BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Business Meeting)
_____)

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 30, 2010

10:00 A.M.

Reported by:
Kent Odell

COMMISSIONERS PRESENT

Karen Douglas, Chair

Jeffrey D. Byron

James D. Boyd

Anthony Eggert

STAFF PRESENT

Melissa Jones, Executive Director
Michael Levy, Chief Counsel
Jennifer Jennings, Public Advisor
Harriet Kallemeyn, Secretariat
Claudia Chandler

Steve Hoffmann
John A. McKinsey
Paul Kramer
John Sugar
Larry Rillera
Jennifer Allen
Renee Webster-Hawkins
Sam Lerman
Helen Lam
Devorah Eden
Angela Gould
Adel Suleiman
Lance D. Shaw
Erik Jensen
Raoul Renaud

OTHERS PRESENT

PUBLIC

Robert Sarvey
Kerry Willis
Lisa Cottle
Rob Simpson
Mike Boyd
Joseph Douglas
Brenner Munger

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B. UNITED STATES CARBON SEQUESTRATION COUNCIL. Possible approval of Contract 500-10-011 for $35,000 with the United States Carbon Sequestration Council (USCSC) for Energy Commission membership for one year. The USCSC provides access to scientific and technical information about carbon sequestration to industry, policy makers, and the general public. (DOE funding.)

C. WESTLAW. Possible approval of Amendment 2 to Contract 140-08-002 with West Publishing Corporation dba Thomson West to add $5,850 for additional access to Westlaw legal research service. (ERPA funding.)

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P R O C E E D I N G S

June 30, 2010 10:16 a.m.

CHAIRPERSON DOUGLAS: Good morning. Welcome to the California Energy Commission Business Meeting of June 30th, 2010.

Please join me in the Pledge.

(Whereupon, the Pledge of Allegiance was received in unison.)

CHAIRPERSON DOUGLAS: Before we begin with our regular agenda, we would like to take a moment and recognize Chuck Mizutani, who is, unfortunately for all of us -- but also understandably -- after a very long and wonderful and tremendous career at the Energy Commission, retiring. And I would like to acknowledge him as one of the Energy Commission's most committed public servants.

Today marks Chuck's last day at the Energy Commission, where he has faithfully advanced our policies and served the State of California since July 1st, 1976. Chuck began his long career in the Siting Division as an Energy Resources Specialist and Planner during the 1970s and early 1980s, and from 1987 through February 2002, Chuck held a number of positions as Technical Lead, Supervisor, and Manager of the Renewables Office. As Manager of the Renewables Office, Chuck played a key role in developing strategies and programs to accelerate and

expand the use of renewable energy in California and diversify renewable resources in California's electricity mix. For the past eight years, Chuck has applied his strong management skills and leadership experience in the Fuels and Transportation Division, where he has been active with planning and directing staff work on a market introduction of clean and efficient alternative transportation energy technologies and fuels. Chuck is best known for his leadership and his ability to develop effective teams and cooperative working relationships. And from what I have learned in these past two years, and from what I know from experience, these past two years have been some of the busiest times ever at the Energy Commission, and Chuck has always been there, and always been ready to pitch in, and to help get the job done.

The Energy Commission's AB 118 program that Chuck's office has led, the Economic Recovery Program, and accelerated efforts to build more renewable power plants and capture more efficiency benefits for the State of California has been tremendously exciting and a tremendous opportunity for all of us, and we were very fortunate to have Chuck as one of our leaders helping us get this work done.

Chuck, the success of the Energy Commission's progressive energy policies would not have happened

without your important contributions in these last 35 years, and we will miss you, and we hope that you have a wonderful and well deserved retirement. [Applause]

MR. MIZUTANI: Thank you very much. I am very humbled. This was a surprise, but I guess one of the things I would like to say is, I have really felt very privileged to have been able to work here at the Energy Commission for these years. I have been able to do some very wonderful and interesting things, and actually got paid for it. And so, I think one of the things that – I think the thing that I will miss is the environment and the people here at the Commission. I think every agency and any organization basically has an identity and a personality, and this agency definitely has a personality that is loving, giving, caring, and it has a soul, and that is what I will miss about it. Thank you very much. [Applause]

CHAIRPERSON DOUGLAS: Well, thank you very much, Chuck. Commissioners, one more item before we move to the regular agenda. We have noticed that we will be considering today whether there exists a need for immediate action on an appeal of a denial of a petition entered in one of our siting cases, and I would like to ask Mr. Levy to provide some of the context for the findings that would need to be made if we were to consider

this item on our agenda today.

MR. LEVY: Yes, thank you, Chairman and Commissioners. The item is not on the agenda today, and Government Code Section 11125.3 gives the Commission the discretion to determine that there exists a need to take immediate action and that the need for action came to the attention of the state body of the Commission after the Agenda was posted. If you make those findings, and it must be a unanimous vote because less than all five members of the Commission are here, you may add this matter to the agenda, and you may hear it on the merits. I think Mr. Kramer is prepared to make some introductory remarks on what the item is so that you have the context to decide whether immediate need exists.

CHAIRPERSON DOUGLAS: Thank you, Mr. Levy. Mr. Kramer, please.

MR. KRAMER: Good morning. The evidentiary hearings and pre-hearing conference in this case, this is the Marsh Landing Application for Certification, are scheduled for tomorrow afternoon. Mr. Sarvey petitioned to intervene in the case on June 4th. His petition was denied on June – I am sorry, I forgot the date, but about the middle of the month – and he filed a timely appeal of that. So, the reason to go forward, and that is Mr. Sarvey's request, would be to decide the matter so that,

if it is decided that he can participate, he can participate in the hearings tomorrow. You could put it off until a later time, and if you decided that he was entitled to participate, then we would have to re-open the hearings.

So, I think we are at the point with the Applicant, although they did file something last week suggesting that it should be put off, they are here, and, correct me if I am wrong, Ms. Cottle, but would you now prefer to have it heard today since you are here, prepared to discuss it?

MS. COTTLE: That is correct, given that we are present today, and we are prepared, but we have no objection.

CHAIRPERSON DOUGLAS: So, for purposes of the record, the answer was yes, the Applicant supports it being heard today.

MR. KRAMER: And that sets up, I think, the question that is before you most immediately, and, of course, I will have more to speak about the merits if you decide to hear it today.

MR. LEVY: Also for the record, Commissioners, the appeal, of course, was filed from last week, it was after the agenda was published. The agenda was published more than 10 days ago.

VICE CHAIR BOYD: Madam Chair, if I might, as the Presiding member of the Marsh Landing case, I would speak in support of the idea that we hear -- that we approve hearing the appeal today, in the finding of urgency being that tomorrow is the pre-hearing conference for this case, and to postpone this consideration into the future would provide an inconvenience, if not some form of confusion with regard to the flow of the case. So, I frankly do feel that there is a sense of urgency that meets the test of the Code, and would therefore be supportive of hearing the item out today, so that we can proceed judiciously tomorrow with the case.

COMMISSIONER BYRON: Madam Chair, just one quick question, I believe. Mr. Levy, are we aware of any parties interested in this case that would not want this issue heard on the agenda today?

MR. LEVY: I am not.

COMMISSIONER BYRON: Okay, thank you. Madam Chair, do we need a motion to put this on the agenda?

CHAIRPERSON DOUGLAS: We do.

COMMISSIONER BYRON: I would like to move that we add Item 35, Marsh Landing Generation Station, the consideration of Mr. Sarvey’s Appeal, to the agenda for today.

VICE CHAIR BOYD: And I would second that

motion.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That motion carries.

Commissioners, I would like to suggest that, since everybody interested in this matter appears to be here and ready, that we take up Item 35 before we move into the flow of our regular agenda. Mr. Levy?

MR. LEVY: Just for the record, that would be a unanimous vote, Chairman.

CHAIRPERSON DOUGLAS: Oh, thank you.

All right, Mr. Kramer, can you start us off with the presentation of Item 35 on the merits?

MR. KRAMER: Okay. Mr. Sarvey, if you want to come up here and sit to my right?

The Application was completed in this case in – I believe it was about August or September of 2008, and we had a site visit and informational hearing in December of 2008. And the analysis progressed. Ultimately, staff produced a Staff Assessment, it was posted on the webpage and released on April 26th of this year, and then staff had a workshop on that staff assessment on May 4th. On June 10th, they issued a revised Staff Assessment. "Revised" implies that there was more change going on than there actually was. The approach the Committee is proposing to

take with this case is to write a decision in a more efficient way, because of our workload demands, than we normally would, and so the plan is to have a set of findings that will be attached to the Staff Assessment, so we wanted all the changes to be reflected in one re-printed document, but I think it is fair to say that the changes are relatively minor.

We had a Committee conference on May 12th where we discussed whether we were ready to go to hearings and the dates for the Pre-Hearing Conference and Evidentiary Hearing, and that is tomorrow, July 1st, was chosen. The formal Notice of those dates was given on May 26th. Our Commission Regulations say that the last day to petition to intervene in one of our cases is the date of the Pre-Hearing Conference, or 30 days prior to the Evidentiary Hearings, whichever is earlier. In this case, because the two events are combined, we take 30 days from the Evidentiary Hearing, and that was June 1st. Mr. Sarvey's Petition was filed on June 4th, which was after that deadline, and the Notice of the Hearing did specifically mention the deadline for intervention was June 1st.

Now, our rules also allow you to petition to intervene after that deadline, but you have to show good cause for being late, if you will. And after Mr. Sarvey filed his petition, I sent out an e-mail to him, asking

him to elaborate more fully on the reasons he was advancing this good cause for filing late, and following the receipt of his answers and objections from the staff and the Applicant, a sort of objection from CURE, it was an e-mail, it was not filed as a formal paper, but I think it is fair to say that CURE, who was the only other Intervener, also in a manner objected to Mr. Sarvey's petition. All of those objections were on the ground and it was late, and good cause for filing late was not shown.

I want to clarify one part of the Committee's order denying his petition. One of the findings was that his interests are "not" relevant to this proceeding, and that was a typo, the word "not" somehow slipped in there. We meant to say that is interests are relevant; his petition was denied because it was late, basically, and he did not show good cause. But he lives downwind from the project and might be affected by its emissions, so we will concede that point, which he raised in his request that the Commission review the denial.

So, his appeal is now before you. The Committee does not believe that he has shown good cause for a late intervention, and recommends that you deny the appeal. He cannot say that he was unaware of this project as he was participating in related proceedings at both the Bay Area Air District and the Public Utilities Commission. He is

an experienced participant in our processes, and is charged, like any participant, whether they are new or experienced, with knowing our rules, and he could have intervened at any point in this case, but for some reason chose to wait until the last minute and miscalculated when that was. We have been finding lately that last minute entries in our cases are disruptive, they are also unfair to the staff and the Applicants and the other Interveners who have been participating in a case, in the case of staff and the Applicant from its inception and those Interveners who chose not to wait until the last minute. I will also note that, in this particular case, Marsh Landing, we have three additional Petitions to Intervene which were filed after Mr. Sarvey's petition. Rob Simpson and the Local Clean Air Alliance, they filed them on June 21st, and they were denied on June 28th. Just yesterday afternoon, Mr. Simpson filed another Petition as a representative of Sierra Club California, and that petition has not yet been ruled upon.

So, again, the Committee's recommendation is that you deny the appeal, which would have the effect of denying Intervener status to Mr. Sarvey. I will point out that he is always, as a member of the public, free to come to our hearings and submit comments, and those, of course, would be considered by the Committee as public comments.

CHAIRPERSON DOUGLAS: Thank you, Mr. Kramer. I would like to ask Mr. Sarvey, since this is your appeal, to speak now and, in particular, among anything else you would like to raise, please address the question of why you did wait this amount of time to intervene.

