BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:)
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Business Meeting)
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 17, 2009

10:00 A.M.

Reported by:
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Commission Members Present

Karen Douglas, Chairman

James D. Boyd, Vice Chair

Arthur H. Rosenfeld, Commissioner

Jeffrey D. Byron, Commissioner

Julia A. Levin, Commissioner (by teleconference)

Appearances

Mr. Jeffery D. Harris, Ellison, Schneider & Harris

Ms. Jane Luckhardt, Downey Brand, LLP

Mr. Kevin P. Bundy, Environmental Health Coalition

Mr. Rudy Ramirez, Chula Vista City Council Ms. Diana Vera

Ms. Theresa Acerro, Southwest Chula Vista Civic Assoc.

Ms. Laura Hunter, Environmental Health Coalition

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P R O C E E D I N G S

MS. DOUGLAS: Welcome to the -- is my mic on?

UNIDENTIFIED SPEAKER: I can't hear you. Oh, yes.

MS. DOUGLAS: Good morning. Welcome to the California Energy Commission Business Meeting of June 17th, 2009. Before we go to the Pledge of Allegiance, is Commissioner Levin on the phone?

Not yet. All right. Please, Harriet, let us know when she joins.

And please join me for the Pledge of Allegiance.

IN UNISON: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MS. DOUGLAS: Very good. I understand Commissioner Levin has just joined by teleconference, and is her line open?

Commissioner Levin, are you there?

MS. LEVIN: I'm here.

MS. DOUGLAS: Very good. I -- we have provided for you to participate, if you'd like to participate or to listen in if you prefer to listen in. Do you have a preference at this point?

MS. LEVIN: I can participate, but I do not have

access to the web, so I won't be able to see a presentation, but I intend to participate for the whole meeting.

MS. DOUGLAS: Very good. Let me ask our chief counsel, then, to talk about provisions for commissioners participating in business meetings by telecommuting and how that affects the process today.

MR. CHAMBERLAIN: Teleconferencing, yes.

MS. DOUGLAS: Teleconferencing.

MR. CHAMBERLAIN: Government Code Section 11123 governs this -- provides for a teleconference option. At least one location, which would be this room, has to have been noticed for the public. There has to be at least one commissioner in that location and all commissioners have to be audible during the course of the meeting.

In addition, when you hold a teleconference meeting, all votes taken during that meeting have to be by roll call rather than simply aye and nay.

MS. LEVIN: All right. Would it be easier, then, if I just listen?

MS. DOUGLAS: Well, Commissioner, this agenda is fairly short.

UNIDENTIFIED SPEAKER: You're not on the mic.

MS. DOUGLAS: Commissioner, this agenda is fairly short as we'll see with changes to the agenda, so

were it long, I would answer yes, but given the length of the agenda, I think that it's just fine. Commissioner?

MR. BYRON: Commissioner Levin, this is Commissioner Byron, I -- we would welcome your participation in the meeting, but I have to note I think this sets a very bad precedent while you're on family vacation as you're participating in a business meeting. I'd also note that Mr. Boyd's working vacation last week, I spent more time with him on the phone and e-mail than I have in many previous weeks, and Commissioner Rosenfeld, the last couple of nights was here past 11:00 o'clock, so, you know, this voluntary 9 percent pay reduction we've all taken in solidarity with our fellow employees at the commission and I hope we're not working for free after July 1st if the budget impasse continues again, but there's high standards of dedication on this commission, and I think that's all I'll say about it.

Commissioner Levin, welcome.

MS. LEVIN: Thank you.

MS. DOUGLAS: Very good. And I have one more -- actually, two more announcements before we get started. Apparently, the password to WebEx into this business meeting was left off the notice, so I am going to read the password for anybody who would like to WebEx in, people calling in and hopefully there are people on the phone can

now access through the WebEx, access the meeting through WebEx. The password is meeting at ten, meeting, M-E-E-T-I-N-G, at sign, and then the numbers one, zero with no spaces.

Finally, I've got some agenda changes to go over. At today's business meeting, we will only be taking up those items that are consistent with the direction we received in the Department of Finance budget letter dated June 12th, 2009, pursuant to Executive Order S-09-09, which requires that agencies disencumber contract funds that were for contracts that were entered into on or after March 1st, 2009, until we go forward and get an approved reduction plan as called for in the Executive Order.

The Executive Order and the Department of Finance letter do allow for contracts that are interagency agreements to move forward, and so we have a number of interagency agreements on the agenda that we will move forward with.

We are also allowed to seek and will be seeking exemptions for contracts for our related funding activities and for critical services and functions.

We will be working more with resources agency and the Department of Finance in the coming days and should know much more about the timing of the contracts and which contracts we will move forward for exemptions on

in the next few days.

The following items, therefore, will be postponed to business meetings later this month, pending further guidances, which follow the Department of Finance budget letter. Those are items 1A, 1B -- I'm sorry, not 1B. Items 1A, 1D, 1E, Item 4, Item 5, Item 7, Item 8, Item 9, Item 10, Item 11, Item 12, Item 13, Item 14, Item 15, Item 16, Item 17, Item 19, Item 20, Item 21, Item 23, Item 24, Item 25, Item 26 and Item 27.

MR. BOYD: There, Commissioner Levin, you'll see how short the meeting is going to be.

MS. DOUGLAS: So there will not be nearly as many roll call votes as we might otherwise have been contemplating.

Moving forward, then, we have -- I'd like to take all of the items off of the consent calendar that we can still move forward with, but we entertain motions for Items B and C on the consent calendar. These are --

UNIDENTIFIED SPEAKER: After presentation?

MS. DOUGLAS: After --

MR. ROSENFELD: No, we don't need presentation if we do them as consent. Can I just move Item B and C on a consent calendar?

UNIDENTIFIED SPEAKER: I thought we'd eliminate the consent calendar.

MS. DOUGLAS: Let's ask for a brief.

MR. CHAMBERLAIN: Well, any commissioner can ask that these be moved off the consent calendar, and I understand Commissioner Douglas has asked that that be done.

MR. BYRON: Okay. So I'd recommend we forego presentations on these individual items.

MS. DOUGLAS: Very good. We've been briefed. We've all seen the materials and both of these items have moved through their respective committees.

MR. BOYD: Well, I'll move Item 1B because it moves to the Transportation Committee, which I chair.

MR. BYRON: Second.

MS. DOUGLAS: All in favor.

IN UNISON: Aye.

MS. KALLEMEYN: I have the roll.

UNIDENTIFIED SPEAKER: Oops.

MS. KALLEMEYN: I will call the roll. Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion passed.

MS. DOUGLAS: Item 1C?

MR. BOYD: I move Item C.

MR. BYRON: Second.

MS. DOUGLAS: All in favor?

MR. BOYD: Nope.

MR. BYRON: Nope. Roll.

MS. DOUGLAS: Roll call.

MR. BYRON: We're not used to it.

