20 that I have in my hands.

21           VICE CHAIRPERSON PFANNENSTIEL: We do have that  
22 in front of us.

23           MR. BOYD: Okay. If you'd go to page 2 at the  
24 top where the regional board is talking about basically  
25 our concern, which is that basically they're deferring

1 performance of the human health risk assessment, screening  
2 level, ecological risk assessments, development of a site  
3 cleanup plan and a risk management plan until after the  
4 project development approval is granted by the CEC. And  
5 in response to that, the regional board said, "However,  
6 the Water Board has not approved a cleanup plan or  
7 identified any measures to be applied at the site. The  
8 Water Board has not received the pending remedial  
9 investigation report."

10 Ms. Katyl has only reviewed raw data that are  
11 inadequate to allow any determination without corrective  
12 action measures. Her testimony regarding cleanup at this  
13 point would be purely speculative. And basically, that's  
14 the crux of our problem is we've retained experts like for  
15 example Dr. Smallwood, who was going to prepare comments.  
16 But he can't prepare testimony or rebuttal testimony  
17 because he doesn't know what the remedial action plan  
18 entails and what the level of effectiveness of mitigation  
19 is going to be after that plan is approved by the regional  
20 water board.

21 And without a regional water quality control  
22 board approved remedial investigation report and also a  
23 remedial action plan, it's virtually impossible for us to  
24 provide more than speculation at this point in the stage  
25 on these topic areas of waste management, soil and water

1 resources, and particularly public health and air quality  
2 impacts associated with the hazardous dust and such on the  
3 parcel.

4           Now, we did bring this up and we did have an  
5 opportunity to discuss this at the 22nd meeting, but it's  
6 kind of really at the speculation stage. And what we were  
7 asking for was to get the normal process carried out by  
8 the regional board where we have an approved plan. And  
9 then at point we wanted an opportunity to have a certain  
10 amount of time to review that and then provide testimony  
11 accordingly in the affected topic areas.

12           And so that's why we were seeking the whole  
13 Commission review of the denial. Frankly, we don't  
14 believe the record is complete enough and that these topic  
15 areas are ripe to be litigated without all the information  
16 being present.

17           VICE CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
18 Boyd.

19           MR. BOYD: Thank you.

20           VICE CHAIRPERSON PFANNENSTIEL: We also have Mr.  
21 Sarvey on the line. Mr. Sarvey, do you have additional  
22 comments?

23           MR. SARVEY: I do. As you know, I'm an  
24 intervenor on this project. And, first, I want to say I  
25 believe the Committee has done a very good job. They've

1 been fair. But on this one particular issue we have, on  
2 my end, frustration. In April of 2005 I issued a data  
3 request for a site management plan and a risk management  
4 plan from the applicant, and they didn't respond. In May  
5 of 2005, the staff filed a data request and they were  
6 requesting a site management plan and a risk management  
7 plan and they have not received their response as well.

8           So under cross-examination at our last hearing,  
9 Dr. Greenberg, the staff witness said one thing it takes  
10 about 2 to 4 months to supply this information after a  
11 data request.

12           So we're pretty frustrated. And the applicant,  
13 in my view, and I think this came out the last hearing has  
14 not disclosed information of all their contamination on  
15 the site, because, in fact, they filed a complaint for  
16 contamination on this property. They failed to inform the  
17 staff or the intervenors that that was the case.

18           So basically without the ecological and human  
19 health issues and a site management plan and a risk  
20 management plan, we don't have full disclosure of the  
21 projects impacts. We have no mitigation measures to  
22 evaluate. So, you know, as an intervenor, I'm frustrated  
23 that I don't get to participate in the conditions and  
24 certification surrounding the site cleanup.

25           And I just wanted to again, I think the Committee

1 is doing a good job. This one issue I'm a little  
2 frustrated on. I appreciate the opportunity.

3 VICE CHAIRPERSON PFANNENSTIEL: Thank you.  
4 Comments?

5 Commissioner Geesman.

6 COMMISSIONER GEESMAN: Well, I'm the associate  
7 member on this case. I know Commissioner Boyd wanted to  
8 be here for this discussion, but because of the  
9 legislative schedule was unable to.

10 The item before us is the Committee's denial of  
11 CARE's request for a delay. And in the Committee's  
12 judgment CARE did not provide an adequate reason to  
13 justify a delay. CARE is a very experienced participant  
14 in our siting process. In fact, at this point, I'd  
15 venture to say Mr. Boyd has appeared in more cases than  
16 even Mr. Varanini.

17 (Laughter.)

18 COMMISSIONER GEESMAN: It's an awesome record.  
19 As a consequence, CARE does understand the role of the  
20 pre-hearing conference in our process. CARE understands  
21 the purpose of the evidentiary hearings in our process.  
22 And I think, although disappointed, I believe they  
23 understand our rationale for not wanting to delay the  
24 evidentiary stage of the process.

25 Both CARE and Mr. Sarvey obviously retain the

1 ability to make the arguments they've made today in their  
2 briefs. And I suspect that if they are not satisfied with  
3 the Committee's PMPD when that comes before the Commission  
4 they'll make those arguments here in front of the full  
5 Commission.

6 But today, what's in front of us is CARE's motion  
7 to appeal the Committee's decision not to delay the  
8 process. And I would recommend that instead you affirm  
9 the Committee's denial of CARE's motion. I would so move.

10 COMMISSIONER ROSENFELD: I'll second.

11 VICE CHAIRPERSON PFANNENSTIEL: Is there further  
12 discussion before we vote?

13 Okay. All in favor of affirming then the  
14 Committee order?

15 (Ayes.)

16 VICE CHAIRPERSON PFANNENSTIEL: So affirmed.

17 Thank you.

18 Thank you all.

19 Item 11, Commission consideration of Committee  
20 order denying applicant's request for continued extension  
21 of Avenal Energy Project proceeding, and consideration of  
22 staff's motion to terminate.