MR. SARVEY: Certainly. Well, first of all, when the notice was issued, it was issued on the 26th, which was Memorial Day Weekend; so, I, like 90 percent of the State of California, was on vacation. When I got back, I did see the notice and I immediately intervened the day I saw it. And the reason that I had appealed to the Commission today was because I did not want to inconvenience the Committee to have to come back later and accommodate me if the Commission accepted my intervention after the hearing, which is July 1st, which we heard about earlier. And it seems the major issue that both staff and the Applicant have with my intervention is that somehow I am going to delay the proceeding, but, in fact, so far I have filed my testimony according to the Committee schedule, I have filed my Pre-Hearing Conference according to the Committee schedule, I am ready to go tomorrow, I do not intend to ask for any delays, and I think that is the major harm that the applicant and the staff have brought forward. Now, the reason that I had not intervened previously is quite clear, and I think you heard some of

it earlier, I have been involved over at the California Public Utilities Commission, and I have been working diligently over there, intervened in this exact case A090921, where we were considering RADBACKS, the Oakley project, this project, the Marsh Landing project, and several other small projects. So, I have been quite busy, I do not have a staff, I am just a member of the public, unlike the Applicant or the CEC staff, I do not have 20 people behind me to deal with all these proceedings. Like I said, I did my best to get in, I admit, I was three days late, and I am doing my best not to delay the proceeding in any way, and that is why I asked for this expedited hearing because, once again, I did not want to have this hearing be held tomorrow and, then, on the 15th of July, or whenever that hearing would be, then accept me and then the Committee have to accommodate me, I did not think that was fair to the Committee, the Applicant, or the staff. So, I did my best and I have a list of issues, what I consider good cause, I do not know if the Commission wants to hear those, but they are in my petition and, quite frankly, I do not see any way that I will delay the proceeding in any way or cause any harm to anyone, and I have outlined quite a few issues that I consider good cause, number one is, if you go to the Commission's Public Participation Guide, it explicitly says that intervention

is allowed up until the Pre-Hearing Conference, or at the Pre-Hearing Conference, and I have intervened at Pre-Hearing Conferences, and that has always been an outstanding sort of standard for the Commission, so I guess that has changed, or I had not heard about it, but in the event I do get denied, that should be straightened out and the public should fully know that, when that order comes out, if you do not intervene, you are out, and that is something the public needs to know, whether you deny my request today, or grant my request. And like I said, staff and the Applicant are fully aware of my issues and my Pre-Hearing Conference Statement, there is nothing different than what I said at the Air District, and there is nothing different than what I said at the CPUC proceedings, they have already claimed that they have responded to my issues, so I do not see in any way that they are harmed. And, you know, frankly, I have got some concerns about the project and that is why I intervened.

CHAIRPERSON DOUGLAS: Thank you, Mr. Sarvey. I think we will hear from all parties and then ask questions of staff.

MS. WILLIS: Thank you. Good morning, Commissioners. My name is Kerry Willis and I am senior staff counsel representing staff in these proceedings. To begin with, I have represented staff in power plant siting

cases for over 12 years, and I think this is only my second time of opposing an Intervener petition, so we do not take this position lightly, it is something that we have had to consider quite seriously. However, in this case, we are opposing Mr. Sarvey's petition because, first of all, it was late, but more importantly, he failed to show good causes as to why he filed it late. Mr. Sarvey claims in his position and, again, to only have a few days notice of the due date of the petition to intervene, but that is just not true. This application has been in our house for over two years. He could have filed his petition to intervene at any point in time over the past two years. A supplement, not a new ASC, as he has claimed, was filed in September of 2009. Mr. Sarvey was closely following these proceedings at the Air District, he filed comments on time on April 30th on the Preliminary Determination of Compliance, so he was well aware this project was moving forward.

As he stated, the Applicant did respond to his comments and staff did consider the comments before they completed their revised Staff Assessment. Our siting process aims to be public-friendly, we have held several workshops over the past two years, the most recent being on May 4th, following the publication of the Staff Assessment on April 26th. The workshop was properly

noticed, yet Mr. Sarvey did not attend. One of the few substantive changes in the revised Staff Assessment is in regards to ammonia slip, and that is one of the issues he is bringing up now. At the workshop, ammonia slip was discussed at least with the Applicant, staff, and the Air District, and had he attended, that would have been a topic he would have been well versed in by the time – by today. Staff Noticed a 30-day comment period on the Staff Assessment, yet Mr. Sarvey failed to provide any comments on that either. The Committee properly Noticed the staff conference on May 12th, and as Mr. Kramer stated, we did discuss dates, we discussed the procedure of having both the pre-hearing conference and the evidentiary hearing at the same time. Had Mr. Sarvey attended the status conference or even inquired about it, he would have been well aware of when the dates were and when the time for intervention would have passed.

By his own admission, Mr. Sarvey is an experienced Intervener in the Energy Commission's proceedings, he claims to have participated in 20 cases here, and, you know, I fully believe that is true, he is currently on at least six electronic listservs at the Commission, so he is well aware of how to get on the Marsh Landing listserv, he could have done that at any point in time, and received notices immediately. He also said he

checked the website weekly. All of our documents and notices have been put on the website in a timely manner. Finally, Mr. Sarvey claimed in his petition that he was waiting for a document titled the Final Staff Assessment, there is no requirement under Section 1747 that staff title the compilation of reports required under that section as a Final Staff Assessment. We stated in our status reports on February 17th and on April 15th that we would be filing something called a Staff Assessment, and possibly a Revised Staff Assessment in order to proceed in a timely manner. We also state that, in our Staff Assessment, that we would not be filing a PSA and FSA in this particular case.

As a member of the public, Mr. Sarvey can participate in tomorrow's hearing fully, as I stated, both the Air Quality staff and Air District representatives will be available to respond to any of his concerns. He stated that he does not want to delay the process, but he did state in his petition that he would be expecting to cross examine the Air District and the Air staff for 30 minutes a piece; so, that would ultimately delay some of the process. Mr. Sarvey has had ample opportunity to contact the Commission staff or the Public Advisor, to participate in this process; instead, he chose not to attend the staff workshop and discuss the issues in

public, he chose not to submit comments on the Staff Assessment, he chose not to attend or comment at the Status Conference, and he chose not to file his petition to intervene on time. It is staff's position that choosing not to file on time is not a showing of good cause, and Mr. Sarvey's Petition to Intervene should be denied.

CHAIRPERSON DOUGLAS: Thank you. Applicant?

MS. COTTLE: Thank you. My name is Lisa Cottle. I represent Marsh Landing LLC, which is the Applicant seeking certification for the Marsh Landing Generating Station. Thank you for the opportunity to comment today. The Applicant agrees with everything that Hearing Officer Kramer and Ms. Willis has said, and do support the Committee's Order. I think they properly concluded that Mr. Sarvey had the burden to show good cause for his later intervention and that no good cause was shown, and that the late filed petition was therefore properly denied. Mr. Sarvey has had over 20 months to intervene in our siting case, not five days as he stated earlier. This case has been active since September 2008. He has long been aware of the proceedings since at least last fall, based on his filings at the California Public Utilities Commission, so if he had concerns about the project, he could have intervened at any time. There also have been

several staff workshops in the case, including the workshop on the Staff Assessment that has been discussed earlier. There also was the Committee Status Conference, which was Noticed, where it was clear that we were going to be talking about schedule and whether the case was ready to progress to committee proceedings. At the Staff Workshop, as Ms. Willis explained, we did talk about the few changes that the Applicant asked for, to the Staff Assessment that was issued on April 26th. Ammonia slip was discussed in detail. We explained why the staff's proposed requirement was not feasible for the project. We followed up with written comments on that issue that were quite detailed and extensive. We provided cost estimates for what it would take to try and meet something like that. More importantly, it provided evidence that we can obtain a guarantee from our vendors for that limit, therefore, it is not feasible for the project and could actually impair our ability to obtain financing and build it. So, it was all in the record, it was discussed in public, it was in our written comments, we provided letters from the vendors. I think he was definitely on constructive notice that that was an issue that could change potentially when staff republished the revised Staff Assessment.

He did also acknowledge that he has been

participating at the California Public Utilities Commission, where that agency is considering whether to approve the Power Purchase Agreement for Marsh Landing. He also filed comments at the Air District on the Preliminary Determination of Compliance. If you look at those filings, he actually cites to things that we have filed in the Marsh Landing CEC certification case, so he was clearly reviewing the documents. If he did have concerns, again, he should have participated in this process, he had a lot of opportunity to do that. His papers state that he was waiting for the last possible moment to intervene. It seems that he miscalculated when that would occur, but we agree that that is not good cause for late intervention.

We also think it is important that parties be required to comply with the rules. Public participation in these proceedings should be encouraged, but parties should also be obligated to file timely, and the Commission's Guide to Public Participation does encourage parties to intervene at the earliest possible time, not at the last possible time, as was done here. And it is disruptive to the process. We are hearing this tomorrow. We should be preparing for that hearing and we had to come in and address this, and it is disruptive to the process to allow someone to intervene at this late stage.

Finally, we agree that he has an opportunity to be heard tomorrow. Also, everything that he has raised in his comments has been addressed by the Air District in its Final Determination of Compliance for the project, which was issued on June 25th. There is a detailed response to all of Mr. Sarvey's comments in that document. Staff also has addressed his comments in their Revised Staff Assessment and the Applicant has addressed his issues, as well. So, we do think he has been heard and his issues have been listened to and considered in this proceeding. So, for those reasons, we believe the Committee properly denied his late filed intervention and we ask you to uphold it. Thank you.

CHAIRPERSON DOUGLAS: Thank you. Mr. Sarvey, since you have now heard what both staff and Applicant have to say, is there anything that you would like to add right now before we move to questions because I think Commissioners may have questions?

MR. SARVEY: Well, I just think it is curious that the Applicant objected to not having 10 days and invoked the Bagley-Keene Act here, but the Notice to Intervene was issued on a Tuesday, I mean, on the 26th, and there was not even five days to intervene in that, so I think the notice itself was defective, personally. But that is just the way I feel, that if it takes 10 days to

get before the Commission, then we should at least have 10 days to intervene, but I understand what their positions are and I still feel that I have showed good cause for intervention. It is a longstanding Commission policy to allow intervention up until the Pre-Hearing Conference, there are three other – one individual and two organizations – that have also petitioned to intervene, so there is some public interest here. I will note there is no public Intervener in this project which it states in the Hearing Order, there is no member of the public that has intervened. So, I think it is important to have public participation at all siting cases, and I think the Commission has always accommodated that. And if, in fact, they are not going to accommodate my intervention, I think there are some things on the Commission website that need to be cleared up in terms of instructing the public when the proper time or when the deadline is to intervene. Thank you.