MS. DOUGLAS: Not, here not.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. LEVIN: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion carries.

MS. DOUGLAS: All right. Thank you. Item 2, Almond 2 Power Plant, 09-AFC-2.

Ms. Allen?

MS. ALLEN: Good morning. Good morning.

MS. DOUGLAS: Good morning.

MS. ALLEN: I'm Eileen Allen, manager of the siting and compliance office regarding the Almond 2 Power Plant data adequacy item. On May 11th, 2009, staff received the Turlock Irrigation District's application for certification for the proposed Almond 2 Power Plant.

I'm going to provide a brief project description before presenting staff's data adequacy recommendation. The proposed project is a natural gas-fired peaking power plan with a gross output of 174 megawatts. It's proposed for a 4.6 acre parcel of industrial land adjacent to Turlock's existing 48 megawatt Almond 1 Power Plant, located within the city limits of Ceres in Stanislaus County. The site is approximately five miles from the City of Modesto. The primary equipment for the generating facility will include three 58-megawatt General Electric LM 6000 turbines, equipped with a water injection system for reducing formation of oxides of nitrogen or NOX and a selective catalytic reduction system to further control NOX emissions.

Regarding transmission, power will be

transmitted to TID's grid through two new 115 KV transmission lines, which will connect to TID's proposed Racine Substation, which would be located approximately 3,000 feet from the proposed site. The substation is expected to be complete before the Almond 2 project is operational, and it is not part of the Almond 2 project. TID has told us that they would be pursuing the substation with or without the Almond 2 project.

The project will also require that TID reconducter 2.9 miles of an existing 69 KV subtransmission line from the Almond 1 Power Plant to the existing TID Crow's Landing substation. Regarding fuel for the power plant, two potential natural gas pipeline routes are presented, one approximately 9.1 miles long. The other is an approximately 11.1-mile long pipeline. The Almond 2 Power Plant will receive processed water from the Ceres Waste Water Treatment Plant through an existing pipeline that supplies the Almond 1 facility. The Almond Power Plant will also add on-site reverse osmosis and demineralized water treatment system and an on-site water storage tank. That completes the project description.

Staff's initial review of the AFC reflected in the June 5th, 2009, executive director's recommendation found the information incomplete in six areas, transmission system engineering, cultural resources, land

use, socioeconomics, soils and water resources. Please note that I'm making a slight correction to the staff memo of June 5th and table of contents in that your information packets indicate five areas are inadequate. The correct number is six in that land use is also inadequate. The data adequacy worksheets that you've received, including land use are correct.

Subsequent to this finding, on June 9th, 2009, the applicant filed a Supplement A with data adequacy responses. Staff has begun reviewing that document. Please let me know if you have any questions.

MS. DOUGLAS: Thank you, Ms. Allen, can we hear from the applicant?

MR. HARRIS: Yeah, thank you, Commissioner. Good morning, Commissioners. My name's Jeff Harris of Ellison, Schneider & Harris. We're here on behalf of the district, and I would like to introduce Randy Basinger, who is the assistant general manager for power supply administration to introduce the project from (inaudible) and why it's an important project for the district.

Randy?

MR. BASINGER: Thank you, Commissioners. It's nice to be here again. In 2004, we were before you for the Wallin Energy Center (phonetic) that went online in 2006 and has been performing very well since then. We're

very excited about this -- this project that we have before you today. One of the -- well, TID is one of five balancing authorities in the State of California, as I'm sure you know. One of the critical functioning of being a balancing authority is providing reserves so that you're not leaning on neighboring balancing authorities like SMUD or ISO, which is what we're connected to.

This project will provide those needed reserves that we have. Currently we are meeting our reserve requirements through reserve sharing agreements with SMUD and Pacific Northwest and our own internal generation. One of the problems that we face is that the Wallin Energy Center, which was licensed here a couple years ago, we have to run a reduced load pretty much most of the time to provide for those reserves, so this project here will allow us to run the Wallin Energy Center at peak efficiency, which therefore reduces the amount of natural gas per kilowatt hour that we would be using.

In addition, one of the primary purposes of this project is to help firm our renewable portfolio. On May 28th, we went commercial with our 137 megawatt wind farm, which now takes our -- TID's renewable portfolio to 28 percent, so we're very, very proud of that, and this project will help firm that wind, which is an intermittent resource, as you know.

We're very happy to be here with staff, and we've responded to the data adequacy and we're looking forward to being data adequate in the near future and moving on with the project.

MS. DOUGLAS: Thank you. Any questions from commissioners?

MR. BYRON: So, I move that we accept the staff's recommendation for Item 2, the Almond 2 Power Plant as data inadequate at this time.

MS. DOUGLAS: I just realized that Commissioner Levin is unable to hear me. Let me set that microphone in a (inaudible) position.

MR. BOYD: Commissioner Levin, did you hear the motion?

MS. LEVIN: Yes.

MR. BOYD: Okay. I'll second the motion.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Thank you. That item is approved.

MS. ALLEN: I'm anticipating that this item will be back before you for the July 1st meeting.

MR. BYRON: Good.

MS. DOUGLAS: Well, thank you, that's good news.

MR. BYRON: We look forward to it.

MS. DOUGLAS: Item 3?

MS. LEVIN: I'd like to congratulate the Turlock Irrigation District for making its 28 percent renewable portfolio.

MR. BYRON: That's very good, Commissioner.

MS. DOUGLAS: Item 3, administrative subpoena, possible approval of an administrative subpoena directing the California Independent System Operator to provide generation and transmission data needed by Energy Commission staff in assessing resource adequacy for Summer 2009 and beyond.

Ms. Holmes?

MS. HOLMES: Good morning. My name is Caryn Holmes. I'm with the legal office.

UNIDENTIFIED SPEAKER: Caryn, the microphone. Can't hear you.

MS. HOLMES: My name is Caryn Holmes. I'm with the legal office of the commission, and the item before you is an administrative subpoena, directing the ISO to provide generation load and transmission information to the commission.

A little bit of background first, the ISO requires that all confidential information that's obtained as a result of their FERC tariff be provided to other agencies only in response to an administrative subpoena.

As many of you are aware, we have been adopting these subpoenas on an annual basis since 2004. We review this information in order to assess resource adequacy for the summer -- this summer and beyond as well as to develop assessments for the long-term supply-demand outlook. This year's subpoena is identical to last year's with two exceptions. There have been changes to information to reflect the fact that the FERC tariff changed and therefore the information time over, which certain information is -- is maintained, has changed, so we will now be collecting information, for example, in some instances on -- that had been collected on an hourly basis rather than a half-hourly basis.

The second change to the subpoena is that we have asked for some of the operating procedure information that the ISO maintains. We're hoping that that will help

us assess the role of some of the plants that are affected by the priority reserve litigation and the pending State Water Resources Control Board ruling on (inaudible). The ISO has seen a copy of the subpoena. In fact, they helped us draft the amendments to the subpoena for this year. They've been very cooperative during the past five years in providing the information, and we would expect that that relationship would continue. So, with that, I'm available with questions but would otherwise recommend that you approve the item.