23 Mr. Fay.

24 MR. FAY: Duke Energy Avenal submitted the AFC  
25 for this project on October 15th, 2001. And the

1 Commission found its data adequate again in -- I'm sorry in  
2 2000 and it became data adequate in December 2001. The  
3 staff released its PSA in September 2002 and Duke  
4 requested previously a number of extensions. And then the  
5 project changed hands to the current owner Federal Power,  
6 LLC, who has requested additional extensions. And the one  
7 that was submitted in April of this year, by the current  
8 owner, was the 5th request for extension on the case.

9           After all these requests for extensions, each one  
10 had previously been granted by the Committee, but the  
11 Committee felt that this had just gone too long, and as a  
12 matter of just good practice at the Commission, I think  
13 the Committee felt that it was inappropriate to just let  
14 these go on indefinitely, and -- because information  
15 continued to get old and stale and that if it was a  
16 serious project, the applicant could file a new AFC that  
17 could be analyzed by the Commission under our established  
18 process for analyzing the quality of information necessary  
19 to go forward, as opposed to, at some unknown point in the  
20 future, allow the project to reinitiate permitting and  
21 then there would be an ad hoc process between the staff  
22 and the applicant probably taking a great deal of staff  
23 time to negotiate what would be required to reinitiate the  
24 project.

25           The Committee issued its order denying -- well,

1 just before the Committee issued its order, the staff  
2 filed its opposition to applicant's request in the form of  
3 a motion to terminate the proceeding. The Committee  
4 denied applicant's request on May 8th and granted the  
5 staff's motion to terminate the proceeding.

6           The applicant has now responded as the Committee  
7 notice of this hearing invited them to do in a timely way.  
8 And in their response they spend a relatively short amount  
9 of the response on the substantive ability of the  
10 applicant to move forward in the permitting and spend a  
11 great deal of time with an analysis of the Commission's  
12 regulations that I think can only be characterized as very  
13 wishful on the part of the applicant. They do not comport  
14 with what the regulations say. And the applicant claims  
15 that there has been a denial of due process. The  
16 Committee feels otherwise. And the Committee recommends  
17 that the Committee motion be upheld and the project be  
18 terminated without prejudice to perhaps file a proper AFC  
19 in the future.

20           VICE CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
21 Fay. For the applicant?

22           MS. LUCKHARDT: Hi. My name is Jane Luckhardt  
23 and I'm presenting on behalf of the applicant today.

24           And when I first received the information the  
25 filing from staff, which was a page and a half, and the

1 order from the Committee, which came the next business  
2 day, I looked at it and the phrase came to mind, and that  
3 phrase was, "Fish or Cut Bate". And the reason I think  
4 that came to mind to me is that I looked at both of those  
5 documents and neither of them had a lot of detail in them,  
6 and that's not to fault either of them, but they just  
7 basically said, to me, either stand up and be counted or  
8 go away, at least for now.

9           And I'm here to tell you that Federal Power is  
10 here to fish, and that they are ready and willing and able  
11 to go forward. Avenal is not Potrero. This is not the  
12 Potrero proceeding. Federal Power is not in bankruptcy.  
13 They seriously believe in the future of this project. And  
14 that seriousness is shown by their willingness right here  
15 right now to put the money that is necessary to go forward  
16 on this project.

17           And what I'd like to do at this point is have  
18 Steve Gilliland from Federal Power tell you about his  
19 commitment to go forward with this project because that,  
20 in fact, will help to respond to one of Gary Fay's  
21 comments on his interest in seeing a real commitment on  
22 behalf of the applicant to go forward.

23           So I'll let Steve go.

24           MR. GILLILAND: Thanks. Good morning. My name  
25 is Steve Gilliland. I'm the Chief Executive Officer of

1 Federal Power, which through a series of subsidiaries owns  
2 100 percent of Federal Power Avenal, which is the  
3 applicant.

4           We are prepared as Jane said to move forward with  
5 licensing, and to try to get all the way through that  
6 process. We are also prepared, as has existed in the  
7 Commission orders previously, to work with staff to go  
8 through the entirety of the application and the  
9 documentation supporting the application to refresh what  
10 needs to be refreshed and review all of the information.  
11 So we did not intend to imply at any of our filings that  
12 we were unwilling to go back through and look at all the  
13 documentation, all the records to refresh it and update it  
14 for what the current circumstances are.

15           Let me -- I don't want to take up a lot of your  
16 time with this, but I'll hit some of the highlights of  
17 progress that's been made, that staff probably doesn't  
18 know about in terms of various issues.

19           On electrical interconnection, for example, the  
20 supplemental system interconnection study was completed  
21 and that showed no system reinforcements or transmission  
22 line reconductoring that was required. There is simply a  
23 6-mile interconnection through partial rights of way that  
24 are already owned and rights of way that are controlled  
25 through the option agreements that we've negotiated and

1 the addition of an additional bus at the gate substation.

2           There's been a negotiation and signing of the  
3 generation interconnection facilities agreement with PG&E.  
4 There's a negotiation an initialing of the interconnection  
5 agreement, which will be signed within 30 days prior to  
6 the energization of the interconnection facilities.

7           I mentioned we've secured the rights of way for  
8 most of the inter-tie. On gas interconnection, the  
9 completion of the gas interconnection facilities study has  
10 occurred in terms of the emissions, 269 tons of air  
11 credits have been transferred from Duke Energy Avenal over  
12 to Federal Power Avenal through obviously the San Joaquin  
13 Valley Air Pollution Control District process.

14           As far as engineering is concerned, the  
15 engineering power block has now been completed. The  
16 ancillary facilities to the power block engineering on  
17 that has been completed.