VICE CHAIR BOYD: Well, maybe I should defer my fellow Commissioners first, but having jumped in here, I apologize for my voice today, had my first and only summer cold that is fighting to make me lose my voice, so it is a little – the hot tea here may help a little bit. Anyway, let me say, I have known Mr. Sarvey, we have known each other for the better part of the eight and a half years I

have been here, he has always comported himself and conducted himself as a gentleman, he has always been an effective Intervener, and I am not happy or comfortable with his situation because the Commission has always gone to great lengths, historically, to facilitate public participation. Frankly, I do not recall Mr. Sarvey and I ever having any strong words with each other, or major controversy, we may have disagreed with each other on facts over time, but it has always been a most courteous relationship. Therefore, I am troubled, but puzzled, and do not understand, frankly, why he did not file intervention much earlier, since he is an experienced Intervener, particularly, Mr. Sarvey, in light of the fact that you were so deeply involved at the PUC and the Bay Area Air District, with this case. I am a little surprised, if it is that meaningful with regard to our process, that you did not rather routinely and much earlier on, just filed as an Intervener. What I think you probably do know is the Commission has been extremely gracious in the past, you site some cases, some instances and comments and actions of other Commissioners, all of whom I have served with, I noted, who bend over backwards to facilitate your intervention, or the intervention of others. However, as serendipitously was mentioned at the beginning of this meeting, as we said goodbye to a valued

employee, perhaps you missed that, the workload here at this Commission is probably at its historic high. The staff is stressed and strained, the Commissioners are stressed and strained, the people of the state are, our financial resources are, we frankly could not have a more difficult situation to deal with, and the staff and everyone else has dealt mightily and heroically with that. And one of the things we encouraged was our Hearing Officers in our Hearing Office to try to – and the staff – to be as timely as possible on everything because we have such a great caseload, and so they have been extremely judicious in pushing the point about intervention – deadlines for intervention, and what have you. Therefore, this is why I supported the denial of your petition. It is most unfortunate. I have no personal objection to your involvement, it is just that, you know, I am thinking if I were to file my IRS filing four days after April 15th, I would get no passion from the Government. I got no passion from that traffic officer several years ago when I appealed the fact that I had never had a speeding ticket, and I am surprised to think that I would be going faster than the speed limit, but I got the ticket, I appealed it, I was not successful. I would say that, never having had a ticket, that he cut my fine in half, the Judge was very patient there. But, nonetheless, the rules are the rules

and we bend over backwards, and I just think it is unfortunate, perhaps tragic, that you did not file timely, but I just do not think we can violate our own rules and regulations, particularly at these incredibly difficult times. So, as you can take from what I am saying, I remain not in support, in this case, of granting you Intervener status. It will be ruled, of course, by the judgment of the entire Commission. Should you be denied, I would still welcome you tomorrow as a member of the public and, because you have earned the respect of this organization, believe me, what you would have to say would be taken seriously, and because you are a champion of air quality, and I have been for 20 years of my life, I have paid particular attention to your concerns. But, in terms of the process, nonetheless, I just cannot see my way clear to change my mind and support an intervention. So that is my position, my fellow Commissioners.

COMMISSIONER EGGERT: Actually, since this is my first time on this topic, I want to make sure I am clear on sort of the criteria that are applied. So the two main ones, as I understand it, is whether or not his concerns are relevant to the case, in which you said that they were, correct?

MR. KRAMER: Correct.

COMMISSIONER EGGERT: And the second is whether

or not there is just cause for the late filing, and I think that is sort of a main criteria that we are evaluating, based on the comments that have been made.

MR. KRAMER: It certainly turns on the good cause requirement, yes.

COMMISSIONER EGGERT: And then, I guess Commissioner Boyd's comments were very helpful, and I think, just to clarify, that there will be significant ample opportunity for participation as a member of the public, which, again, as I think you said yourself is a very important component of our hearings, and that is also true?

MR. KRAMER: Yes. The difference is, Interveners can submit evidence, expert testimony if they have it, and cross examine other witnesses, versus the public gets up and makes comments about their concerns about the project, and they can offer the same sorts of arguments that a party would. There is also a subtle distinction that public comment cannot by itself support a finding that the Commission could make, so it would have to be supplementing some other testimony that was sworn testimony, basically. But I do not know that that is going to be a particularly important distinction with regard to the kinds of comments that Mr. Sarvey will be making. But he will not be able to ask questions of the

other witnesses.

COMMISSIONER EGGERT: Okay. All right, no further questions.

COMMISISONER BYRON: Thank you, Madam Chair. Most of my questions have been answered, I just have a couple that I would like to drill down on briefly. Mr. Sarvey, in his Petition to Reconsider Sites, testimony from an earlier case, East Shore, where Commissioner Geesman indicated that, in every other proceeding he has been aware of, that we have allowed intervention prior to the Pre-Hearing Conference, and I guess I would like to know, is that true? And, if it is true, as you indicated, what is controlling? Up to the Pre-Hearing Conference, or 30 days prior to the Evidentiary Hearing?

MR. KRAMER: Whichever is earlier, so when you have the Pre-Hearing Conference, being closer to the Evidentiary Hearing than 30 days, it is going to be the 30 days prior to the Evidentiary Hearing. Here, we have – largely because we had a Committee Conference, and we tested the level of interest in the case and found that there were basically two parties, staff and the Applicant, because CURE has decided not to participate fully at the hearings, I can tell you that, I received an e-mail the other day. So we basically have two parties and, in those situations, in the interest of efficiency and expediency,

we sometimes in the past have combined the Pre-Hearing Conference and the Evidentiary Hearing, so one follows the other. If we came to the Pre-Hearing Conference and discovered a last minute snag, we might decide to postpone the Evidentiary Hearings, but the idea is that, if everything is all set and ready to go as we expect it to be, then we would immediately go into the Evidentiary Hearings, and then we would be able to prepare our decision. So, it is in this unique case where the Pre-Hearing Conference is closer than 30 days to the Evidentiary Hearing, that it is no longer possible under that rule to wait until the Pre-Hearing Conference to file.

COMMISSIONER BYRON: My second question is, as I understand it, a revised staff assessment was issued following the deadline for the Petitions to Intervene, and isn't it normally the process at this Commission that the public have access to all the staff documentation prior to a deadline for Petition to Intervene?

MR. KRAMER: No. I do not think the rules actually say that. That is probably an aspiration, or could be. I think it is fair to say that there are some, in fact, I have it on my list of things to consider when we go over the rules in the future, is whether we should be adjusting this deadline. My proposal would be to move

it further back, so people know that they have to intervene earlier in the process, so that they can fully participate in the march to hearings, if you will, the exchange of evidence and pre-hearing conferences. But, literally all our rules requires that basically a final assessment be available 14 days prior to the Evidentiary Hearings. And as I mentioned when I started, I think it is fair to say, in this particular case, the revised staff assessment is more on the order of the original staff assessment, reprinted with Errata woven into it, so that we have, again, to make that preparation of the decision efficient, so that we have a complete single document that has the final staff testimony in it, rather than having a staff assessment plus an Errata document because our plan is to attach a set of findings to that document, and that will be the decision. It is a quicker and easier way to prepare a decision. Frankly, it is probably the only way that we can get a decision out in this case, given our workload on the renewable cases.

COMMISSIONER BYRON: Well, Commissioners, I think we certainly have a commitment to all interested parties, foremost the public interest in these proceedings, but, as Mr. Kramer indicates, we have to balance an awful lot of factors in these decisions. I think it is extremely important that we uphold our

process, schedules matter as long as they do not impinge upon the public's rights. I am gratified that Mr. Sarvey is very interested in this case, that he is even here today, in fact, and that he is welcome to participate tomorrow. And I am sure that your input will be fully considered. But, Commissioners, I am prepared to go to vote on this.

CHAIRPERSON DOUGLAS: Commissioner, maybe I will make some brief comments before that. I just wanted to acknowledge that I think that Commissioner Boyd is correct, that the unprecedented workload that the Commission is under broadly and virtually everything we touch, but also specifically in siting, is affecting us, and it is affecting from staff to Commissioners to many of the attorneys and people who work with Applicants, and I am sure it is affecting Interveners, and so there is no question, and to members of the public who try to follow a lot of our cases. So, there is no question that this is not easy in any way for anybody. And a number of the things, the steps that we are trying to take to expedite processing of these cases, and expedited review of these cases, without compromising the quality of that review, our process changes that requires attention to follow, whether it is one staff document rather than two, and I do believe that Mr. Sarvey had ample notice that that was the

case, both in this specific case, and in others, but that is certainly a change that everyone in our process, where that has been adopted, have to adapt to and deal with. This issue of holding the Pre-Hearing Conference and the Evidentiary Hearings on the same day, in a different environment it might be tempting to leave ourselves a week or two, or more, in between them, just to be sure that we had time and attention to devote to any surprises or any issues that arose in the Pre-Hearing Conference, and then flow into Evidentiary Hearings; but, in the environment in which we are operating, I think it makes sense, and it is consistent with the direction that certainly I have provided on my siting cases, that where it makes sense, and where it may work, to have a pre-hearing conference and an evidentiary hearing on the same day, we go ahead and schedule that. And obviously, if something comes up and it is just not going to work, we always have the option of rescheduling it. And it appears in this case that Mr. Sarvey may have been tripped up by an expectation that it is generally okay to intervene up to the prehearing conference, maybe without having fully realized that, when the Pre-Hearing Conference and the Evidentiary Hearing are on the same day, that is different from the standpoint of our own regulations, and it is also different from the standpoint of what that means for a

case and how that affects the Applicant and the other parties. So, I am also – I am on this Committee, I supported the original decision to deny Mr. Sarvey's intervention, and I am in support of denying his appeal, but not without recognizing that the value that he has brought to proceedings in the past, the value that we hope he will bring to this proceeding as a member of the public, and as the other committee member, I will say that I, too, will pay particular attention to issues that he raises, and as we carry out our responsibilities, to attempt to assure myself with the record and hearing from the public. Now, I should say, I do have one member of the public on the phone – oh, no, let's see, I have Lisa Cottle, we have already heard from Robert Sarvey, okay, so you are at the table, and then I have two members of the public, Rob Simpson, and Michael Boyd. Let me start with Mr. Simpson on the phone.

MR. SIMPSON: Can you hear me okay?

CHAIRPERSON DOUGLAS: Yes, we can.

MR. SIMPSON: Okay, thank you. This proceeding, it started out, apparently, as a different project. There was an informational meeting with the community on December 18th of 2008. At that proceeding, Hearing Office Kramer informed the public that it was fair in his comments of that day, if you wait for an EIR through the

whole thing, the whole thing will be over and you will be still waiting because we do not provide anything with an EIR cover. But you want to be looking at the Preliminary Staff Assessment and, then, the Final Staff Assessment as a substitute for an EIR in this process. Following the Preliminary Staff Assessment, then the Air District will issue a Final Determination of Compliance, and then the staff will issue a Final Staff Assessment. Now, none of these things occurred in this proceeding. You skipped the Preliminary Staff Assessment, the Air District did not issue a Final Determination of Compliance until after the opportunity for intervention was over, so the project that was proposed in 2008 is not the same project that is proposed now. In 2008, it was a combined-cycle project that would have had a lower greenhouse gas impact than a single-cycle project that is now proposed. In the 2008 meeting, the Applicant indicated that the Marsh Landing Generating Station, which is wholly contained in the Contra Costa Power Plant site, repeated that several times, and now the site seems to be identified as an independent site that is not part of the existing project, taking it away from the Federal permitting rules. So what you have got is a project that has not been vetted in public scrutiny. This project has not had the public participation opportunity. In September of 2009, the

project was changed from the combined-cycle facility to a simple-cycle facility, and there was no public information about that. So, while we are waiting for the Preliminary Staff Assessment and the Final Staff Assessment to occur, just as the Order after that initial meeting status, the Hearing Order says that there will be a PSA filed, it says there will be an FSA filed, and no one has gotten none of those things, and it appears that we will also be rejected for intervention. So we have got some process concerns with this whole thing, 1) the public does not know what is going on here, and 2) we are not afforded the opportunity to participate. So, what I would like to see happen is that the petition to intervene is granted, that we have a pre-hearing conference, we review the siting guidelines on page 101 of the Public Participation Guidelines, and following the pre-hearing conference, the committee will prepare and serve a hearing order. Now, I do not know how it is going to be [inaudible]. So we have got inconsistencies between what is published as guidelines for us, the public, to follow and what is going on here. So, if the rules are going to change in the middle of the proceeding, we would hope to get notice of that.

CHAIRPERSON DOUGLAS: Thank you, Mr. Simpson. I see that Hearing Officer Kramer is standing at the podium. I believe he would like to respond to some of what you

raised.

MR. KRAMER: Mr. Simpson has chosen to read some of the documents that are on the website and not others. The more recent documents, which would include the last two staff status reports, telegraph that the approach was changing from what was described generally at the informational hearing, that there was going to be a single assessment followed by a workshop, and then some kind of supplemental document, which has turned out to be the revised Staff Assessment. The Guidelines, I do not believe, were regulatory documents, that is the Public Adviser's attempt to explain our process to the public, and it is true that it has changed in this case, but the changed approach is allowed by our rules and would be evident to people who read beyond the transcript of the initial informational hearing and were truly following the case, which, in my mind, is a sign of actual interest in the project.