MR. BOYD: Move approval.

MR. BYRON: Second.

UNIDENTIFIED SPEAKER: Yes.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion carries.

MS. DOUGLAS: Thank you, Ms. Holmes. Item 3 is approved.

Item 6, California Department of General Services, possible approval of Contract 600-09-001 for $612,500 with Department of General Services to retrofit up to 50 state-owned hybrid vehicles to operate as plug-in electric vehicles. This is an interagency agreement with AV 118 funding.

Mr. Smith?

MR. SMITH: Good morning, Commissioners. My name's Mike Smith. I'm the Deputy Director of the US Transportation and, yes, this is the next in our series of contracts and agreements that we'll be bringing forth to the Commission as a result of funding allocations in the recently-approved investment fund for the alternative and renewable fuels and vehicle energy program. The only thing I will add to the description you gave, Chairman Douglas, is that a couple items that are not specifically addressed in the interagency agreement, but we are working with the DGS to design decals and badging for these vehicles so that they can be displayed as plug-in hybrid electric vehicles.

Also, the vehicles will be deployed in densely-populated areas so that DGS is targeting a deployment of vehicles in LA, San Diego, the Bay Area, Sacramento and

Fresno, and also the cars will be made available from time to time for display and use at technology summits and conferences and other events of that sort.

So, with that, I'll answer any questions and ask for your approval.

MS. DOUGLAS: Okay. Thank you, Mr. Smith. Your comments did address the questions I asked you when this came before the Transportation Committee, which was whether we had done enough to ensure that DGS had a good plan to use these vehicles in a way that would be educational to the public and really help get this technology out in the public eye, and I think that your comments have definitely addressed that question.

MR. SMITH: Well, part of -- one of the provisions in the agreement also were the GPS systems is that it will collect data that would be extremely useful for us as well as projects that we have underway at the plug-in hybrid research center at UC Davis, which the commission is funding, so performance, driving, durability data will be very useful (inaudible).

MS. DOUGLAS: Okay.

MR. BOYD: Well, with congratulations to Mr. Smith and the staff both because this is a significant transportation issue that did come before the Transportation Committee and as another small step in the

implementation finally of the 118 program, I'd like to move approval of the item.

MR. BYRON: Second.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion carries.

MR. SMITH: Thank you very much.

MS. DOUGLAS: Let's see. I'm turning the page in my agenda book to Item 18, UC Davis Wildlife, Fish and Conservation Biology Department, possible approval of Grant PIR-08-029 for $441,787 to UC Davis Wildlife, Fish and Conservation Biology Department to enhance tools for balancing hydropower generation, environmental protection for a fish species of special concern. This is an interagency agreement.

Mr. O'Hagan?

MR. O'HAGAN: Good morning, Commissioners. My name's Joe O'Hagan. I'm in the peer environmental area program. The grant agreement that I bring before you today, which is actually -- needs to be corrected, it's the peer funding amount would be $441,797. Somehow that $10 got lost. So it's generated through a solicitation that the peer environmental area released late last year. One of topics addressed in this solicitation was requesting research to inform the FERC relicensing process and in particular on how water temperature from hydropower operations affects species.

As you know, California has a significant portion in our hydropower being up for relicensing from -- by the Federal Energy Regulatory Commission, and these licenses last 30 to 50 years, so it's a great opportunity. It took a lot of good scientific research to inform this process.

The proposal before you today is about a fish species of special concern. It's commonly known as the hard head. The category for classification of special concern is California Department of Fish and Game category, but it's also somewhere owned by the -- used by the US Forest Service as well as the US Fish and Wildlife Service, and it indicates that this particular species, although not in the threatened or endangered

classification is heading that way and this species that is found in the mid elevation of the western Sierra Nevada used to be very common. It was referred to as a trash fish, so then it disappeared from a large portion of its habitat, very much so in the San Joaquin drainage but many areas it is completely gone. Some areas it's locally abundant, but it is definitely the population is declining. It's also indicative of relatively undisturbed habitat conditions, but the value of the proposed research is is that this fish occupies a transition zone between warm lower elevation water and colder upper elevation waters and hydropower affects downstream water temperatures by -- by releasing colder water. Where you have colder water to support your trout fisheries and then as it goes downstream, it becomes warmer. This fish is right in the middle, below it are warmer fish species that you would even find down here in the valley floor. So part of the FERC relicensing, there's been a real debate on how much cold water the hydropower facilities need to release to keep it cold enough to support the hard head since we really don't know what its temperature tolerance is, and this water generally released by the hydropower facilities in the stream, generally is not water run through the turbines and therefore the more cold water they have to release, the less hydropower production.

The proposed research would identify exactly what this species' tolerance would be both in terms of swimming conditions, resting conditions, blood oxygen response. So we have a scientifically very sound value for its support. This proposal was reviewed by a number of people representatives from PG&E, State Water Resources Control Board, Fish and Game and other stakeholders, and that was very well received and evaluated. Thank you.

MS. DOUGLAS: Questions?

MR. BOYD: Move approval.

MR. ROSENFELD: Second.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion carries.

MS. DOUGLAS: Item 22 -- thank you. Item 22 is another interagency agreement with the University of

California San Diego possible approval of Grant PIR-08-043 for $999,949 to University of California San Diego to demonstrate equipment that integrates renewable energy storage, demand response and energy efficiency.

Mr. Koyama?

MR. KOYAMA: Thank you. I'm Ken Koyama. I manage the Energy Generation Research Office in the Research and Development Division. This is the first of what we hope are several approvals of agreements through our renewable energy (inaudible). This project would be the University of California San Diego would develop a smart-grid master controller to manage and optimize the renewable energy CHP advanced metering and communication network that's on the University of California San Diego campus. It has the unique ability of being able to optimize these different, various energy projects, and we request your approval of this.

MS. DOUGLAS: Okay. Questions?

MR. BYRON: I -- if I may comment, you know it always amazes me the things that I see that come out of the peer research program, and this is one of them. I want one of these when they're available. This is real interesting technology and it will address some of the issues that, quite honestly at this point, I don't know how we're going to do the net zero energy goals are

laudable but getting there is going to be challenging. This looks like good technology that will help consumers, so I certainly endorse this.

If there's no other questions, I'll move the item.

MR. BOYD: I'll second the item with the comment that I was struggling to figure out how this would help your segue, but nonetheless, (inaudible) Commissioner that did come through the research committee.

MS. DOUGLAS: Roll call, please?

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: Motion carries.

MS. DOUGLAS: Thank you. Now we are on to Item 28. I know that there's a fair amount of public interest in Item 28, and I do have, in my hand, a number of blue cards filled out by members of the public who would like

to comment. If there’s anybody else here who has not filled out a blue card but who would like to comment, please fill one out. There's plenty of time to have it brought forward.