18           And just for the Commission's information this  
19 would be the 22nd or 23rd, 2-on-1 combined cycle plant  
20 with this design, so there's very little new design  
21 information, except for site adapt stuff that really is  
22 required, but that's well down the pipe.

23           As far as site issues are concerned, the  
24 continued control of the site is occurring in the closing  
25 for -- it's under option today -- closing is scheduled for

1 December of '06.

2           Basically, overall we have spent a little over  
3 \$10 million on the development of the project in pursuit  
4 of the project and we're prepared to move through the  
5 licensing phase to get it fully licensed.

6           VICE CHAIRPERSON PFANNENSTIEL: Thank you. We  
7 also have to speak on this --

8           MS. LUCKHARDT: You know, I hate to tell you, I'm  
9 not even close to being finished.

10           COMMISSIONER ROSENFELD: Can you just say that  
11 again, I can't hear you.

12           MS. LUCKHARDT: I just said I've just gone  
13 through a small piece. You know, staff filed something at  
14 5 o'clock last night, I feel like I need to respond to.  
15 And there are a few issues that Hearing Officer Fay  
16 brought up that I would also like to respond to. So if  
17 you wouldn't mind, I'd like to continue that at this  
18 point.

19           VICE CHAIRPERSON PFANNENSTIEL: Of course.

20           MS. LUCKHARDT: I would also like to note that  
21 Melissa Whitten from the City of Avenue is here and would  
22 like to speak. And that is another difference between  
23 this project and Potrero is the city is behind this  
24 project and supportive of it. I talked to her earlier  
25 and, you know, this project has not been a hindrance to

1 other projects that want to go forward in that area, but  
2 I'll let her address that specifically.

3 VICE CHAIRPERSON PFANNENSTIEL: Commissioner  
4 Geesman.

5 COMMISSIONER GEESMAN: Jane, maybe I can make it  
6 a little easier. I'd ask you and anyone else speaking on  
7 behalf of the applicant to address how you would be  
8 prejudiced by being required, in essence, to file a new  
9 application this afternoon.

10 I think what Mr. Fay said that resonates the most  
11 with me is the concern that with this 5 year old  
12 accumulation of information any Committee assigned to this  
13 case is going to have to invent an ad hoc process to  
14 determine what information needs refreshing and what is  
15 still valid. Whereas, with a new application, we have  
16 clearly established data adequacy requirements. We've got  
17 a timeframe that we're supposed to follow. We don't  
18 always follow it, but we're supposed to. And it would  
19 seem to me that that would be a cleaner way, from an  
20 applicant's perspective, to expect this Commission to  
21 proceed.

22 But I acknowledge there may be aspects that could  
23 be prejudicial to you. And I'd ask that you raise any  
24 areas that that treatment would result in prejudice to  
25 you.

1 MS. LUCKHARDT: Well, there are a couple issues  
2 there. And one of them is the time that it takes. I went  
3 back and pulled my billing records to figure out when I  
4 started working on this project. And I started working on  
5 this project in February, which was 8 months before the  
6 application was filed. So if you think about that time  
7 period, there's a considerable amount of time that goes  
8 into preparing an application. And you may say well,  
9 okay, but you have this old information why is that  
10 different from doing a supplement now?

11 It actually is quite a bit different. Simply  
12 providing a supplement of information and completely  
13 rewriting an AFC are 2 very different and have very  
14 different time requirements. Rewriting and updating an  
15 entire AFC, that's just a huge process. It's a huge  
16 process in consultant time, editing time, in review time,  
17 printing time, there are just many, many issues that have  
18 to be addressed.

19 And I'd kind of like to speak to some of the  
20 concerns that Gary Fay -- that Hearing Officer Fay  
21 mentioned about well, this -- you know, this could take a  
22 lot of staff time. This has always been a very congenial  
23 project. In fact, in the last couple of weeks, I notified  
24 Gary Fay -- or Commissioner Fay what I was going to --  
25 that I was going to file this response. I notified Ms

1 DeCarlo the same thing. She called me yesterday and told  
2 me that she was going to file at the end of the day, which  
3 was very helpful. I would have appreciated not working so  
4 much last night, but that just gives you the kind of feel  
5 that this project has held.

6           This project has not been a problem child. Every  
7 project has small -- has an issue. This project does, but  
8 it doesn't have lots. It doesn't have community  
9 opposition. It doesn't have a lot of participation. And  
10 this applicant is committed to create and go back through  
11 the record with established good consultants and come up  
12 with a proposal, detailed proposal, to provide to staff,  
13 so that staff is not tasked with the process of doing  
14 that. They can review what we provide and determine  
15 whether it satisfies them. If it doesn't satisfy them,  
16 they aren't going to issue a final staff assessment.

17           And so we believe that this is a very productive  
18 way to go forward, that it will save not only applicant  
19 time and expense, but will save time and expense. Yes,  
20 there will be some time for everybody to come up to speed.  
21 Yes, there will be some time to update the information,  
22 but we are willing to take on the lion's shares of that  
23 load on Federal Power not on Commission staff. And we are  
24 committed to work with the staff to provide them with the  
25 appropriate and updated information.

1           And I would note that the experts that will have  
2 to do this review, will have to either submit an affidavit  
3 or present testimony in hearings to backup the information  
4 that is in the application. And they professionally will  
5 be looking to be sure that that information is correct and  
6 up-to-date. And so I think there is a lot of commitment  
7 on behalf of the project to go forward and to go forward  
8 correctly and do it right.

9           And, you know, we seriously believe that the time  
10 that has been lost -- or that would be lost for starting  
11 over and the expense is a very large detriment to this  
12 project.

13           COMMISSIONER GEESMAN: And how much time do you  
14 envision requiring in the process as you see it?

15           MR. GILLILAND: The difference, in our view,  
16 between the 2 processes starting back at the beginning  
17 versus continuing the licensing from where we are is 2  
18 plus years of additional time in between -- the difference  
19 between those 2 and \$3 million or so in cost difference  
20 between those 2.