CHAIRPERSON DOUGLAS: Thank you, Hearing Officer Kramer. Let's go to Michael Boyd of CARE, also on the phone.

MR. BOYD: Hi, this is Mike Boyd. Can you hear me?

CHAIRPERSON DOUGLAS: Yes.

MR. BOYD: Okay. I am Mike Boyd. I am the

President of CARE, Californians for Renewable Energy. And one question I had is I missed the beginning part of this item and I am just curious, what is the emergency that allows you to put this on the agenda without 10 days advance notice to the public? I do not follow it. What is the emergency?

CHAIRPERSON DOUGLAS: Mr. Boyd, that was the first item that we took up and I am sorry that you missed it, but we had some discussion on the matter and we decided to hear it because the Commission found that, under the circumstances, hearing this now would enable us to resolve this issue and proceed with evidentiary hearing, as opposed to having the hearing compromised in some way with this uncertainty. And so that was the finding of the Commission, and that was the first finding we had to make before this came on the agenda.

MR. BOYD: So you are saying there is a procedural glitch that created the emergency?

CHAIRPERSON DOUGLAS: Mr. Boyd, it is unfortunate that you were not here to speak when that item was brought up because the opportunity was there.

MR. BOYD: Well, I am here now. I am here now, and so in that regard, I would like to notice to you the correct [inaudible] that violation of the Bagley-Keene Act. I do not believe that is a legitimate reason to have

an emergency item on the agenda without proper notice. So that is the first thing I would like to say. Now, the other thing I would like to bring up is in regards to Mr. Sarvey's intervention, is what I am hearing from staff is there was a low level of interest from the public on this matter, and I am looking on the docket today online and I see that, not only did you deny the intervention of Mr. Sarvey, but Mr. Simpson, and the Local Clean Energy Alliance, and I also see that the Sierra Club is trying to intervene, too, and so my question is, if you guys are working for us as the public servants, why are you trying to cut the public out from this process? That is what it appears like you are doing, and this is just a statement, and I believe that violates our right as members of the public to due process of the law, and I believe that is a federal violation. And I also believe that there is a pattern and practice of what I call synergistic corruption between the Energy Commission, the Energy Commission staff, and the Applicant, to preclude the public from participating. And, in fact, this is a matter for the Federal District Court in another case that you guys are involved in called the Gateway Generating Station. And I just wanted to let you know that, yesterday, the United States withdrew their consent decree, which means that there is no consent decree, and PG&E is operating its

plant in violation of the Notice of Violation that was given in September of 2009, that then the CEC subsequently said it was okay for them to continue operating that plant. And I believe that the synergistic corruption is to aid and abet these polluters, like PG&E, and that what you are doing here is just the same pattern and practices, and it is the corruption. And what I would request is that you send me a copy of the transcript of this meeting when it becomes available and I will provide that to the Judge in this Federal District Court because I think this is a perfect example of just what we are talking about, the CEC doing to this Judge. And that is all I have to say, thank you.

CHAIRPERSON DOUGLAS: Thank you, Mr. Boyd. The transcripts are available, and so maybe we can work with the Public Advisor to ensure that you get a transcript. I would like to ask Hearing Officer Kramer to speak to some of the points you have raised, and our Chief Counsel, Mr. Levy, to address the first issue.

MR. KRAMER: I wanted to make a point about public participation. The public is always welcome to come to our hearings and make comments. We do what we can to make our hearings accessible to them remotely via the telephone, but intervention, that is another level of participation. That, you are treated as a full party,

just as a staff and the Applicant, and along with those rights come expectations, and one of those is to know our rules, and the second is to meet our deadlines, so it – Mr. Boyd seems to be assuming that public participation requires that everybody be allowed to be an Intervener and we have standards, thresholds that you must meet to get into the door to be an Intervener, but then, once you are one, you have to follow the rules, and I think a corollary is, in order to be one, you also have to follow the rules.

CHAIRPERSON DOUGLAS: Thank you, Hearing Officer Kramer. Mr. Levy?

MR. LEVY: Yes, Commissioners. The Government Code Section is not Subdivision (A)(1) of 11125.3 which relates to emergency situations, this is Subdivision (A)(2), which discusses a lesser category of need to place this matter on the agenda, and the Commission fully satisfied the requirements of 11125.3(A)(2) before it took up this matter. The matter is properly on the agenda, and the only item before you is whether to grant the appeal of Mr. Sarvey's Petition to Intervene.

CHAIRPERSON DOUGLAS: Thank you, Mr. Levy.

VICE CHAIR BOYD: Well, I will, consistent with my previous comments, move to deny Mr. Sarvey's petition.

COMMISSIONER BYRON: Madam Chair, I second.

CHAIRPERSON DOUGLAS: All in favor?

MR. LEVY: Madam Chairman, I am sorry, before you vote, Commissioners, you may want to, as part of your motion, or in a subsequent motion, order that the Committee's Order be deemed amended to reflect that the Petitioner's interests are relevant to the proceeding.

CHAIRPERSON DOUGLAS: Well, I think we are halfway through our vote, so let's finish that, and we will do a supplement –

VICE CHAIR BOYD: Okay, or I can withdraw my motion and modify it to reflect –

CHAIRPERSON DOUGLAS: All right, why don't we do that?

VICE CHAIR BOYD: -- reflect Mr. Levy's point, the relevance of the issue, and that it is just a matter of time, and I now will move that we deny the petition on those grounds.

CHAIRPERSON DOUGLAS: Do we have a second?

COMMISSIONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

The motion carries.

MR. SARVEY: Thank you, Commissioners.

CHAIRPERSON DOUGLAS: Thank you.

Item 1. Consent Calendar.

VICE CHAIR BOYD: Move approval.

COMMISSIONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 2. El Segundo Power Redevelopment Project (00-AFC-14C). Possible approval of a petition to amend the El Segundo Power Redevelopment Project to include new state-of-the-art rapid response combined cycle (R2C2) technology. Mr. Douglas. And before you begin, could we do something about the static? All right, well, it is hard to be comfortable with that. Let's just wait a minute and see if we can resolve this static issue.

MR. DOUGLAS: I will just speak louder if I have to.

CHAIRPERSON DOUGLAS: Go ahead.

MR. DOUGLAS: Good morning, Commissioners. My name is Joseph Douglas.

CHAIRPERSON DOUGLAS: And right into the microphone since –

MR. DOUGLAS: Good morning, Commissioners. My name is Joseph Douglas and I am Compliance Project Manager for the El Segundo Power Redevelopment Project. To my left is Senior Staff Counsel, Kevin Bell. I am here to present the Petition for El Segundo Energy Center to amend the February 2005 Decision, and for a possible approval of a change to the project from ocean once-through cooling to

dry cooling, and zero liquid discharge technologies. I believe this is the first of the coastal plants to go to dry cooling. The current El Segundo Plant is a 630-megawatt combined cycle gas-fired power plant located in El Segundo, California, on the Coast, just south of LAX and North of Manhattan Beach. Modifications proposed for the project include the use of the new and more efficient state-of-the-art rapid response combined cycle technology, not available during the original siting of the previous permitted project. This new technology will eliminate the need for once-through cooling and the need for waste water discharge to the ocean. In addition, other modifications proposed include modification of the plant entrance road and to allow for over-sized vehicle delivery, and an addition of a new off-site lay-down area. The revised project would be rated at 530 megawatts.

The process has been a little bit lengthy and they had a few delays which I will go over as soon as possible, and I would like to commend staff for their renewed efforts to keep this project moving.

On June 15th, 2007, Applicant filed a dry cooling amendment and a staff analysis was published June 12th, 2008. On June 25th, 2008, Energy Commission staff held a site visit and workshop regarding the amended petition and the staff analysis. And in October of the same year, they

produced an addendum that addressed public comments to the staff analysis. However, at the same time, the permitting was delayed because a core ruling from the Superior Court of Los Angeles vacated the South Coast Air Quality Management District Air Emissions offset-related program, so that delayed things until January of this year, in which that program was reinstated. On May 18th, the Air District submitted a revised permit, and then republished the revised staff analysis on June 14th, and the comment period was until June 29th, and we have not received any comments to date.

Energy staff has reviewed the petition and proposes revisions to the existing Conditions of Certification. It is staff's opinion that, with the implementation of revised conditions, the project will remain in compliance with applicable laws, ordinances, regulations, and standards, with no impacts to the environment, nor significant adverse impacts will be had. In addition, there are no new circumstances that require new studies or analysis. And so, staff recommends approval. And one final bit of duty is that there is a small clarification to the Air Quality section that Air staff would like to present. Mr. Brenner Munger.

MR. MUNGER: Madam Chair, Commissioners, my name is Brenner Munger. I am an Air Resources Engineer in the

Air Quality Section at the Commission. I have prepared the testimony on air quality in the revised Staff Analysis for the El Segundo Power Redevelopment Project, Docket 00-AFC-14C. I would like to make two corrections to that testimony, both of these corrections are on page 4.1-15 of my testimony. This is the portion of the testimony dealing with mitigation, air quality and mitigation for the proposed project is based on emission offsets with the shutdown of the three boiler units, one, two, and three, at the existing El Segundo Generating Station, the emissions from the proposed project will be fully offset as allowed under Rule 1304(A)(2) of the South Coast Air Quality Management District. The changes to my testimony are needed to provide the correct references to the District rules providing these offsets.

In the first line of the last paragraph on page 4.1-15, the reference to South Coast Air Quality Management District 1304(B)(2), should be changed to Rule 1304(A)(2). In line 8 of that same paragraph, the reference to Rule 1315 should be deleted.

Senate Bill 827, which allows the District to issue permits to projects subject to Rule 1304, directed the District to rely on the offset tracking system used prior to the adoption of Rule 1315. So, the reference to Rule 1315 is incorrect. Thank you for this opportunity to

provide this corrected information.

CHAIRPERSON DOUGLAS: Thank you. Can we now hear from the Applicant?

MR. McKINSEY: Thank you, Chairman Douglas. This is turned down a lot, isn't it? My name is John McKinsey, counsel to NRG Energy, which is the parent of El Segundo Energy Center, LLC, the project owner, and proponent for the Petition to Amend. With me, is Steve Hoffmann. He is the President of the Western Region of NRG Energy, also the President of the project owner entity, El Segundo Energy Center, LLC.

I wanted to add just a clarifying remark and, then, Mr. Hoffmann wants to say a few words, and that is that the amendment that is before you not only achieves dry cooling, which may not be the first time from the perspective of a conversion, because we have done that at Gateway, and so this is probably the second iteration where a proposed project – approved project – with combined cycle is being converted to dry cooling. But this project change does a tremendous amount of beneficial things, including a new access road, the elimination of the waste water discharge stream, a new technology which is also going to allow the project to respond much better to cyclical renewable energy in Southern California Edison's load center, and then a bunch of other small

improvements on the site. And most of these partly were brought about simply from the length of this proceeding, that this project, as you might have noticed, is a 00-AFC, and it took five years to get through the initial approval process. And when that was completed, a lot of things were out of date, and so what has essentially happened is the project has been improved, refined, matched to a current Power Purchase Agreement with Southern California Edison, and that is going to allow it to now move forward very rapidly and meet Southern California Edison's needs. Steve.

MR. HOFFMANN: Yes, thank you. I will be brief because, as Mr. Douglas pointed out, this project has been on a long enough journey, which started 11 years ago. But I did want to recognize and thank the Commission staff for the quality of their work; because of that quality, this process, although it has been a long one, and a hard one, has great credibility. And I wanted to assure the Commission that, with your approval, we will build a project that you and California can be proud of, and that we and 350 workers are very anxious to get that process started. Thank you.

CHAIRPERSON DOUGLAS: Thank you. Commissioners.