Item 28, Chula Vista Energy Upgrade Project, 07-AFC-04, possible adoption of the presiding member's proposed decision for the Chula Vista Energy Upgrade Project, a simple-cycle electrical power plant facility in the City of Chula Vista, San Diego County.

Hearing Officer Renaud?

MR. RENAUD: Good morning, Madam Chair, Commissioners. I am Raoul Renaud, the hearing adviser assigned to this matter. The Chula Vista Energy Upgrade Project is a proposed 100-megawatt natural gas-fired simple cycle peaking power plant, the proposed site in the City of Chula Vista. Currently on that site is a 45 megawatt natural gas-fired peaker which became operational in 2001. Because of its size, it is beneath the jurisdiction of the Energy Commission and was licensed by the City of Chula Vista, pursuant to a special-use permit. The proposed project would replace it and therefore it would -- we'd have a net gain of 55 megawatts of peaking capacity. The application for certification was filed in August 2007. At that time, a committee of Chair Pfannenstiel and Commissioner Boyd was appointed. We held

the informational hearing and site visit in October, 2007, and the evidentiary hearing in October of 2008.

The term of Commissioner Pfannenstiel expired at the end of December 2008, and since then we've been proceeding with Commissioner Boyd as the sole member of the committee. We issued the PMPD in January 2009, held a committee conference to discuss that in April 2009 in Chula Vista and issued the errata to the PMPD in May of 2009.

The parties have been and are the applicant, MMC Energy, Inc., represented by Jane Luckhardt with Downey Brand. The interveners are the Environmental Health Collation, represented by Kevin Bundy of Shute, Maholoney and Weinberg (phonetic), California Unions for Reliable Energy, CURE, represented by Adam Sprodwell (phonetic) and the third intervener has been the City of Chula Vista.

Energy Commission staff is Chris Meyer, Project Manager, Kevin Bell, Staff Counsel.

The committee recommendation is to deny this application based on several land-use concerns, and the focus has really been on two of those concerns. First is the zoning at the site. It is limited industrial and after analysis, if the committee determined that it was doubtful that a natural gas-fired power plant is consistent with the types of uses allowed or conditionally

permissible in that zone. The city does have a zone where it specifically does permit electrical generation facilities, and that's the general industrial zoning.

Second concern is the general plan of the city. After the existing peaker went online, the city updated its general plan and released that in 2005 and that general plan update added a provision that electrical generation facilities and other major toxic emitters within -- within 1,000 feet of sensitive receptors was to be avoided. This site is within 350 feet of homes. So on the basis of those two, primarily, and some other land-use concerns, the recommendation is to deny the application, and that's what's before you today is the PMPD and errata. If you have any questions of me, I'll answer them. Otherwise, I think we have parties and members of the public here today.

MS. DOUGLAS: Thank you very much. Can we go to staff, please, and then to the applicant?

MR. BELL: Yes, thank you. Good morning, Madam Chairman, Commissioners. My name is Kevin Bell. I'm staff counsel assigned to the Chula Vista project.

There's been a lot of hard work and consideration given to this project by staff, by the committee, and by all the other parties here, and staff has already set forth its position in all its filings in

this matter, and I'm not going to take this opportunity to restate all of our positions. I do want to highlight two areas. Number one is with respect to LORS. The staff's position is that the proposed project is consistent with all LORS ordinances, regulations and standards, that the evidence demonstrates that the proposed facility would be considered an unclassified use within the City of Chula Vista's limited industrial zone and would be eligible for a conditional use permit under the city zoning ordinance and further that the general plan provision E6.4 does not apply to all energy-generating facilities, only those that are major toxic air emitters.

The other concern of staff is with respect to the alternatives analysis. Staff's position is that the alternatives analysis conducted by staff does comply with CEQA. Staff's continuing position is that based on the hearing record, the CEUP -- I'm sorry, the Chula Vista Energy Upgrade Project complies with all the applicable LORS, causes no significant environmental impacts with the imposition of the recommend conditions of certification.

Staff's position is that the commission should recommend approval of the proposed project with those conditions of certification.

MS. DOUGLAS: Thank you, Mr. Bell.

Ms. Luckhardt?

MS. LUCKHARDT: Thank you. I was just going to check. Yes, it is still morning. We're moving quickly today. I thought this would be afternoon on my first view of the agenda. My name is Jane Luckhardt, and I'm representing MMC Energy here today and have throughout the project siting process.

Needless to say, MMC Energy is disappointed in the recommendation of the committee to deny the application for this project. We note that as far as we can find this is the first time a committee, a siting committee has ever recommended denial of a project when its staff has found that the project is consistent with LORS and consistent and does not pose a significant adverse environmental impact. As I look around today, I see many of the folks here who have come to speak, members of the public, who we have seen throughout the process in permitting this project down if San Diego and in the City of Chula Vista and many of their concerns have focused on the public health issues, air quality issues, concerns about children in the neighborhood, concerns about kids at the local school, the rec center and we are -- MMC truly supports the findings that were made by this committee by the commission staff, by the San Diego Air Pollution Control District, by the local school district that hired a separate consultant to look at air quality and public

health impacts from the project. In all instances, all entities have found that this project does not pose a public health -- or would not pose a public health or an air quality impact or risk to folks living nearby. I do remember, as I think back on many of the different items that some of the public participants have passed out at various times to encourage public participation and in their preference, opposition to the project and the one that really sticks out to me is the one that showed the ammonia truck exploding. We call it the ammonia bomb. You know, we're -- we're very pleased that this commission and its staff have come out and -- and really tried to show exactly what the impacts of this project truly are.

It's my understanding based on both MMC's experts and staff's expert, Alvin Greenberg, that ammonia, aqueous ammonia does not explode. So, you know, we're very pleased with that. I'd just like to do, just take a quick second to talk about what this project is. This project is a replacement of an existing facility. The existing facility was completed, I think in 2001, Hearing Officer Renaud mentioned earlier, I believe that's correct, and it was completed during that time with equipment that was used at the time. It is not the most efficient of the generating units we have out there and, in fact, when MMC first looked at this project and

repowering this project, they looked at things like the IEPR that speak to the commission's desire to replace older inefficient generating facilities, and I think all parties or most parties at least can agree that by replacing what is there with two LM 6000's, we are taking a large step towards improving the efficiency of the equipment that would be on the ground. That would be an improvement in efficiency as well as an improvement in emissions, the emissions rate for that specific facility.

We're also talking about a peaking facility, a facility that we estimated that, I believe staff also estimated would run 350 to 500 hours a year. The existing facility ran during the San Diego fires. The existing facility runs on approximately two-hour, four-hour blocks when it is called by the ISO. The existing facility, as well as the proposed facility, would be located within the constrained San Diego Lake Load Pocket. It is a small facility. It is not a Frame 7, not a combined cycle facility. It's smaller. Therefore, its ability to totally displace South Bay, it can't completely take out the need to operate South Bay. It only would provide an increment, but it would provide an increment to help remove South Bay over time.