21           COMMISSIONER GEESMAN: And under the process that  
22 you would like to see, when would you be prepared to go  
23 forward with an active case?

24           MR. GILLILAND: Well, I would say we're prepared  
25 to go forward with an active case right now, but where we

1 would start from is a review and refreshing of the data --

2 COMMISSIONER GEESMAN: And how long would that  
3 take?

4 MR. GILLILAND: -- that the staff would look at.

5 MS. LUCKHARDT: We could are committed to meet  
6 staff's dates in September before then for submission of  
7 information. Before then, we intend to review the record,  
8 provide a detailed list of actions that our consultants  
9 would be taking to refresh the information. We would like  
10 to present that with staff. And, like I said, this is a  
11 very collegial process. We would like to get feedback  
12 from staff, because if they see an area that is of concern  
13 to them, we would like to know that, so that sooner,  
14 rather than later, so we can get that information  
15 developed.

16 If staff is asking for information and they don't  
17 get it, projects don't move forward. That isn't a win for  
18 anybody. So we would be looking to work as collegially as  
19 we can with staff and would be willing to do as much work  
20 as we can so that staff is not in a position of having to  
21 create the list. They would only be in a position of  
22 evaluating it.

23 We would then begin or might begin immediately  
24 preparing the additional information, depending on, you  
25 know, the lead times on different aspects, and be prepared

1 to submit all of that by staff's September date, and  
2 earlier if we can.

3 COMMISSIONER GEESMAN: You said this case did  
4 have 1 contentious issue. What is that?

5 MS. LUCKHARDT: The only contentious issue --  
6 well there were 2 or 3 issues identified in the staff  
7 assessment. I would say the largest contentious issue was  
8 water. The project was initially proposed to use fresh  
9 water. Staff has raised concerns in addition to the  
10 changes that you have adopted, and we would be  
11 reevaluating that to find what's the appropriate way to go  
12 forward at this time. And I don't feel that that is a  
13 reason to terminate the project. I feel that that is  
14 something that can be addressed within the proceeding and  
15 is typically addressed in the proceeding.

16 MR. GILLILAND: We would -- The applicant would  
17 sit here and say that would the applicant rule out the  
18 usage of dry cooling? No, not at all. I mean, as far as  
19 I'm concerned, that's sort of an open issue. If staff  
20 feels very strongly in light of the new Commission  
21 regulations for the usage of water. Is dry cooling ruled  
22 out? No, not at all.

23 COMMISSIONER GEESMAN: What's the staff reaction?

24 STAFF COUNSEL DeCARLO: Staff recommends that the  
25 Commission uphold the Committee's order terminating the

1 proceeding. We feel that was the right decision given the  
2 status of the project as it stands now.

3           We have never resurrected a project, to my  
4 knowledge, that has been suspended for 4 years. We have  
5 no idea what amount of work it's going to take to dive  
6 into first having staff determine what information, we  
7 believe, needs to be up to date, and then trying to reach  
8 agreement With the applicant on that information.

9           We believe that there's several deficiencies in  
10 the project information. There's no identification of  
11 whether the applicant has analyzed the 6-mile transmission  
12 line interconnection that has newly been proposed. That  
13 would entail biological surveys, cultural surveys, which  
14 can take several years depending upon what season they've  
15 begun.

16           Again, as the applicant has discussed, the water  
17 policy issue. That wasn't really implemented when the  
18 applicant first filed. If they are in agreement to go  
19 forward with the dry cooling we would obviously need all  
20 the analysis on that proposal.

21           At this time, we just believe that it's an  
22 unknown factor trying to resurrect a project that's 4  
23 years old. We believe that going through the known  
24 process of filing, going through data adequacy that the  
25 Commission then has the opportunity to review staff's data

1 adequacy determination and approve or reject is a much  
2 better known process.

3           We don't believe that the applicant is prejudiced  
4 by having to go through that process. They would have to  
5 make the same number of copies, spend the same amount of  
6 time trying to determine and supply staff with updated  
7 information as they would to have to file a new AFC.

8           They are free to use any relevant data that's  
9 currently in their previous AFC filing as long as they can  
10 confirm that that's current and relevant.

11           COMMISSIONER GEESMAN: You did hear Ms. Luckhardt  
12 say though that she was willing to meet your September  
13 24th date for updating the information.

14           STAFF COUNSEL DeCARLO: Right. We provided that  
15 in case the Commission did decide to go forward and allow  
16 the project to resume with you. But we would -- on that  
17 date, we do have a caveat, and we'd recommend that that be  
18 a drop-dead date. That if the applicant cannot comply  
19 with that, fails to meet that and signals the termination  
20 of the project review.

21           VICE CHAIRPERSON PFANNENSTIEL: Mr. Fay.

22           MR. FAY: Commissioners, I hate to differ with  
23 the staff. I just want to point out that if the  
24 Commission decides to allow this project to continue  
25 permitting, that the staff proposal -- we've had some sort

1 of vague language that suggests agreement with the staff.  
2 The staff proposal, in my opinion, contains a list of  
3 information that they think should be in-house or trigger  
4 automatic termination by September 24th.

5 I think it's literally impossible, in my  
6 experience, to count on things like a biological  
7 assessment from the U.S. Fish and Wildlife Service to be  
8 in at a time certain or a supplemental system impact study  
9 from PG&E. These are entities that the Commission staff  
10 has no control over.

11 So I would just caution you that if you decide to  
12 go forward, that you not use this exact list with this  
13 exact date. The date may be helpful in terms of most  
14 information, but some of those things are beyond our  
15 ability to control.

16 VICE CHAIRPERSON PFANNENSTIEL: Thank you. I  
17 would like to hear from Melissa Whitten, City Manager of  
18 the City of Avenal.