COMMISSIONER BYRON: Madam Chair, if I may, just a quick question, I think, of staff. As I read this

material, it would seem to me that, not only do these changes meet our criteria, but, in many cases, exceed our criteria that were applied earlier to the project.

MR. DOUGLAS: Correct, yes.

COMMISSIONER BYRON: In fact, I note that they all seem to be improvements. Is that correct?

MR. DOUGLAS: Yes.

COMMISSIONER BYRON: Madam Chair, I would really – thank the Siting Committee for their wisdom in not setting a full committee for this particular item, although it is a major – major changes, obviously. I appreciate the wisdom of the committee to just go ahead and proceed with this as a revision. It looks like a very good project. I would like to thank the Applicant for hanging in there, although we cannot know everything that has gone on over the last 11 years, we do appreciate it when you bring us projects that are this responsive to changing policies in the State. This looks like it is a very good adaptation of what has transpired over the last 11 years in terms of policy. And it looks like a very good project. I think you know which way I will vote on this.

VICE CHAIR BOYD: I would just like to comment, as a member of the Siting Committee for this case, long ago, I probably would have less grey hair if we had

arrived at this decision then, instead of now, but I know it is a product of changing times and the ever-accelerating pace of technological development, but I am sure the gentlemen at the table remember the long long hours in discussing once-through cooling, the ramifications to Santa Monica Bay, and various approaches to mitigate that issue, and what have you. So, I was pleased as punch to see this modified project show up, glad that they did not reincarnate a siting committee for this case, and so, obviously, you know how I will vote. I am very pleased to see – it is too bad it has taken so long, but the net result is an extremely up-to-date, and progressive, and positive for the environment and the community, project. So, in any event, pleased to still be here to participate in finalizing this case. I will then move approval as the last standing – and I was not even a member of the original siting committee, I stepped in when another Commissioner stepped out, but I believe Commissioner Keese and I finished this project, at least we thought we did. In any event, I move approval of staff recommendation.

COMMISSIONER BYRON: And I will second approval.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

This item is approved. Thank you.

COMMISSIONER BYRON: Mr. Hoffmann, since you were here, were you here for the entire 11 years?

MR. HOFFMANN: I was a spectator for the first part of it, and I am very pleased to be at the table to finish it. We hope to finish what we have started.

COMMISSIONER BYRON: Good, gentlemen. Thank you.

CHAIRPERSON DOUGLAS: Item 3. Energy Efficiency and Conservation Block Grants. Possible approval of an Energy Commission resolution to revise agreement terms to pay small jurisdiction and local agency invoices based on proof of costs incurred or payments made. Mr. Sugar.

MR. SUGAR: Madam Chairman, Commissioners, I am John Sugar with the Fuels and Transportation Division. Staff is requesting your approval of a change to the terms of the small jurisdiction grants for the Energy Efficiency and Conservation Block Grant Program. The current agreements require jurisdictions and partnership leads to document that they have paid for equipment or services before they may request reimbursement from grant funds. This requires them to carry the expenses using non-grant money until they can receive our payment. For many of the small jurisdictions, and for partnerships with tight budgets, this constitutes a hardship and it also has the effect of delaying disbursement of the grant program

stimulus funding. The proposal before you now is to change the terms of the small jurisdiction agreements to allow us to reimburse the grantees for costs incurred before they have paid the invoice or invoices. The Commission has used this approach for contracts and grants in the past, and this change will allow the grantees to use the grant money to pay for equipment and services without dipping into other funds. This also has the advantage of allowing us to pay invoices sooner, to get moving the stimulus money out to local communities more quickly. So, staff requests your approval of this change.

CHAIRPERSON DOUGLAS: Thank you, Mr. Sugar. And it is also the case that we will be asking these Grantees to ultimately provide us with proof of payment, as well. Is that correct?

MR. SUGAR: Yes. We are working with our support contractor for ARRA, Perry Smith, to determine the most efficacious way to reduce risk of these payments being inappropriate and, at the same time, not be burdensome for either staff or for the local jurisdictions.

COMMISSIONER EGGERT: Just to follow-up on that, so the clarification is that it is subsequent to the purchase or work done, but prior to the invoice?

MR. SUGAR: Right, prior to them having to write

a check, so they owe the money, they will be able to invoice us, and receive funds before they actually have to pay out-of-pocket.

COMMISSIONER EGGERT: And this could be quite useful for those jurisdictions that do not have a lot of cash on-hand, I would imagine?

MR. SUGAR: Which is quite a few of the jurisdictions right now.

COMMISSIONER EGGERT: Yeah. It sounds like a pretty good – or an improvement, I should say.

COMMISSIONER BYRON: Just a quick procedural question. You know, we count on staff to obviously bring these kinds of corrections, let's say "improvements," to us for approval. I note that the resolution only requires signature of the Chairman. Are we just bringing this before the entire Commission in the interest of extreme caution, Mr. Levy? Do you know?

MR. LEVY: I believe the Commission has to approve it if it is for the signature of the Chairman, that would be pro forma on behalf of the Commission.

COMMISSIONER BYRON: All right. Madam Chair, I Move approval.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

MR. SUGAR: Thank you.

CHAIRPERSON DOUGLAS: Thank you, Mr. Sugar.

Item 4. California Pollution Control Financing Authority. Possible approval of Contract 600-09-019 for $34 million with the California Pollution Control Financing Authority. Mr. Rillera.

MR. RILLERA: Chairman and Commissioners, Larry Rillera with the Fuels and Transportation Division. Over the past year, staff has been working with the State Treasurer's Office to provide financing assistance and program administration for various AB 118 project areas. The Treasurer's Office would do this through the California Pollution Control Financing Authority, also known as CPCFA. CPCFA has a requisite authority and expertise that enable eligible AB 118 Applicants to participate in CPCFA's capital access program, otherwise known as CalCAP. CalCAP is a type of loan guarantee financing tool. AB 118 funds would be used as the loan guarantee financing tool for eligible participants seeking direct loans through CalCAP lenders or their banks. The CalCAP financing is consistent with the objectives of the AB 118 program and the investment plan. Staff would ask the Commission for support to approve Item 4, an inter-agency agreement with the California Pollution Control

Financing Authority to providing financing assistance for participation in the CalCAP program. $34 million would be encumbered in this inter-agency agreement.

VICE CHAIR BOYD: Well, my only comment is that I am more than gratified to see this item on the agenda, finally. I know staff has worked very very hard on this and I know several Commissioners probably equally are very glad to see this. It is very important to the execution of the 118 program or component thereof of AB 118 program. And I would just salute staff for the extremely hard work they have done. We ran into all kinds of unfortunately bureaucratic hurdles here and it is just a shame that the State of California is so bloody process bound that it takes so long to do some of these things, but they have delivered, and here it is. And I am very pleased to see it. This, in concert with a lot of other items today relative to this program that we are yet to act on, are very deserving of appropriate notoriety and I hope Ms. Jones and our Public Information staff accordingly see that we get some notice of the significance of some of these actions. Enough said.

COMMISSIONER EGGERT: Actually, just to follow on that, I think similarly this is excellent that we have come to the final approval of this program and I would note the specific purpose of this is to help facilitate

advanced biofuels facility and vehicle manufacturing plants here in the state to create additional jobs within these sectors, and certainly we have seen a significant amount of interest and activity in this space. And, to the extent that this program can help facilitate access to capital, I think it has got tremendous potential. And I also think, you know, communicating this more broadly will also hopefully invite even further interest and applications, and other financial institutions to partner with us because I think, you know, even though this is a significant amount of money, it is only sort of the tip of the iceberg of what we need in terms of the investments to achieve our energy and environmental goals. And I would note that this does also expand our partnership with the State Treasurer's Office and a number of other agencies that have been actively involved in setting this up. So, you know, where we can take advantage of each other's areas of expertise and structure, I think that is a good thing.

CHAIRPERSON DOUGLAS: Thank you, Commissioner Eggert.

COMMISSIONER BYRON: Madam Chair, just a quick comment. I am pleased to hear the comments from my fellow Commissioners and what is behind this effort. It looks as though a little thanks to the staff is in order, Mr.

Rillera. There is a lot of bureaucracy to overcome in getting things done. I know I have characterized it in the past as a treacherous unmarked path for the staff to walk, to figure out how to get these contracts and efforts in place – oh, and the path has land mines, too. So, thank you very much.

VICE CHAIR BOYD: With that, I will move approval of the item.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

This item is approved.

MR. RILLERA: Thank you.

CHAIRPERSON DOUGLAS: Thank you.

VICE CHAIR BOYD: Congratulations.

CHAIRPERSON DOUGLAS: Item 5. San Bernardino Associated Governments. Possible approval of a grant of $9,308,000 to San Bernardino Associated Governments (SANBAG) to purchase 182 heavy-duty Freightliner-M2112 natural gas trucks and 20 of a different kind of trucks, and at that point, I will let Jennifer Allen make the presentation. Ms. Allen, I note that you are presenting on 11 items in a row, so –

MS. ALLEN: Yes, so if anybody needs to take a break right now –

CHAIRPERSON DOUGLAS: Well, I will just assume that you are prepared to go the distance, but please, be concise and we will ask questions where we have them. We have all had the material. And, with that, please present on Item 5.

MS. ALLEN: And good morning, Chairman Douglas and Commissioners. Well, it is still morning. Okay, the first project here is approval to enter into a grant agreement with San Bernardino Associated Governments and this is a grant that was awarded out of PON-08-010, which was for projects that were going for American Recovery and Reinvestment Act funding, and San Bernardino is partnering with Ryder Trucks for this project. It will deploy over 200 liquefied natural gas vehicles. The Energy Commission will be funding portions of the natural gas vehicles and we are requesting $9,308,000 for that part of the project. The Department of Energy has entered into an agreement with San Bernardino Associated Governments for $9,308,000 also, and they will be funding the liquefied natural gas stations and, then, also a portion of some of the vehicles, as well as a training program for maintenance on the vehicles and some facility modification to allow the vehicles to be maintained on the Ryder sites. The projects will be in San Bernardino and Orange County Areas, and Ryder Trucks is providing over $17 million to this project. So, staff recommends approval of this award.

COMMISSIONER BYRON: Madam Chair, I have reviewed all the material on this item, as well as the similar items all the way to Item 13 and I do not believe I am going to have any questions on these. We are going to move a lot of money here, but these all seem to be good projects. I just thought I would let you know that. And I have no questions for Item 5.

CHAIRPERSON DOUGLAS: Thank you, Commissioner Byron. And I will look at the Transportation Committee, I think you both may have something to say, as we are so pleased to see these items reach the Business Meeting. Maybe, if you would like to, obviously we can reserve item specific questions for when they come up, but general comments to make now and that might expedite moving –

VICE CHAIR BOYD: Well, I think that is a good point. I will, as Chair of the Committee, 1) thank my fellow Commissioner here, who will probably have something to say for his work on these projects, it has been a long path, like the first item we talked about, and I will just make some comments that apply to all of these, vetted to death by the Transportation Committee. As we worked with staff through this long arduous process that State government presents us to deal in these kinds of programs and projects, but, at long last, the dam is spilling water and we are going to see the fruits of the efforts and start realizing some of the goals and objectives of

the original legislation of AB 118 that provided financing to this agency for these kinds of activities to address our transportation fuel, our greenhouse gas, our air quality issues in California, that are so tied to the Transportation sector as we seek to diversify our transportation fuel sources, as we seek to innovate and encourage new technology that address those kinds of goals and objectives, and this and all the other projects that staff has ground through, a very public competitive process to bring forward to the staff today, to this Commission today, and I am just very pleased that we are here this day and I am able to be here this day to see this. So this is but one of many extremely positive activities and it will finally allow us to address many people who have been quite concerned about how is this program going, coming, what have you, and we now have or are beginning to establish a substantial track record. And I know this will carry into the future as concurrently the same committees working with the staff on the next Investment Plan, and our Advisory Committee for Investment Plan for future years, and we have more years in the future to do this. So, enough said. Maybe Commissioner Eggert would like to add a few comments, as well, I am sure.