As you can -- as you can under -- probably imagine, MMC disagrees with the findings of the proposed

decision in the area of land use and alternatives. We have filed extensive comments in this area, hundreds of pages of comments, and as opposed to repeating those comments now, I think staff counsel did a fine job of summarizing their points. We agree with those points, and we incorporate our comments that were filed on the PMPD, both opening and reply comments as well as our briefs, both opening and reply briefs today as opposed to taking an extensive amount of time to repeat those comments at this point.

Well, I guess there's just one last thing that I can't -- I can't help myself on and just can't get go. In the errata that was published by the committee, there is a comment in the errata on page 32 that says: "The evidence shows that the entities to which the city granted a license for the existing peaker was PG&E, an investor-owned public utility." And, actually, that's incorrect. The entity that proposed and, I believe built, but at least obtained the permits for that facility was PG&E Disbursed Generating Company, LLC. That is a non-regulated entity of PG&E, just as -- just as the PG&E entity that built or originally permitted the Oti Mesa Project and just as Sempra is the unregulated utility or unregulated entity that built La Paloma -- or not La Paloma, Palomar. I'm switching my projects around -- the

Palomar facility.

So the arguments that are contained in the errata that rely on -- that talk about the original approval where the city granted the project a special-use permit under the public, quasi public use and trying to differentiate between MMC and PG&E at that time is actually incorrect. They are both independent energy entities and neither is an investor-owned utility, so I'd just like to clarify that, and we thank you for your consideration today.

MS. DOUGLAS: Thank you. Are there any questions from the commission right now before we move to public comment or would Commissioners like to hear public comment first?

MR. BYRON: (Inaudible) proceed with the public comment.

MR. BOYD: Excuse me. We need to hear from the other interveners before we move to public comment.

MS. DOUGLAS: Ah.

MR. BYRON: Oh, right.

MS. DOUGLAS: Very good point. Environmental Health Coalition is -- I'm sorry. Hearing Officer Renaud -- oh, Environmental Health Coalition -- are there any other interveners here?

Very good. Please proceed.

MR. BUNDY: Good morning. My name is Kevin Bundy, and I'm an attorney for the Environmental Health Coalition, one of the formal interveners in this proceeding. EHC very much appreciates the opportunity to address the full commission regarding the proposed decision.

We agree with the (inaudible) central conclusions on land use and alternatives, and we fully support the recommendation that the AFC be denied. At the outset, I'd like to thank Commissioner Boyd for a very well reasoned and well researched proposed decision and to acknowledge former Commissioner Pfannenstiel for her contribution as well and I'd also like to thank Mr. Renaud for the careful and thoughtful and fair way that he conducted the hearings in this matter.

I do want to address one other thing right up front. We've heard from the applicant that the commission would be taking an unprecedented step in denying this AFC despite staff's support for the project. While this may look like a bad thing from the applicant's perspective, it actually looks like a very good thing for people that are generally outside this process. It indicates to an often-skeptical public that this, despite its unfamiliar procedures and arcane, at times, seeming rules, this process is actually working in the way that the

legislature intended. Staff participates here like any other party. Staff's expertise in technical issues is certainly invaluable to the commission and the PMPD impact here adopts most of staff's recommendations, including some of which we still don't quite agree. But staff's view on a particular issue cannot be the last word, especially on an issue -- on the issues most at issue here, which concern an issue of law committed to the commission's discretion. The commission has the final authority and the responsibility to independently assess the evidence in the record and to put everybody's legal arguments to the test. We feel that the committee did an exemplary job of that here, and that's reflected in the careful review of the law and the record and the proposed decision.

So, without waiving our alternative arguments for denial of the AFC, we would ask that the commission adopt the proposed decision as its final decision in this matter.

I do want to respond just very briefly to some of the applicant’s comments regarding the -- the community's involvement here. The community has been heavily involved in this process. Because this community is actually heavily impacted, there is a high concentration of generation facilities in this part of

Southern San Diego County. There was plenty of evidence in the record of that. There are also some serious issues with asthma and respiratory illness among the people that live down there, especially -- especially youth. I mean, the concern with a big power plant going in so close to homes and schools, I believe, is understandable on the part of the -- on the part of community.

So, land use became a major issue in this proceeding. We've addressed the project's many inconsistencies with the LORS and our briefs and our written comments, all of which we also incorporate by reference here. I'm not going to reiterate those arguments here, other than to say that the PMPD got it right. The analysis is consistent with the plain meaning and the demonstrating intent of the general plan, especially policy E6.4, which establishes a buffer zone between power plants and homes in the City of Chula Vista. This policy was adopted as part of an effort to incorporate environmental justice principles into the city's general plan. It was one of the first such efforts in the State of California. It was really kind of a ground-breaking effort there, and it incorporated a precautionary principle and the city council explicitly rejected exceptions for mitigation measures and health risk assessments and things like that, basically said you

just have to avoid putting power plants within 1,000 feet of sensitive receptors, including homes. The PMPD also followed the plain text of the zoning ordinance. Power plants are not allowed either as permitted or conditional used in the limited industrial zone, and they do not meet the zoning code's basic definition of an unclassified use.

Regarding the comment made about the PMPD's discussion of the prior owner or the original owner of the plant, the PMPD, to my recollection, does not rely on that discussion and its findings. It's an observation that's pointed out that the finding. Correct finding and the finding (inaudible) is correct that this use does not meet the definition of an unclassified use under plain text of the zoning code.

As for alternatives, again, we've covered those in detail. I just -- just want to address a couple of staff's contentions and the comments that staff filed on Monday. Staff appears to argue here that an analysis of alternatives was really unnecessary because the final staff assessment found that the project's other significant environmental impacts could be mitigated. Staff has not identified legal support for this position and, in fact, the California Supreme Court rejected this argument more than 20 years ago in its first Laurel Heights decision.

Staff's request for deletion of Finding 11 from the proposed decision we believe is also unnecessary. Finding 11 simply says that solar generation may provide a feasible alternative to this project. This is consistent with uncontroverted evidence in the record and it does nothing to undercut the discussion in the 2007 integrated energy policy report, which, while acknowledging the important role that natural gas generation will continue to play, also, it says that it’s essential for renewables and other alternatives to be developed if the state's going to meet its greenhouse gas reduction goals. So it doesn't say that you can never consider an alternative to natural gas generation that isn't also natural gas generation. There's nothing in the IEPR that says that, so we think Finding 11 should remain.

I think everybody agrees that if the community wants to get rid of the South Bay Power Plant, again, Cal ISO told us that this project would not make much of a contribution towards doing that. They also confirmed that building a peaking power plant on an alternative site in the same constrained area would help just as much in getting rid of -- getting rid of the power plant. We've heard from the community and now from the city that they want to look at alternative sites for this kind of project, sites that were properly zoned, that are more

than 1,000 feet from homes, and we would -- the community's indicated its willingness to participate in that.