19 MS. WHITTEN: Good morning, Commissioners.  
20 Again, I'm Melissa Whitten, City Manager, City of Avenal.  
21 And I have been city manager since the inception of this  
22 project. So we have spent a lot of blood, sweat and tears  
23 on a staff level with the city. We worked on it  
24 continually for just about a year and a half, beginning in  
25 2000.

1           The City is very supportive of this, the City and  
2 community. The public hearings that were held, there was  
3 no opposition. People came just for information to find  
4 out exactly what was going on. There's very little  
5 development in our small community. It's a small  
6 community in the central valley, development which we  
7 badly need for economic reasons certainly.

8           But more importantly this is a very important  
9 project to the City, in that in our application to the EDA  
10 for a grant, the project, which was the Duke Project at  
11 the time, but the same project being Federal, it was  
12 considered an anchor tenant and addressed as an anchor  
13 tenant in our application to the EDA. And I can't say  
14 that we were awarded that grant because of this project,  
15 but it was named in the application, and that it would be  
16 our anchor tenant.

17           We were awarding \$3.1 million. We are in our  
18 first phase of development in utilizing those grant funds.  
19 And what we have to show is job creation and also a boost  
20 to economic development within the community and that's  
21 what we're hoping for. But I'm just asking that the  
22 Commission carefully consider all sides. Certainly,  
23 again, we're very supportive of this project and would  
24 continue to be so. Hopefully, it would be allowed to go  
25 forward.

1 I do have a letter of support from the City for  
2 the Commission and I have a few extra copies too. And I  
3 thank you for allowing me this time so speak.

4 VICE CHAIRPERSON PFANNENSTIEL: Thank you very  
5 much for being here.

6 I would just like to suggest what my concern is.  
7 I think that we've heard the commitment both from the  
8 community and from the applicant on going ahead with this  
9 project. The difficulty, from our perspective, is  
10 ultimately having to make a decision we need the best  
11 information available. And I'm trying to determine  
12 whether some process of taking 5-year old information and  
13 piece by piece updating it and evaluating it and trying to  
14 get whole new studies done, whether that is going to be  
15 any kind of efficient process that's going to move us  
16 along the timeframe that's really going to get us quicker  
17 than doing the whole new filing.

18 I've heard both sides, but my relatively limited  
19 experience doing siting cases tells me that there's an  
20 incredible amount of information that you need to digest,  
21 and you have to rely on that information. There needs to  
22 be a process for that information coming in, being brought  
23 in to the hearings and in to the considerations and then  
24 in to a proposed decision and a final decision.

25 And doing that, while you're updating information

1 strikes me as messy at best, and time consuming in  
2 addition. And I'm just not convinced that the time --  
3 that that time is going to be appreciably better than  
4 starting over. We know that the product, the quality of a  
5 new filing would have to be better. It would have to be  
6 cleaner. It would be on the basis of existing process and  
7 regulations and it would come in whole cloth.

8           Whereas an ad hoc, as Hearing Officer Fay  
9 described it, process of updating information piecemeal  
10 and evaluating what's there, I simply haven't gotten  
11 comfortable with being able to do a case that way.

12           MR. GILLILAND: Well, I think that you can judge  
13 the merits or demerits of such a process. You have to  
14 look at it in the context of what has changed. And from  
15 the project's perspective -- and obviously there's a whole  
16 bunch of different layers of rules and regulations and  
17 factual information that go in to the entirety of a  
18 proceeding and the entirety of a licensing process.

19           In our particular case, from the project side,  
20 okay, looking at that as one element, not the only  
21 element, but one element of the entirety of a licensing  
22 case, very little has changed since the original  
23 application to the Commission for the licensing of the  
24 project.

25           And so from that perspective, which is a large

1 portion of it, I'll be it not 100 percent, but a portion  
2 of the entirety of the case, very little has changed. On  
3 looking at it from the perspective of the rules and  
4 regulations, some things have changed, but a large chunk  
5 of that is unchanged as well. And it seems to me,  
6 obviously we're, you know, biased and we're of one  
7 opinion, is that we think that it is actually going to be  
8 far more efficient to start from where we are than to go  
9 back to the beginning.

10           And our view is very strongly that the timeline,  
11 as I mentioned earlier, is going to be at least 2 years  
12 difference from where we are going back to the beginning  
13 and that the cost to us, not that that's so much of an  
14 element for the Commission, but the cost to us should be  
15 \$3 million or more of additional costs compared to what  
16 the cost would be if we, you know, start from where we are  
17 now, as opposed to go back to the beginning.

18           So I understand fully, you know, the issue and  
19 we're sympathetic to that. But I would hope the  
20 Commission would understand our issue as well and we  
21 actually think that it's a faster, cheaper way, and that  
22 the end results won't be any different, frankly. I don't  
23 think the end results of licensing will be any different,  
24 because we're committed to work with the staff and go  
25 through the documentation and the support documentation to

1 see what has changed.

2           And, in essence, the staff will be editing  
3 documentation that we would prepare for them.

4           MS. LUCKHARDT: And I actually would see this  
5 somewhat as a cleaner process than some other cases in  
6 which I've been involved. This would come in -- I would  
7 see this coming in like a project amendment, but it would  
8 all come in at once. So there wouldn't be, as I've seen  
9 in other cases, a continual set of information coming in  
10 with many different changes. This would all be put  
11 together at one time. So there would be the old record,  
12 the new information and then going forward as one piece  
13 and one chunk of information as opposed to a proceeding in  
14 which, you know, you get -- you're constantly getting  
15 little change here, little change there, little change  
16 here, little change there. That is actually very common  
17 in siting cases in my experience.

18           And I would also note that this project has  
19 always been incredibly sensitive to staff time. And, in  
20 fact, that was the driver for the suspension request and  
21 has been the entire time, to be respectful of the  
22 Commission and staff's time, to not take their time  
23 unnecessarily. We understand that now is the time to move  
24 forward or not.