COMMISSIONER EGGERT: Sure, and thank you, Commissioner. And it has been a great pleasure to serve on this committee with your leadership. And sort of seeing these projects come to the Business Meeting is an incredible

accomplishment by the staff. I would note, all of these projects are in the medium- and heavy-duty category, I think there is one that is specifically focused on the infrastructure to serve them. And in this first project, you will note the significant leverage against the Federal ARRA dollars, $9 million of ours to $17 million of the Federal dollars; this is part of a number of projects which I think, if I am remembering the numbers correctly, just shy of about $40 million in 118 dollars matched against over $100 million of Federal ARRA dollars, and so this was part of that package of successful proposals. And, actually, even another more than $100 million that was made up of other non-State and non-Federal funds to match against our $40 million, so that is quite an accomplishment in and of itself. And then, I think most of the subsequent projects were part of a CEC PON that we have just now completed, you know, scoring and awarding. And to echo Commissioner Boyd's comments about the policy goals and the fact that these projects are simultaneously addressing our goals for greenhouse gas reduction, petroleum reduction, and especially air quality, especially in the medium- and heavy-duty sector, the opportunity there is quite substantial. So, we are very excited to see these come before us and looking forward to the votes.

VICE CHAIR BOYD: I will move approval of the item.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 5 is approved.

MR. LEVY: Chairman, pardon me. Commissioners, if the Commission's desire is that you may take all of these with one vote, if there are not any comments, except I note on three of them, staff will have a CEQA comment put into the record. It is at your discretion, you may take them one at a time, certainly, or you can do it as a group.

VICE CHAIR BOYD: Well, having acted upon this one, why don't we batch the rest of them?

CHAIRPERSON DOUGLAS: Which are the three that have CEQA comments?

MS. ALLEN: There are actually two, the last two infrastructure.

CHAIRPERSON DOUGLAS: So, 14 and 15.

MS. ALLEN: The next nine, which were the medium- and heavy-duty, I believe there are some of the project proponents that are in the audience on those. I do not know if they wanted to say anything.

VICE CHAIR BOYD: Madam Chair, could we offer a substitute motion that would encompass, I guess, Items – what – 5, 6, 7, 8, 9, 10, 11 –

MS. ALLEN: Twelve and 13.

VICE CHAIR BOYD: -- 12 and 13? Now, did I – I was

asking a question here, what are the two that have the CEQA?

MS. ALLEN: Fourteen and 15, City of Lemoore and Sacramento Regional Transit District.

VICE CHAIR BOYD: So if I may offer a motion on five through 13 for approval, otherwise we are going to be sitting here offering plaudits on each and every one of them, and the agenda pretty well spells out the amounts of money involved and the programs involved. I appreciate Mr. Levy's suggestion, it might make for a slightly shorter meeting.

CHAIRPERSON DOUGLAS: I am in full agreement. Do we have a second?

COMMISSIONER BYRON: Madam Chair, a comment. The only reluctance I have is that I do not want to diminish in any way Ms. Allen's work in bringing these to us, these represent $20 million worth of projects, and it is not just Chuck Mizutani Day, obviously, it is Ms. Allen Day here at the Commission.

MS. ALLEN: No, I am only the spokesperson for a large group of workers.

COMMISSIONER BYRON: A lot of people, yes, and I just do not want to diminish the staff's efforts there, but I think this would be expeditious so that we can get through these more quickly.

MS. JONES: And I can assure you from Agenda review that Jennifer did a wonderful job presenting all these items.

VICE CHAIR BOYD: So Commissioner Eggert and I have worked, it seems like, almost daily with Jennifer for a long long time, so –

MR. LEVY: And, Commissioners, if you are going to take these as a group, I would recommend that you invite those folks who have submitted a card.

CHAIRPRESON DOUGLAS: We will. So, we have a motion and a second from Commissioner Eggert, is that correct? All in favor?

(Ayes.)

Very good. Items 5 through 13 have just been approved.

Now, is there anybody in the audience who is associated with a grant, an awardee in Items 5 through 13, or would like to make comment out of general interest on these items? Very well.

We will move on to Item 14.

VICE CHAIR BOYD: I am going to have to change my preference for sodas, though. I have been a Pepsi generation guy for a long time, and now we have this Coca-Cola enterprise proposal in here, so I will have to think twice about my selections in the future.

COMMISSIONER EGGERT: Maybe we can invite Pepsi to join the project concept in the future here.

MR. LEVY: Chairman, for the record, were there cards

on items 13 through –

CHAIRPERSON DOUGLAS: No, there were no cards on those items.

MR. LEVY: Okay, thank you.

CHAIRPERSON DOUGLAS: Item 14. City Of Lemoore. Possible approval of grant agreement ARV-09-019, awarding $200,000 to the City of Lemoore. Ms. Allen.

MS. ALLEN: This project, 14 and 15, were from the infrastructure solicitation. And the City of Lemoore is the City of Lemoore and the Lemoore Area School Transportation Services, and this would be for the construction of a compressed natural gas fueling station. The school districts in the area, the area has very poor air quality, and there is a large percentage of their student population has to use inhalers. The proposal said three out of five carry an inhaler, on average, and they are switching over their busses to natural gas, but we are short the funds for the natural gas fueling. And they received a private donation from a local business for $465,405 towards the construction of the natural gas station, but they were still short $200,000. So, they came in to us with a grant application. And we are proposing funding the $200,000 to allow them to put in the natural gas fueling. It will also serve the City of Lemoore vehicles, as well as the school buses and, if any transit, other use, requires it, they will open it up for public use.

CHAIRPERSON DOUGLAS: Thank you, Ms. Allen. Go ahead, Ms. Webster-Hawkins.

MS. WEBSTER-HAWKINS: Ms. Chairman and Commissioners, Renee Webster-Hawkins in the Legal Office. And as was indicated prior, this item, as well as Item 15, have CEQA findings that staff is proposing that the Commission make. Just as background for both of these items, these were projects that have already been considered for approval, as well as for environmental review by local jurisdictions which have served as the lead agencies under the California Environmental Quality Act for the City of Lemoore. It is the City of Lemoore which is acting as the lead agency for Item 15. It is the Sacramento Regional Transit District itself, as a public agency, that is served as a lead agency. In both cases, the lead agencies found that there were potentially significant environmental impacts associated with the installation activities, but that any potential effects would be adequately mitigated by mitigation measures that were imposed by those lead agencies. Under CEQA, the California Energy Commission is a responsible agency since there is a local lead agency that has taken the lead on the environmental review. For the City of Lemoore, the City has adopted a mitigated negative declaration, and so, because of that, we have to assume as a responsible agency that that document is legally adequate, but we undertake our own independent analysis of the environmental impacts and any mitigation required. Staff has

conducted that review and analysis of the Mitigated Negative Declaration, and we are recommending that the Commission make an independent finding that any potentially significant environmental effects to the physical environment from the installation activities of this project have been adequately mitigated and reduce to a level of insignificant through the mitigation measures required by the lead agency. So, in sum, the staff is proposing that, as part of your approval, that you make an independent finding to that regard.

CHAIRPERSON DOUGLAS: Thank you, Ms. Webster-Hawkins. And did your remarks cover, then, Items 14 and 15?

MS. WEBSTER-HAWKINS: That is correct. In the case of Item 15, there was a Mitigated Neg Dec and it has been recently amended through an addendum, but all other comments are applicable to that project, as well.

CHAIRPERSON DOUGLAS: All right, thank you. Commissioners, we are on Item 14. Do we have comments, questions, or a motion?

VICE CHAIR BOYD: Madam Chair, do we need to make a separate motion with regard to the staff's recommended Negative Declaration on Item 14? Or is it included in –

CHAIRPERSON DOUGLAS: I think it is included in the record.

VICE CHAIR BOYD: If there is no further questions, I will move approval of Item 14 and incorporating the staff's

findings with regard to the CEQA consequences.

COMMISSIONER EGGERT: I will second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 14 is approved.

Item 15. Sacramento Regional Transit District. Possible approval of Grant Agreement ARV-09-018, awarding $500,000 to Sacramento Regional Transit District. Ms. Allen.

MS. ALLEN: Sacramento Regional Transit District is requesting $500,000 in grant award funding, and this is for three Fast-Fill, these are compressed natural gas dispensers, and this would be 1,500 standard cubic feet per minute, and this will allow them to be able to fuel their 240 natural gas bus fleet in about five to seven minutes per bus, so that they can do all the buses within a day, within an eight-hour period. And the fueling stations will also be made available to the Twin Rivers Unified School District and to any neighboring transit agencies that would require natural gas fueling. And they will match the $500,000 with $4.2 million in private match. And the dispensers will be at their bus maintenance facility located at the McClellan Park in Sacramento. Staff recommends funding for this project.

CHAIRPERSON DOUGLAS: Commissioners?

VICE CHAIR BOYD: I have no questions, and hearing none, I will move approval of this item and incorporating the

staff's CEQA findings into that motion.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 15 is approved. Thank you, Ms. Allen.

MS. ALLEN: Thank you.

CHAIRPERSON DOUGLAS: Is there any – I do not have any cards, but is there any public comment on either of these Items 14 or 15? Very well.

Item 16. County Of Los Angeles Internal Services Department. Possible approval of Contract 400-09-024 for $8 million with the County of Los Angeles Internal Services Department to provide comprehensive residential energy retrofits to single family and multifamily homes in Los Angeles County. Mr. Lerman.

MR. LERMAN: Good morning, Commissioners. This item is a request for approval of an $8 million contract using ARRA-EECBG funds to provide retrofits to single-family and multiple-family homes in the County of Los Angeles. The prime contractor is the County of Los Angeles Internal Services Department, and they will be subcontracting work to Vermeer Construction Management and Bevilagua-Knight, Inc. The program will use an aggressive retrofit strategy that seeks to obtain a minimum 20 percent energy savings, on average. Uses for ARRA funds include refining marketing and outreach strategies, establishing

contractor scholarship for BPI and HERS trainings, and developing workshops for directing stakeholders and contractors into the program. The contractor seeks to spur program participation through an extensive network of homeowner incentives that includes PACE financing and utility rebates. Workforce development strategies involve close coordination with local workforce investment boards, utility training centers, community college districts, and Build It Green. Residential training and certification will conform to the National Home Performance with Energy Star Program Guidelines, the Building Performance Institute Standards, and HERS 2 Requirements.

The contractor estimates this program will have an annual electricity savings of over 11 million kilowatt hours and an annual natural gas savings of over 900,000 therms. Based on these contractor estimated energy savings, this program is estimated to reduce greenhouse gas emissions by over 10,000 tons of carbon dioxide annually. So, I request your approval of this item.

MS. WEBSTER-HAWKINS: Chairman Douglas, if I may also?

CHAIRPERSON DOUGLAS: Please.

MS. WEBSTER-HAWKINS: In the spirit of addressing some of the items on the agenda today as a batch, items 16, 17 and 18 that you will be hearing from are all, as Mr. Lerman indicated, funded under the EECBG Block Grant from the Department of Energy, and just as a technical matter, these three items, these

projects have been submitted to DOE for their approval as an amendment to our State Plan for that Block Grant, and staff has had numerous discussions with the Program Manager at DOE and, at this point, we are simply awaiting the administrative approval of the amendment to the State Plan, so, if the Commission was to approve these projects, we would recommend that it be expressly contingent upon the approval from DOE of that State Plan.

CHAIRPERSON DOUGLAS: Thank you, Ms. Webster-Hawkins. Commissioners?

VICE CHAIR BOYD: Well, a question is when do we expect approval by DOE of that State Plan? Do you have an idea?

MS. WEBSTER-HAWKINS: Based on conversations, we had hoped to have it, except some vacation schedules of our Federal counterparts intervened, but we expect it within a week or so.

VICE CHAIR BOYD: Okay, very good.