So I'd like to thank all of you again, especially, again, Commissioner Boyd, for your careful consideration of the many issues here. This may be an unfamiliar kind of decision for the commission, but it should not be a difficult one, and, in fact, we think that that is a decision the commission should be proud of. The PMPD is amply supported by the record and the law, and we'd respectfully act that the commission adopt it as the final decision in this proceeding.

I'd be happy to answer any questions. Thank you.

MS. DOUGLAS: Thank you, Mr. Bundy. I do want to make one brief comment before going on to public comment, and that is related to the question of whether the commission has or has not ever taken a position that's contrary to staff recommendation siting cases and just to say that we absolutely have and it's part of our quasi judicial role to look at the evidence and make a decision based on the law and the evidence, so while Ms. Luckhardt's description was more narrowly framed than has the commission ever taken an independent position that's different than the staff recommendation, you know,

obviously, we have, and that's a necessary part of our role from time to time based on the law and the evidence.

I would like to ask for public comment, beginning with Rudy Ramirez, representing himself/Chula Vista City Council.

MR. RAMIREZ: Vice Commissioner Boyd, members of the commission, good morning. My name is Rudy Ramirez. I'm a Chula Vista City Councilman. I was elected in November of 2006. I want to take a moment just to give you some personal history of mine. I sort of began my political involvement in Chula Vista in my community as the representative for Southwest Chula Vista on the general plan update steering committee. I was invited to participate with this group because I own a business in Southwest Chula Vista and I also live there, and I had been, over the years, vocal about some of the issues in my community. And by the way, just so you know, the proposed MMC plant is in Southwest Chula Vista, and so I was invited to participate in this group representing this area, and I got to tell you, it was a very interesting and enlightening process, one that was very inclusive, included some 18 stakeholders, residents, business leaders, etcetera, and together we came to a consensus on the vision for our city, and -- and one of the important areas that we considered was Southwest Chula Vista and

what we wanted to accomplish in Southwest Chula Vista and so when we wrote into this plan very specifically the standards that you're now discussing, we were very cognizant of what we were doing, and it was our goal to provide this community and this neighborhood an opportunity to improve itself, and so there were a lot of discussions on this, and I got to tell you this -- our community and our city came together on this very important issue, and so it wasn't an accident that we placed these standards, and the standards that we are hoping that you will now help us and help our community respect to allow this community to really grow and prosper in a way that we envision and that we believe that it can.

But let me just tell you that this community, one of the reasons that we want to focus on this community is that it's already been heavily impacted. I mean this specific area is already the site of two power plants, the county landfill burn facility, and so we've done our part for our region, and we felt that we've done enough and we're looking for an opportunity to change that. The other thing that I think is important for you to understand is that we have not said no to energy generation in our community. On April 21st, the City Council directed staff to -- to seek alternative sites for these types of uses and we've done that, and our staff has

brought back many very interesting possibilities, and so we're not saying no, no way, do it somewhere else. We're saying just do it right. Do it where it belongs. Do it where it fits with what we need to do in our community, and so I ask that -- that -- that you support the PMPD recommendation and that you deny this application and just for the record want to mention that there are others in our community, elected officials, our local congressman, Bob Filner, whose providing a letter that is also asking for denial, a council colleague of mine, Council Member Pamela Bensoussan, whose provided a letter, and our local assembly representative, Mary Salas, who has also provided a letter asking you to deny this application. Thank you very much.

MS. DOUGLAS: Thank you.

MS. LEVIN: Can I ask a question of that public speaker?

MS. DOUGLAS: Yes, Commissioner Levin, go ahead.

MS. LEVIN: I'm sorry. I missed (inaudible) were you testifying officially on behalf of the city council, and has the city council taken a position on this formally?

MR. RAMIREZ: The city council has not taken a position on this formally. The only formal action that the city council has done was the action of April 21st, in

which it directed our staff to identify alternative sites.

MS. LEVIN: Okay. Thank you.

MS. DOUGLAS: The next card I have is for Diana Vera.

MS. VERA: Good morning distinguished members of the California Energy Commission. My name is Diana Vera, and I'm the representative of the neighborhood, the neighborhood closest to the peaker plant, which is 350 feet from the plant. I am asking, basically I am pleading, if it's necessary for your denial. The plant is way too close to homes. I believe the plant will be built in the heart of the neighborhood. It's like putting a dinosaur in the middle of your family room. There are 15 schools within a mile, preschools, senior citizen centers, a recreation center, and they're violating the general plan. I believe when they say that here in my notes that there's no significant environmental impact, that area is already impacted by pollutants. We live between two freeways, a cement plant, and now they're going to add more to that neighborhood. That neighborhood was there before they changed the zoning into a light industrial zone. That neighborhood belongs to the people, to the citizens, to the senior citizens, the children that live there. Most of the owners are original owners, over 45 years. They have nowhere to go, and I believe they need

to spend the rest of their lives peacefully, live and die where they chose to live and to die. Thank you very much.

MS. DOUGLAS: Thank you. The next card I have is for Theresa Acerro.

MS. ACERRO: Yeah, good morning, members of the commission. My name is Theresa Acerro, and I am president of the Southwest Chula Vista Civic Association, and we've been advocating for environmental justice in the southwest part of Chula Vista for the last several years, and if you had the opportunity to look at some of the DVD's that we submitted as evidence, I think you'll agree with us that this is clearly an environmental justice community. Now, we have actually been opposing this plant for over three years, and I am sorry that MMC objects to that very first flyer that we sent out, and that was before we understood about the differences in ammonia and part of that was because we -- the representative from MMC was refusing to allow them to come to explain anything to us, so we had to search out information from many different places, but we never actually repeated that and we have tried always to inform people of the exact situation when people had questions about what was happening, as we gathered more information. Actually, if you want to talk to about somebody who's misleading the public or trying to mislead the public, this company has done that very efficiently or

tried to do that. I mean, they're -- the bottom line is that this peaker plant did not operate at all for three years, and then MMC operated it for 50 years in 2007 -- 50 hours in 2007 and then 54 hours in 2008, and they lost a million dollars because it doesn't qualify for the bonus payments for energy, and they actually sold the gas compressor recently to -- for operating expenses, and we're pretty sure that nobody's going to operate this thing because it's just not -- it's so in efficient that it's not economically viable, which may be why PG&E didn't operate it for three years. We don't know.

Now, I was on the open space environment committee that was upgrading our general plan back in, I guess we started back in 2002 or 2003, and at that time, the existing peaker was operating 75 hours a year, all of it during the summer, and our impression, those of us who live and work near it, was that it was operating like every day, and we were very upset. We were very annoyed. We were very annoyed at the city council about this thing in our community and that they allowed this 350 feet from where people lived, close to like 15 schools and in view of actually where I work, Montgomery High School and practically in the Oti Valley Regional Park. I mean there's no separation even.