25           And so we are ready and willing and able, but we

1 also feel that the project should be acknowledged for the  
2 fact that it has been very careful about not taking  
3 staff's time when there is any question about whether it  
4 had all the information to move forward or whether the  
5 project was in a position to financially continue. It is  
6 now in that position.

7 VICE CHAIRPERSON PFANNENSTIEL: Mr. Geesman, did  
8 you have a comment?

9 COMMISSIONER GEESMAN: I had a question and then  
10 a comment. When did Federal Power come on the scene as  
11 the replacement for Duke?

12 MR. GILLILAND: Well, I've got to give you a  
13 little bit of history before that date. I was the former  
14 senior vice president of asset management for Duke Energy  
15 North America, so I've had knowledge of Duke's entire  
16 program, including the development side. So that was sort  
17 of the germ of the idea that started.

18 The acquisition took place in September of '04  
19 was when Federal Power acquired the entity that was  
20 formerly known as Duke Energy Avenal and changed the name  
21 to Federal Power Avenal.

22 COMMISSIONER GEESMAN: I would be inclined to  
23 give them the benefit of the doubt. I think they've dug  
24 themselves a pretty deep hole. And I'll be honest, I'm  
25 not convinced you can get out of the whole that you've dug

1 yourselves. But I think from the State's interest, we've  
2 made completely clear we need the new capacity. And, you  
3 know, you've made the assertion that it does represent a  
4 2-year difference in permitting. I'm not certain I accept  
5 that, but I'm prepared to suggest that we give you the  
6 benefit of the doubt.

7           You're obviously not dealing with a particularly  
8 friendly Commission, and I strongly urge you to read that  
9 hyper-language on cooling water extremely closely.

10           But, you know, I think that we ought to give them  
11 the opportunity to satisfy the staff. I think we ought to  
12 put it on the timeframe that the staff has recommended.  
13 I'd suggest that Mr. Fay draft an order that appropriately  
14 recognizes that timeframe and does not load it up with  
15 impractical requirements, but I think --

16           VICE CHAIRPERSON PFANNENSTIEL: With then the  
17 drop-dead date of September 24th, at which time the  
18 project is terminated if the information hasn't come in to  
19 the staff's satisfaction.

20           COMMISSIONER GEESMAN: Yeah.

21           VICE CHAIRPERSON PFANNENSTIEL: Okay. I would be  
22 agreeable to accepting that, which then means that we do  
23 not approve the item in front of us this morning, but  
24 rather we would -- Mr. Fay will come back to us with a  
25 motion as described.

1 Commissioner Rosenfeld.

2 COMMISSIONER ROSENFELD: Sounds wonderful.

3 MR. FAY: Just so I understand. So the  
4 Commission is basically returning it to the Committee with  
5 direction to prepare a draft order for the Commission that  
6 would recognize the September 24th deadline as the time  
7 necessary to provide the information that is possible to  
8 be provided in that timeframe as per staff's request.

9 VICE CHAIRPERSON PFANNENSTIEL: Yes.

10 COMMISSIONER GEESMAN: And you should communicate  
11 with both the applicant and the staff to make certain that  
12 you're all speaking the same language.

13 MR. FAY: Good. Thank you.

14 VICE CHAIRPERSON PFANNENSTIEL: Thank you.

15 Moving on to Item 12, possible approval of an  
16 agreement for \$193,200 to hire senior project manager to  
17 provide technical expertise and oversight for the Western  
18 Renewable Energy Generation Information System  
19 development.

20 Mr. Hutchison.

21 MR. HUTCHISON: Good morning. Mark Hutchison  
22 with the Efficiency Renewables and Demand Analysis  
23 Division.

24 The item before you is an agreement with  
25 Enterprise Networking Solutions to hire a senior project

1 manager to assist Energy Commission project staff with the  
2 development and deployment of WREGIS. The senior project  
3 manager will be the liaison and primary point of contact  
4 with the contractor selected to develop the system and  
5 will ensure that the project meets its scope and  
6 objectives, remains within budget and is developed on  
7 schedule.

8           The senior project manager will also coordinate  
9 the efforts of other consultant personnel that will be  
10 assisting with the project, including the program  
11 development project manager, quality assurance consultant,  
12 and configuration management consultant.

13           Additionally, the WREGIS senior project manager  
14 is identified in the feasibility study report, approved by  
15 the Department of Finance, as a key component to the  
16 success of the project. Your approval of this agreement  
17 allows WREGIS staff to begin assembling the project team  
18 needed to oversee the development of WREGIS.

19           I'm available to answer any questions.

20           VICE CHAIRPERSON PFANNENSTIEL: Thank you, Mark.

21           Are there questions or comments.

22           COMMISSIONER GEESMAN: I'll move the item.

23           COMMISSIONER ROSENFELD: I'll second.

24           VICE CHAIRPERSON PFANNENSTIEL: In favor?

25           (Ayes.)

1 VICE CHAIRPERSON PFANNENSTIEL: Item is carried.

2 Thank you.

3 Minutes. Do we have a motion to approve the  
4 minutes from the April 26th business meeting?

5 COMMISSIONER ROSENFELD: I move the minutes.

6 COMMISSIONER GEESMAN: Second.

7 VICE CHAIRPERSON PFANNENSTIEL: In favor?

8 (Ayes.)

9 VICE CHAIRPERSON PFANNENSTIEL: Commission  
10 Committee presentations or discussion.

11 Any discussion?

12 Chief Counsel's Report.

13 CHIEF COUNSEL CHAMBERLAIN: Yes, Madam Chair. As  
14 the Commission is aware, about a year ago, the 9th Circuit  
15 Court of Appeal completed its consideration of the Air  
16 Conditioner and Refrigeration Institute case, in which  
17 there had been a challenge claiming federal preemption of  
18 the Commission's regulations requiring data submission and  
19 marking of certain appliances.