COMMISSIONER EGGERT: Yeah, I was just going to make a quick comment. I would expect that we would get approval, given sort of the nature of this project and its consistency with the goals of ARRA and the EECBG Program goals. But I wanted to make just a quick comment about the staff that were working on these three grants, I mean, this is, I think, a tremendous accomplishment in a very short period of time to work with the relevant parties to come up with a very comprehensive and – basically a comprehensive program that touches on a lot of the

elements that we are trying to establish across the state with respect to retrofit activity for both commercial and residential facilities and, so, again, I am just looking at some of the details of this one, in particular, and the links through the Workforce Investment Boards, the local economic development activities, the links back to some of the infrastructure we are trying to establish for 758 in relation to HERS; again, I think this is just a tremendous program, and I know it is largely due to the staff's working with the Applicants in these cases, in a very short period of time. So I just want to commend you for that effort. And unless there are further questions, I would move the item.

CHAIRPERSON DOUGLAS: Is there a second?

COMMISSIONER BYRON: Madam Chair, I second it. I believe, with the condition that it is dependent upon the DOE approval.

CHAIRPERSON DOUGLAS: That is correct, thank you for that contingent upon the DOE approval, thanks for that clarification. All in favor?

(Ayes.)

Item 16 is approved.

MR. LERMAN: Thank you.

CHAIRPERSON DOUGLAS: Item 17. City Of Fresno. Possible approval of Contract 400-09-032 for $1,899,899 with the City of Fresno to expand energy efficiency ratings in Fresno

and Kern counties, and to train and develop a highly skilled workforce to perform home energy retrofits throughout the San Joaquin Valley region. Ms. Lam.

MS. LAM: Yes. Good afternoon, Chairman Douglas and Commissioners. I am Helen Lam from the Efficiency and Renewables Division. And the item before you, it is a request for the approval of an intergovernmental contract for approximately $1.9 million in the ARRA-EECBG fund to establish the Fresno Regional Comprehensive Residential Retrofit Program, to expand home energy audits and ratings in the Fresno and Kern County Areas. The Program will provide $39.2 million in leveraged funds, $37.5 million of which will come from anticipated private financing by the participating homeowners. The program will leverage the City of Fresno's existing efforts in its Energy Survey Program to increase capacity in the private sector to carry successful large scale deployment of residential energy efficiency retrofits as a regional priority in Fresno and Kern Counties. The program will retrofit 1,500 single-family homes, provide training and support to develop a workforce for whole homes, retrofits, and build and engage a local infrastructure for building performance contractors and home energy raters to provide energy audits and ratings, as well as quality assurance of retrofits.

The Fresno retrofit program will build on the concepts of HERS 2 and Home Performance Energy Star to deliver a

comprehensive, whole house energy efficiency to a home. The program will collaborate with local workforce investment boards, community colleges, and organizations receiving ARRA SEP Green Jobs Training Program Grants, as well as local and regional programs providing ARRA, SEP and HUD financing such as PACE financing and Neighborhood Stabilization Program Energy Efficiency Mortgage, and FHA 203K financing. The program will collaborate with national and state comprehensive residential building energy efficiency retrofit programs, including Home Performance Energy Star, Building Performance Industry Standards, Certification and Accreditations, and Utility Whole House Retrofit Programs.

The City of Fresno estimates that the program will create 447 jobs based on the Department of Energy's Provider Formula, and save 4,460 megawatt hours of electricity, and over 212,000 Therms of gas savings per year. Based on these estimated energy savings, the Fresno Retrofit Program is expected to reduce greenhouse gas emissions by 3,206 tons of CO_2 equivalents annually. Therefore, I request your approval of this contract with the City of Fresno.

CHAIRPERSON DOUGLAS: Thank you, Ms. Lam. Commissioners, questions or comments?

COMMISSIONER BYRON: Madam Chair, I move approval of Item 17 with the same condition, that it is dependent upon DOE approval.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

MS. LAM: Thank you.

CHAIRPERSON DOUGLAS: Thank you. Item 17 is approved.

Item 18. County Of San Diego. Possible approval of Contract 400-09-031 for $3 million with the County of San Diego to design and implement a comprehensive residential building retrofit program for the San Diego region. Ms. Eden.

MS. EDEN: Good afternoon, good lunchtime Commissioners, Madam Chairman. I am Devorah Eden with the High Performance Building Standards Development Office, and this is the third of the three proposed intergovernmental contracts using the Energy Efficiency Conservation Block Grant funds. This proposed contract with the County of San Diego is for $3 million, there is a lot of leveraging of funds for this proposed contract, over $4 million for incentives to do energy audits in residential and multi-family buildings, approximately $1.5 million in workforce development, job development, and another $37 million estimated that would be in the form of tax credits, IOU rebates from their programs, and PACE financing. The proposed contract’s goal is to retrofit 1,000 single-family homes and 1,000 multi-family units, so they are targeting both single-family and multi-family buildings. The prime contractor, of course, is the County of San Diego, and subcontractors

include the Heshama Home Group [phonetic], who will be covering the multi-family part of it, and California Center for Sustainable Energy is covering the single-family portion. So, in addition to the audits they intend to do and the retrofits, they are also intending to launch their PACE program in the San Diego Region. Their plan is to train Home Performance Contractors and HERS Raters, Auditors, and Inspectors to develop that workforce in the San Diego Region. They are also intending to extend the HERS Phase 2 Audit Tool to include multi-family low-rise and high-rise buildings, so that is an important tool to be developed, that will benefit the whole State of California. So, we are asking you to approve this and I am happy to answer any questions.

CHAIRPERSON DOUGLAS: Thank you, Ms. Eden. Questions?

COMMISSIONER EGGERT: A couple of quick comments on this one, in particular, and you had mentioned that there is the targeting of multi-family units, which is one of the more challenging areas for energy efficiency retrofits, so, again, we will be very interested in sort of tracking the success of that effort. I also note that this carries a little over – well, almost $3 million leveraged against the IOU Programs, Investor Owned Utility Programs for whole house lighting, water, energy programs, etc. And I think it is very important for these programs to maximize that leverage against some of the existing utility incentives, to really further the goals of the program

and achieve the maximum level of savings. So, just a quick comment, and unless there are questions, I would move the item with, again, the amendment that it is contingent on the DOE approval.

VICE CHAIR BOYD: I will second the motion.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 18 is approved. Thank you, Ms. Eden.

Item 19. County Of Sonoma. Possible approval of Contract 400-09-030 for $2,537,000 with the County of Sonoma to augment and improve an existing program that provides Property-Assessed Clean Energy (PACE) financing. Ms. Gould.

MS. GOULD: Good afternoon, Chairman and Commissioners. My name is Angie Gould and I am the Municipal Financing Program Lead. I am here to ask for provisional approval of a contract with Sonoma County to upgrade the Sonoma County Energy Independence Program, which is their existing Property Assessed Clean Energy, or PACE Program. This contract will be funded by American Recovery and Reinvestment Act funds allocated to the Energy Commission through the U.S. Department of Energy's State Energy Program, or SEP. The approximately $2.5 million in SEP funds will be used to finance an update of the existing program that will include HERS 2 audits, the requirement of energy efficiency upgrades as a condition of financing solar, expanded marketing and online tracking and

reporting tool, expanded water conservation measures, and a regional bonding strategy with the six-county North Coast Energy Independence Program.

These funds will leverage a committed $103.78 million from Sonoma County agencies and a workforce investment grant, as well as an additional expected $2.67 million in utility rebates and tax incentives. This program has a targeted retrofitting of 2,500 residential buildings and will create an estimated 1,185 jobs in California over the contract period, which ends March 31st, 2010.

The Sonoma County Energy Independence Program is the first county-wide PACE program in the state, and is met with enthusiasm and acclaim. The in-place program already has had a transformative effect on economic recovery in the county through documented job creation and it provides a model for efficient use of governmental funds that can be adopted successfully by other jurisdictions across California and the nation. The requested SEP funds will enable this program to align with emerging best practices for PACE programs, as well as expanding water conservation and streamlining the financing and program operations to increase the effectiveness of the program and the benefits to program participants. So, with that, I ask that you provisionally approve this contract with Sonoma County.

MR. LEVY: Commissioners, this contract, when Ms. Gould says “provisionally,” this is the last of the 401

contracts, and so this approval would be contingent upon the outcome of the Western Riverside Council of Governments litigation, which is pending currently.

CHAIRPERSON DOUGLAS: Thank you for that clarification, Mr. Levy.

COMMISSIONER BYRON: A quick comment. Something is going on in the County of Sonoma. I note, Ms. Gould, that you state the problem is the contractor wants to move the program to the next level in integrating audits technology refinancing mechanisms and a more robust water element. And the fact, I believe you said, it is the first of the PACE programs?

MS. GOULD: I am sorry, the first PACE program in the state that is county-wide.

COMMISSIONER BYRON: And the number of jobs that are being created from this, obviously a very active county government. I am very pleased to see this project. Thank you for bringing it to us. No questions.

VICE CHAIR BOYD: I would just comment that, earlier this year, through the auspices of the Local Government Commission, I got introduced to the folks in Sonoma County, spent some time learning about their program, and what have you, along with a lot of other local elected officials, and I would agree, most impressive, what they are doing. And they are a model for many other local governments who are indeed trying to follow that model and learn lessons from Sonoma County. So, I

am very pleased to see us in there moving, helping them move their program along because it is a model and, as it moves to another level, it just means the model is modified for others to follow to yet another level. So this seems like a very great program. As we have indicated in the past here, PACE Programs are something of extreme interest to us. So, Sonoma County is leading the way and that is very positive for the future of these types of activities.

COMMISSIONER BYRON: Madam Chair, I move Item 19 for approval with the hope that we can free up the funds for this as soon as possible.

VICE CHAIR BOYD: Provisional approval, I believe.

COMMISSIONER BYRON: Correct.

CHAIRPERSON DOUGLAS: That is right. Is there a second?

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: Second by Commissioner Eggert. All in favor?

(Ayes.)

Item 19 is approved.

MS. GOULD: Thank you. And I believe that John Hague from Sonoma County may be on the phone and wishes to comment now, no? Okay, thank you.

CHAIRPERSON DOUGLAS: Item 20. City Of Watsonville. Possible approval of Agreement 011-09-ECA for a loan of $756,984

to the City of Watsonville to retrofit the city's high pressure sodium street lighting system. Mr. Suleiman.

MR. SULEIMAN: Good morning, everyone. My name is Adel Suleiman and I am with the Special Projects Office here at the Commission. This loan request will provide the City of Watsonville with sufficient funding to convert all of the 1,400 street lights from the old technology of high pressure sodium lamps to the new efficient and long lasting LED lamps. Once completed, this project will save the City over $68,000 annually in reduced energy costs, and hundreds of thousands of dollars more in maintenance costs over the life of the project. Energy consumption will also be reduced by 551,000 kilowatt hours annually, which is equivalent of removing 190 tons of carbon dioxide from the environment. Pollution will also be greatly reduced due to the full cut-off design of the new LED fixtures.

The total project cost is estimated at $892,000, in which $756,000 will be funded by this loan request form the Energy Conservation Assistant Act, ECAA funds. Pacific Gas and Electric, serving electricity for the City, will provide approximately $135,000 in cash incentives. This project has an 11-years payback and complies with all requirements of the loan under the Energy Commission Loan Program funds. I am seeking your approval on this loan item, and I will be happy to answer any questions you might have.

CHAIRPERSON DOUGLAS: Thank you, Mr. Suleiman.

Questions or comments?

COMMISSIONER EGGERT: I will move the item.

COMMISSONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 20 is approved. Thank you, Mr. Suleiman.

Item 21 has been pulled from this agenda, so – I did forget to say that at the beginning of the meeting, I hope nobody has been sitting here for the past –

MR. LEVY: Commissioners, like the previous batch, Items 22 through 26 are all related items, as well, and the Commission may choose to consider taking them up as a group.