So and the city never explained what a peaker

plant was or exactly where it was going to be located because I remember reading in the paper something about oh, that the council was discussing something, and it was somewhere in the Main Street area and this kind of thing, but we never got any details, so we never knew to say anything about it back in 2000 and 2001 what the city was dealing with this, but after it was built, we were very aware of it, and we were very upset, and so when I was in the committee, and I know most of us in the committee, we fought very hard to get environmental justice language into the new general plan, the general plan update, and one of those things we wanted was to be sure that never again would some power plant be put within 1,000 feet of residence or sensitive receptors. We -- many of us actually thought that 1,000 feet was too close, but we were able to get agreement on the thousand feet and to the extent that actually the city council disagreed with staff, tried very hard to get a health risk assessment put in there to qualify it, and that was not put in.

I think this policy is very clear, as is our zoning ordinance that places specifically electrical generating plants in heavy industrial zones. This is a light industrial zone and actually this existing location is like 40 feet across a driveway from businesses that are really more commercial in nature than light industrial,

and they are very upset also by this. There are heavy industrial zones, sites that could be appropriate for a peaker power plant. We all agree about that. I mean, staff has located several and identified them. We even have some property owners that have offered them. Unfortunately, MMC made its objectives so narrow that these viable alternatives were never analyzed fully the way they should have been, and Commissioner Boyd, I mean, it was really great and I think very forward-thinking, too, where he pointed out that we had expert testimony that showed that solar on roofs and on parking lots could have been analyzed as a very viable, alternative as well. And I think in this day and age with our greenhouse gas reduction goals and whatnot that indeed this -- this would have been a very viable alternative and probably still is.

So please follow Commissioner Boyd's recommendation and deny this project in this very inappropriate location. Thank you.

MS. DOUGLAS: Thank you. The next speaker we have is Laura Hunter from the Environmental Health Coalition.

MS. HUNTER: Yes, good morning. My name is Laura Hunter. I'm a staff with the Environmental Health Coalition, and I just wanted to make a couple very brief comments. I want to thank you very much for your time and

your careful consideration of our issue. I know you make hundreds of these decisions probably every two weeks, and this may not be a big one for you, but it's a really big one for us and it's a very, very important and significant issue in our community. I want to also thank you, especially Mr. Boyd and the staff for spending so much time with us down in Chula Vista. We appreciate that. The hearings were held in our community, and we really do appreciate that because it is hard to get, you know, the money to come up here.

I want to say on the outset, obviously, you know, we fully support the conclusions of the PMPD, and we're here today to urge your denial of the plant. I am surprised to hear this issue of, well, you know, you've never done it before so somehow that's an argument that, you know, that has any kind of bearing and that should be any argument you follow. I guess I want to thank you for not being a rubber stamp. I mean, thank you for serving your independence and I also want to say that I think that among several miscalculations, I believe, that the applicant made, one of them was the thought you would be a rubber stamp and therefore they rebuffed our early overtures to them to try to look at where could this go that would be more acceptable, and I know that they were broached by multiple parties, city staff, EHC, other

groups said, hey, why don't, you know, early in the process let's get together, and they weren't hearing it, and I would bet it was because they thought that you were going to be a rubber stamp, so I want to thank you for being independent and really looking at our issues.

Our South Bay -- I was also a member of that general plan committee that Theresa was on. We felt targeted and misled and ambushed by that original peaker that went in, no community outreach. No one knew about it. It kind of appeared. We felt really snookered by that. We said, "We got to stop this from ever happening again." We put in years on the general plan policies, the record that the legislative history on this exact policy is very clear. I can go over that. It's all in the record, though, and I think your staff -- or the PMPD gets directly at that. You know, you got it right. This project in this place violates our local policies. It violates our general plan. It's not an approved use in this kind of zoning. It is unnecessary. It's going to make a situation worse because, yes, it's more efficient, but it's twice as big, and it's going to run more often, and that's going to result in a worse impact on this community that's already too close to the existing one. There are better alternatives, both in terms of generation, mixes of generation and locations. There's a

lot of different alternatives they should look at, but I think until you tell them no, they can't do it here, they're not going to get serious about really talking to all of us who are ready and willing to work with them to try to find a more suitable location.

That's all I have to say, but thank you very much. Again, we support the PMPD and we ask you to deny the AFC on this project. Thank you.

MS. DOUGLAS: Thank you. At this point, are there questions or comments from the commission?

Commissioner Boyd?

MR. BOYD: Before I make my comments, I'd like to ask Hearing Officer Renaud to come back up to the microphone and address one issue and that is the reference Ms. Luckhardt made to the PG&E language. And while I think there's absolutely no reliance on this statement and it's a simple change to the title of the company involved, Commissioner, is there any -- I just promoted you --

MR. RENAUD: Thank you.

MR. BOYD: Hearing officer. A vote of confidence. Well, I'll give you your kudos at the end of my speech.

MR. RENAUD: Thank you.

MR. BOYD: And then do you see any problem replacing that language?

MR. RENAUD: No. In fact, if you hadn't raised it, I was going to. Thinking back over all the documents, I do recall that the references, in fact, were to PG&E something, something, which must be a subsidiary or some form of PG&E, but that sentence isn't even needed here. What's important is that the applicant is not a public utilities. So I would propose that we amend the errata to eliminate the sentence, "The evidence shows that the entity to which the city granted a license for the existing peaker was PG&E, an investor-owned public utility." The import of the paragraph remains the same. We don't really need that language.

MR. BOYD: It certainly has my support.

MR. RENAUD: All right.

MR. BOYD: Okay. No further questions for you at the moment, Mr. Renaud.

Just another comment that I'd like to make, the ammonia bomb blizzard shirt was never seen by this Commissioner, never even heard of it before the reference earlier today, and it's certainly not an issue in my findings. I'm quite familiar with ammonia issues from literally hundreds of other cases, so there's certainly no reliance on that, and I think other speakers have put the record to bed on that. Now, perhaps, a more formal comment and (inaudible) easy to pour, hard to retract, I'm

going to be very careful in what I say here since I notice an audience full of lawyers ready to pounce on this.