20 And the Commission was successful in that case.  
21 A petition for certiorari in the United States Supreme  
22 Court followed. And while we had hoped that the Court  
23 would quickly dispatch that, the Court asked the Solicitor  
24 General of the United States for an opinion or for a brief  
25 telling it what the position of the United States was on

1 whether they should accept that case.

2           And, as I believe you're aware, our office  
3 participated, as I'm sure did the representatives of the  
4 petitioners in that case, participated in meetings with  
5 the Solicitor General in an effort to be sure that they  
6 understood all of the issues in that case.

7           Last week on May 17th, the Solicitor General  
8 filed their brief. And I'm pleased to say that if I had  
9 been handed the pen and asked to write the brief for the  
10 Solicitor General, I could not have done a better job for  
11 the Energy Commission. It not only agrees with the  
12 Commission's position that this case is not worthy of the  
13 Supreme Court's attention, but it also agrees with the  
14 Commission on the merits as to how the federal law should  
15 be interpreted. And therefore, even if the Court should  
16 decide to take the case up, we have a very important ally  
17 on the merits.

18           Last term the Court had 11 such briefs from the  
19 Solicitor General and went with their recommendation in  
20 every case. This year there have been 6 such briefs and  
21 the Court has gone with the Solicitor General's  
22 recommendation in 5 of those 6 cases. So the odds are  
23 very good for this case being over before the Court  
24 adjourns next month, but we will await their consideration  
25 of that and we'll certainly report to you.

1 I want to thank Jonathan Blee in particular for  
2 his work on this. But there have also been other members  
3 of my staff Monica Schwebs, Bill Staack, who have also  
4 contributed greatly to this important development.

5 VICE CHAIRPERSON PFANNENSTIEL: Thank you, Bill.  
6 I think we all are appreciative of the excellent work and  
7 kudos to Jonathan. I know that he worked really hard to  
8 get that technical information conveyed in a way that  
9 really found its way into the Solicitor General's brief.  
10 That was excellent.

11 COMMISSIONER ROSENFELD: Bill, I just want to say  
12 that I stand in awe of your staff and particularly  
13 Jonathan. And I think our Chairperson should have those 3  
14 people up here to hug them officially at the next meeting.

15 VICE CHAIRPERSON PFANNENSTIEL: Official hugs.

16 CHIEF COUNSEL CHAMBERLAIN: We also have one  
17 brief item for closed session. It's an item of potential  
18 litigation.

19 VICE CHAIRPERSON PFANNENSTIEL: Okay. So noted.  
20 Executive Director's report.

21 EXECUTIVE DIRECTOR BLEVINS: Madam Chair. While  
22 you're spreading gratitude around, I just want to point  
23 out that Mr. Chamberlain spent some of his own hours on  
24 this matter, so he deserves some credit as well.

25 VICE CHAIRPERSON PFANNENSTIEL: Yes, well

1 recognized.

2 Ledge Director report?

3 There is none.

4 Public Adviser's Report.

5 PUBLIC ADVISER KIM: None.

6 VICE CHAIRPERSON PFANNENSTIEL: Public comment.

7 We have one item of public comment. Donald  
8 Brumfield.

9 MR. BRUMFIELD: Thank you so much for allowing me  
10 to come and talk to you today.

11 What I wanted to do is just make a presentation  
12 really. I've got packets here for you to look at. And  
13 may I bring these forward?

14 VICE CHAIRPERSON PFANNENSTIEL: Of course.

15 MR. BRUMFIELD: The cover is not significant.

16 I just wanted to give you a real quick bit of  
17 information on what I've been doing. On the front page  
18 you will see that it has destination Baja Mexico. It  
19 shows this water spraying up into the air with a  
20 tremendous amount of power.

21 And this is the principle that I have a patent  
22 on. You'll see the patent will follow this with a  
23 description of my project ahead of that on what's going  
24 on.

25 What I'm trying to do is just to get some support

1 to move ahead, and some advice from you on where to go,  
2 how to move this project. I've been an individual working  
3 on it for several years. So I'm just going to tell you  
4 verbally real quick here how it works so that you  
5 understand what the process is.

6 We have the tides and the wave action that's on  
7 the ocean. And I want to use the force that's coming in  
8 in the picture, up against a rough shoreline and run that  
9 into some channels that I could have a flared entrance  
10 coming to it, bring it underneath a composite float that  
11 might be 40 feet across and have a shaft that's composed  
12 of a rack-and-pinion gear. This would come up and drive  
13 on 2 floor levels, 2 bigger gears that will drive on a 1  
14 to 10 ratio off onto some smaller gears.

15 So if I get 100 pounds of pressure on the big  
16 gears, I'd get 1,000 pounds of pressure on the small gear  
17 and use that to compress air with a pump that can compress  
18 air. The air would be stored in long tubes that have a  
19 swaged in piece of metal for flanges that are bolted  
20 together and can run like a radiator core for as long as  
21 we want to. And air knows no length and no dimensions.  
22 So we can just compress these up to around 600 psi. And  
23 from the 600 psi air pressure I would release that at 90  
24 psi onto an air engine.

25 And the air engines can be rated from 35

1 horsepower to 65 horsepower. And the output shaft would  
2 be that 35 to 65 horsepower from each one of the air  
3 engines. That would go into a generator and the generator  
4 would -- and that would create the electricity. The  
5 electricity would go through a transformer and step it up  
6 with high voltage up onto the powergrid.

7           So that's the basis of it.

8           I would recommend that if it goes, that we'd be  
9 looking at putting 3 to 4 towers in a location along the  
10 coast. And one of those would have handicap accessibility  
11 with a viewing station on top, glassed in with telescopes  
12 to take a look at the sea life and of the cliff life of  
13 birds and animals and whatever, so we could have education  
14 to school kids or to tourism. And we could even help  
15 defray with the cost factor some of the maintenance on the  
16 plant.