As already has been referenced as my fellow commissioners know and certainly the staff knows and some people in the audience have known and others have learned, this is a -- a siting process is indeed a quasi judicial proceeding. The committee acts as a judicial body. All we lack, seemingly, are the black robes as we sit up there, but not having been ordained a judge, while it's an interesting process, I've been here for seven and a half years doing this, and it has been indeed educational and of value and I think like all commissioners, we carry out the trust of our appointing officer, the governor of the state and the California State Senate that has to ratify our payments and their expectations that we will fulfill the laws and act as independent members and independently in our responsibilities, and I think we are all very good at doing that. So, as such, a siting committee, and certainly this committee predicates its decision on the record that is developed and not the hearsay, not past practice, per se, not the what ifs, and we, the committee, found that there is evidence in the record to support our recommendation and you heard a lot of what we heard today repeated many times to us in the local community, and yes, this is an emotional issue for a lot of folks, and we

empathize with that, but we predicate our recommendation on the record that is developed over now almost two years as it relates to this case. I don't agree that this is necessarily an unusual case, as was referenced earlier, because we do have to act independently on the record and we've done that in this -- in this particular case. I think the record is immensely clear as to why the committee, which was first Commissioner Pfannenstiel and I and then ultimately myself, felt that the record demonstrated that the land use regulation, the local entity were not appropriately followed and that there was a violation and I'm not going to reiterate the many times in the record opportunities were afforded the parties to address that point and to address many other issues that haven't been referenced here that said such opportunity was not taken up by the applicants. We then reached our conclusion as indicated in the PMPD. I want to commend Hearing Officer Renaud for his handling of this case. I think it was exceptional, and I think he's done a magnificent job because this has been unusual in a different sense in terms of the way the both community and the local government has played out its roles. So I would just say that I feel no different today than I did when I signed the PMPD and -- and do recommend to my fellow commissioners that -- that you affirm the findings of the

siting committee.

MR. BYRON: Thank you, Madam Chairman. I'd certainly like to thank the members of the public for being here today and Council Member Ramirez. It's always good to have elected officials here as well representing their constituency. Periodically an application for certification is completed with a single commissioner. It's a lonely job, Commissioner Boyd, and I applaud your efforts.

Having reviewed the record, I think the committee's done an excellent job, but first let me say this: I think the staff has done an excellent job, but is only one of the parties that the commissioner relies upon for input and evaluation, and having said that, I think the committee's also done a very good job in considering the record and has developed a reasonable recommendation, so I will certainly support this PMPD.

MS. DOUGLAS: Other comments by the -- by commissioners?

I will just say that I've been thoroughly briefed on this issue, and I've also looked at a considerable amount of material pertaining to this case. I really appreciate Hearing Officer Renaud, staff, Commissioner Boyd and when she was here, Commissioner Pfannenstiel's long hours spent in the community and

hearing evidence, taking evidence, reviewing it, and moving forward with their recommendations, and the proposed decision. I'm also very supportive of it in my review and of the briefing that I got, I strongly agree with Commissioner Boyd that, in fact, there was a conflict with LORS and so -- so I'm also in support. Hearing no other questions or comments, is there a motion?

MS. LEVIN: Madam -- Madam Chair?

MS. DOUGLAS: Please.

UNIDENTIFIED SPEAKER: Oh, of course.

MS. DOUGLAS: Commissioner Levin?

MS. LEVIN: I just -- I also wanted to thank the members of the public and the councilman from Chula Vista for coming up to Sacramento and for their participation in this process. I think it's critical. I wanted to ask them, both the proponents and opponents of the project, given that this is a peaker plant, to work with the commission and the governor's office and others to help us (inaudible) more solar power in California, which I think we all see and the governor's executive order from last fall (inaudible) that we need to accelerate renewable energy development, not just for peaking -- peak demand but for demand in general, and I think for coastal communities that are highly impacted, like Chula Vista by natural gas and other sources of pollution (inaudible)

both of roof top storage (inaudible) through California's various solar home programs and one of the (inaudible) solar development in the desert more in Imperial County and Riverside County and other parts east of San Diego County but still in your backyard, we need as much support for solar development as we do both support and opposition for peak power plants, so I'd like to thank everyone but encourage them also to help find the right solutions for California's power demands.

MS. DOUGLAS: Thank you, Commissioner Levin.

MR. BOYD: If there is no other comments by commissioners, I would like to move approval of the PMPD and also thank the citizens of Chula Vista for the way they comported themselves inside the hearing rooms and in front of -- of the siting committee members and the staff. While it was highly emotional to them and they had their other forums to exhibit that, I think efforts that they made to -- to respect the fact that this was a quasi judicial hearing and the way they conducted themselves (inaudible) are to be recognized and commended by me. With that, as I say, I move approval of the PMPD.

MR. RENAUD: Well, if I may just add a little clarification to the motion, it would be approval of the PMPD and errata --

MR. BOYD: And the errata.

MR. RENAUD: -- with the deletion of the sentence on page 32 referring to PG&E as discussed earlier.

MR. BOYD: And that is my motion.

MR. BYRON: I second the motion.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: The motion carries.

MS. DOUGLAS: Thank you. Item 29, minutes approval of the June 3rd, 2009 business meeting minutes.

MR. BOYD: Move approval.

MR. ROSENFELD: Second.

MS. DOUGLAS: Roll call, please.

MS. KALLEMEYN: Vice Chair Boyd?

MR. BOYD: Aye.

MS. KALLEMEYN: Commissioner Rosenfeld?

MR. ROSENFELD: Aye.

MS. KALLEMEYN: Commissioner Byron?

MR. BYRON: Aye.

MS. KALLEMEYN: Commissioner Levin?

MS. LEVIN: Aye.

MS. KALLEMEYN: Chairman Douglas?

MS. DOUGLAS: Aye.

MS. KALLEMEYN: The motion carries.

MS. DOUGLAS: Item 30, commission or committee -- Commissioner or committee presentation for discussion.

Seeing none, Item 31, Chief Counsel's report?

MR. CHAMBERLAIN: I have no report to make, Madame Chairman.

MS. DOUGLAS: Item 32, Executive Director’s Report?

MS. JONES: I will just briefly report on some of our error activities as I know all the commissioners are very interested. At the last business meeting, we did adopt an OII for development of guidelines for the error funds. We are working on July workshops to begin developing those guidelines. In addition, we -- staff recently conducted six statewide workshops to garner input from local communities and local governments and other interested parties. We will be posting the summaries of

those workshops and the comments that we received in the docket for the OII, so I'd encourage you to take a look at those.

MS. DOUGLAS: Thank you, Ms. Jones.

Item 33, Public Adviser's Report.

MS. MILLER: Two brief announcements. I have on Monday June 22nd, the Solar 1 site visit and informational hearing, and Lorraine McJan (phonetic) will be attending on behalf of the Public Adviser's Office and the following day, Tuesday June 23rd, there is a workshop in Avenal that I will be attending, and I also just wanted to mention that we have a business meeting next Wednesday, and we don't normally have them back to back, so I wanted to make that announcement as well, and that's all I have, thank you.

MS. DOUGLAS: Thank you.

Is there any remaining -- are there any remaining members of the public who would like to comment? Is there any public comment at this time?

Seeing none, we will move upstairs for a brief executive session on personnel -- on a personnel matter.

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CERTIFICATE OF REPORTER

I, MARY CLARK, a certified electronic reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California State Lands Commission, dated July 10, 2009; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of July, 2009.

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MARY CLARK, CERT*D-214

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