17           So that's the basis of it. And I think there's a  
18 tremendous amount of energy there. This can be built on  
19 the shoreline. It could even be drilled down and then  
20 drilled through the rock to create the opening to come  
21 into the power station.

22           There's a lot of complex things I had looked at.  
23 And I've run those by Ben Gerwick, who is in San  
24 Francisco. Ben Gerwick Associations, they got the award  
25 for the new bridge coming from Oakland over to San

1 Francisco, 8 lanes, I think it is, side by side. And so  
2 they were very much in favor of it. He's worked with a  
3 lot of people. And he's a Professor Emeritus from UC  
4 Berkeley.

5           And then I met his predecessor -- or I mean the  
6 person that followed him, and his name is Robert B. And I  
7 saw what his students were doing for graduation research  
8 on projects. And so I need to follow up now, there's a  
9 new person there, to see if they would do a feasibility  
10 study on it and so on.

11           But I just need to move ahead with it. I have  
12 had some other people like Mr. Kitani who had worked for  
13 Bechtel Corporation and retired. He's a civil engineer  
14 too. And he said that this looked very good. As a matter  
15 of fact, I think I was about 60 years old at the time, he  
16 was about 75. He says, "I'll tell you, sonny, you're no  
17 Ben Franklin, but not too far behind."

18           So he encouraged me. But I just wanted to bring  
19 this before the Commission. And I think it's an idea that  
20 can help tremendously in our energy needs. It's very  
21 clean. We're just compressing air and releasing it and  
22 getting electricity out of it. And so it's different than  
23 tide projects where they go out and look for the rise and  
24 fall of the water, you know, to pump up the air, which is  
25 unpredictable as to how much you're going to do, and you

1 have the problem of transporting it to the shoreline.  
2 This is a direct on-shore-built reaching into the ocean,  
3 and then everything is right there.

4           And, of course, with the Coastal Commission  
5 requirements, we'd look at doing some gunite finishing on  
6 it to make it fit the decor of the coast or their  
7 requirements. And I think it would not be any destruction  
8 or disturbance to the sea life or anything. We could put  
9 a grid out in the ocean there, one-inch thick bars, 12  
10 inches apart that would be counterbalanced to raise and  
11 lower, but to keep things from coming in like logs or  
12 large like whales or something like that into it or a  
13 scuba diver or whatever for damage. And the rest of it  
14 would be just like a normal cave that the animals would  
15 live in anywhere along the shoreline. So that's the  
16 general basis of the project.

17           COMMISSIONER ROSENFELD: Mr. Brumfield, this is  
18 perhaps quite interesting, but it sounds as if you -- to  
19 me, I would have expected you to approach the Public  
20 Interest Energy R&D Program and go through the standard  
21 sort of evaluation for benefit cost analysis and so on.  
22 Have you talked to the PIER Program?

23           MR. BRUMFIELD: I went -- about 2 years ago, I  
24 went through the California program for energy, I guess,  
25 proposals. And I -- they went through -- it has 3 review

1 stages. It passed through the second one. The third  
2 review stage it pass, because they said it was a new type  
3 of a concept. They weren't sure about, you know, the  
4 functionality of it. And they wanted me to do more  
5 research, which I've been doing, and present it -- you  
6 know, make another presentation.

7 COMMISSIONER ROSENFELD: That's what you should  
8 do next.

9 MR. BRUMFIELD: And so -- but what I need -- what  
10 I wanted the Commission to do was to give me someone here  
11 that I could deal with for advice to give me more  
12 direction on how I can improve my concepts or from your  
13 knowledge, you know, work on it in a better direction.  
14 I've gone almost to my limit mentally on working on it.  
15 And I need someone to come along side and maybe help me  
16 move this forward as an advisor to reach from your  
17 Commission or something of that nature.

18 COMMISSIONER ROSENFELD: Madam Chairman, and  
19 luckily you're -- both of the Commissioners who are here,  
20 John Geesman and I are on the R&D Committee. Shouldn't I  
21 just walk our friend upstairs and introduce him to the  
22 PIER Program.

23 COMMISSIONER GEESMAN: Don't forget you're due at  
24 our executive session shortly as well.

25 COMMISSIONER ROSENFELD: I'll try to make it as

1 quickly as I can.

2 VICE CHAIRPERSON PFANNENSTIEL: Thank you, sir.  
3 Thank you for coming in today.

4 COMMISSIONER ROSENFELD: Stay around and I'll  
5 introduce you to the right people.

6 MR. BRUMFIELD: Thank you very much.

7 VICE CHAIRPERSON PFANNENSTIEL: Mr. Blevins.

8 EXECUTIVE DIRECTOR BLEVINS: I'm just following  
9 up on the consent calendar.

10 VICE CHAIRPERSON PFANNENSTIEL: I thought we had  
11 adopted the consent calendar.

12 COMMISSIONER ROSENFELD: Yes, we did.

13 EXECUTIVE DIRECTOR BLEVINS: Okay, thank you.

14 VICE CHAIRPERSON PFANNENSTIEL: Yeah, I had  
15 remembered that.

16 Anything else to come before us?

17 We'll be adjourned.

18 EXECUTIVE DIRECTOR BLEVINS: Did you do Item 20?

19 COMMISSIONER GEESMAN: We put it over.

20 (Thereupon the California Energy Commission  
21 business meeting adjourned at 11:40 a.m.)

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## 1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Energy Resources Conservation and  
7 Development Commission meeting was reported in shorthand  
8 by me, James F. Peters, a Certified Shorthand Reporter of  
9 the State of California, and thereafter transcribed into  
10 typewriting.

11 I further certify that I am not of counsel or  
12 attorney for any of the parties to said meeting nor in any  
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 26th day of May, 2006.

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