CHAIRPERSON DOUGLAS: That is right, and my understanding is that – that is definitely correct. So, why don't we – Commissioners, would you like a general presentation of these items, in particular, the funding source, the reason for moving forward with them?

COMMISSIONER BYRON: Madam Chair, I have no objection. I just want to again reiterate – I hope it takes nothing away from Mr. Shaw in bringing these all before us today.

MS. JONES: He also did a very good job in his presentation.

CHAIRPERSON DOUGLAS: Mr. Shaw, please begin – for Items 22 through 26.

MR. SHAW: Good afternoon, Chairman Douglas,

Commissioners, and Audience. I am Lance D. Shaw from the Efficiency and Renewable Energy Division. This afternoon, I will be presenting these five items, Item 22 through 26. Each of these for your consideration of your approval, they involve best practices, workshops, and in some cases energy use site assessments. All five are funded by a grant through U.S. Department of Energy, and as part of the Energy Policy Act of 2005.

The intent in this part is to reduce the energy use consumption in the industrial sector by at least 2.5 percent per year between 2007 and 2016. The workshops, which are required by the U.S. Department of Energy Grant, require that the instructors be Best Practices Qualified Instructors. These are contracts for five of them. They are, in most cases, one day events, and in some cases, they are two-day events. The demand for these gentlemen – they are all men – is very high nationwide and in some cases worldwide, and that is the reason why we are asking that the contracts run through May of 2013. We work with utility partners who schedule these workshops and market them through their reps to recommend people to come to these workshops. They are held in places such as San Francisco, Stockton, Bakersfield, San Ramon at PG&E facilities, SMUD, here in Sacramento, Lodi in the case of Lodi Electric, Downey in the case of Southern California Gas, and Irwindale in the case of Southern California Edison. They are in five different

categories, pumping systems is Item 22 for $30,000, this includes the workshops, site assessment, travel – you said take them together, correct? Item 23 is for fan motor systems, Item 24 for process heating systems, Item 25, compressed air systems, Item 26 for steam systems. We request your approval, please.

CHAIRPERSON DOUGLAS: Thank you, Mr. Shaw, that was a great presentation. Commissioners?

COMMISSIONER EGGERT: I really appreciate it, Mr. Shaw. I guess a question, you said this extended through 2013, the contracts?

MR. SHAW: We ask that the contracts run through 2013. The reason is for scheduling. As an example for today, end of the month, end of the quarter, there would be no one in the workshop.

COMMISSIONER EGGERT: Gotcha. And is the funding for these would be – would it have to be sort of regularly appropriated for the purposes of –

MR. SHAW: We have asked that the funds be made available, so they are available. This is a 100 percent leverage.

COMMISSIONER EGGERT: Okay, excellent. And do we – I mean, these look like good training activities and it sounds like we are taking advantage of some of the best technical trainers, as you mentioned. Do these programs sort of capture from the participants – do they do sort of reviews of the

classes?

MR. SHAW: Correct. We do get performance evaluations. If I may say so, these are the best of the best. I have trained in industry, I have trained trainers. These guys are good, 1) they have the roster of who is attending, they tailor it, it is interactive, and these folks usually do not take lunch, they grab a lunch and they are there to interact. It is really good.

COMMISSIONER EGGERT: That is great. And in terms of the number of folks that have been trained, or anticipated, the statistics on that, is that available, as well?

MR. SHAW: Correct. We do get the feedback from our utility hosts.

COMMISSIONER EGGERT: Okay, thank you.

MR. SHAW: It is a win-win for everybody.

COMMISSIONER EGGERT: No, it sounds like a great activity, thank you. And I guess I will move approval unless there are other question.

VICE CHAIR BOYD: I will second it.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Items 22 through 26 are approved, thank you very much.

MR. SHAW: Thank you.

COMMISSIONER BYRON: Excellent presentation, Mr. Shaw.

MR. SHAW: Thank you.

CHAIRPERSON DOUGLAS: Item 27. Contractors State License Board. Possible approval of Contract 400-10-001, a Memorandum of Understanding (MOU) to define primary roles and responsibilities of the Energy Commission and the Contractors State License Board. Mr. Jensen.

MR. JENSEN: Thank you. Good afternoon. My name is Erik Jensen, I am in the Building Standards Implementation Office, and I am the Contract Manager for this project. The staff of the Building Standards Implementation Office is requesting approval of a Memorandum of Understanding between the Energy Commission and the Contractor State License Board, or CSLB.

The Energy Commission promotes energy efficiency by adopting and publishing the Building Energy Efficiency Standards, Appliance Efficiency Regulations, and Home Energy Rating System Regulations. CSLB protects consumers by licensing and regulating California's construction industry and has the authority to discipline contractors involved in building construction. Previous cooperation between the Energy Commission and CSLB led to sting operations in February and March, resulting in six citations and two pending citations related to compliance with the Building Energy Efficiency Standards.

The overall purpose of this MOU will be to increase permitting of projects involving the standards and regulations.

Very generally, the Energy Commission will develop informational materials intended for contractors and homeowners, and CSLB will help distribute those materials. This MOU will give the Energy Commission a larger voice to communicate the standards and regulations through another respected agency with extensive communication access to contractors, and therefore ultimately to building owners, and the MOU will also support CSLB's mission, which includes ensuring that construction is performed in a competent and professional manner, providing resolution to disputes that arise from construction activities, and educating consumers to make informed choices. Therefore, we request approval of the MOU.

CHAIRPERSON DOUGLAS: Thank you. Commissioners.

VICE CHAIR BOYD: No questions. I will defer to Commissioner Eggert.

COMMISSIONER EGGERT: No questions here, and I guess I would move the item unless there are –

VICE CHAIR BOYD: I will second it.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 27 is approved. Thank you, Mr. Jensen.

MR. JENSEN: Thank you.

CHAIRPERSON DOUGLAS: Item 28. Minutes. Approval of the June 23rd, 2010 Business Meeting Minutes.

COMMISSIONER BYRON: Move approval.

COMMISSIONER EGGERT: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

VICE CHAIR BOYD: Abstain, being absent.

CHAIRPERON DOUGLAS: The Minutes are approved with Commissioner Boyd abstaining.

Item 29. Commission Committee Presentations and Discussion. Is there any discussion?

COMMISSIONER EGGERT: Actually, I was going to invite a discussion on the process by which we withdraw, or we consider withdrawal from the siting process, and actually I think I see Raoul out there. So, this is something that has come up, we recently received a request for a withdrawal from the Application process from the San Joaquin Solar I and II, and I guess normally there is – this was actually brought before the Commission for a Decision, and as we were sort of discussing that through this particular case, the question was posed as to whether or not that is something we needed to continue because, I guess, there is really – the argument for not bringing it forth for a Decision is that there is really no decision, I mean, we do not really have any other choice but to sort of honor the request for withdrawal. I think, you know, probably the one argument for continuing it, or at least having the opportunity to have a discussion or provide questions about the reasons for withdrawal was sort of brought forth in that

discussion, as well. But I wanted to just sort of pose that here. I know it was discussed, as well, in the Siting Committee. So I do not know if there is something you want to add, Chairman?

CHAIRPERSON DOUGLAS: I was going to ask Hearing Officer Renaud to just brief the Commission on his research as to what our regulations actually say about this process.

MR. RENAUD: All right, thank you, that would be my pleasure. In the regulations, in particular, one is 1709.8, that deals with withdrawals, these would be a voluntary withdrawal where an Applicant decides to pull their Application for Certification. And the section simply provides that, upon receipt of a duly executed Notice of Withdrawal, the presiding member shall issue a written Order terminating the proceedings. And in this case, that would be Commissioner Eggert, and that is the end of it. The Order is to ask that the Docket Unit close the docket, but continue to maintain the documents of the proceeding. What apparently has been done traditionally here, in addition to that procedure, was to bring the matter forward to the full Commission at a Business Meeting for what has been called “Ratification.” And there really is not any regulatory basis for that, it is quite understandable perhaps that Commissioners would be interested in learning about the withdrawal and the reasons for it, but that can certainly be addressed in this manner, too, as part of the Siting Committee

Report. So, we are simply suggesting that we go back to following the regulation and streamlining the process, not that it happens all that often, but taking away one layer of additional work, and one more form of agenda item from already crowded agendas.

CHAIRPERSON DOUGLAS: Commissioners, Commissioner Eggert brought this question to me and I thought that, clearly, our regulations would permit this, and from a practical standpoint, there is little that we can do once somebody has chosen to withdraw from our process, it is not as if we are going to make an effort to convince them from the dais to withdraw their withdrawal; and, on the other hand, I did not think it was appropriate to make an abrupt change in our process without a public discussion and certain notice that that is how it would be done, and there is also the opportunity when this is noticed before us that we might have, for the full Commission to interact with the Applicant, and discuss the reasons for the withdrawal, which is of some benefit. Of course, the Applicant need not necessarily be there since, in some cases, they might not be.

VICE CHAIR BOYD: I, for one, appreciate your bringing this issue to us, and I would certainly agree to have the full Commission ratify the action, it is rather redundant, based on what I hear. But, I, for one, would appreciate if maybe in the form of Commission Committee Presentations or something, at

least the fact that something like that has occurred with regard to a specific case, and just a tiny little bit about the reasoning for it, would be of interest to me and perhaps other Commissioners, just to know what is going on out there that has affected a case, but that, you know, may have some significance for other cases in the future, or may trigger in our minds a thought about a need not to address the specific case, but maybe something, if a problem has arisen, there may be a need, or may be a desire, or it may be beneficial even to think about maybe we should pursue that issue through some other action, than to try to stimulate some changes. In the case of this particular project, which I happened to sit with the Commissioner on, not wanting to say anything that would have rendered any kind of indication of how I might have voted on the case, but nonetheless, since it did involve the use of biomass, and as the biomass freak up here, I was kind of disappointed that any project that might use California biomass has unfortunately fallen by the wayside, and so I, for one, and Commissioner Eggert and I have talked about we may have a desire to pursue the question of whether this agency and/or the other state activities involved in the subject of biomass, such as the Interagency Working Groups, such as our own sponsored collaborative at U.C. Davis, could contribute anything to the issue with regard to helping assure supplies of material for any developer in the future who might want to build a facility that

is going to utilize in some fashion even partially, as this one would, biomass as a fuel resource. So, if we at least talk about it here, it might stimulate some of that kind of thought.

COMMISSIONER EGGERT: Right, and just to expand real briefly on that, one of the reasons for the withdrawal that was provided was specifically the lack of a reliable supply of biomass, which is sort of, I think, more general concern that we would have across a number of different policy activities here within the Commission.

CHAIRPERSON DOUGLAS: I should have noted and had neglected to, we also discussed this at some length in the Siting Committee, and I do think that it could be appropriate to ask Applicants who have expressed their intention to withdraw if they would be interested in providing public comment at the Commission, and that might provide them with an opportunity to provide their perspective directly if they would like to do that.

VICE CHAIR BOYD: And if they would choose not to make a public appearance, if, as a minimum, they would like to provide some written explanation that could be shared with the Commission staff and Commissioners.

MR. RENAUD: In this case, I should tell you that I spoke with Greg Wheatland this morning, he was the attorney for the Applicant. And he asked that what be conveyed to you is

that the reasons for withdrawal were, first, the concern over reliability and availability of biomass supply, and second, the lack of a Power Purchase Agreement. He asked specifically that I tell you that those two things led to the Applicant's decision to withdraw here.

VICE CHAIR BOYD: The latter can be rather deadly. The former is a concern – was it a concern on the part of the Applicant of recognizing that they may not be able to have a reliable source? Or, was it a concern, for instance, on the part of our staff?

MR. RENAUD: Mr. Wheatland said that it was – there was not clarity on how much, to what extent the reliability of the supply needed to be proven. Staff obviously has to study reliability, and to what extent – how much proof there needed to be as to the availability of the biomass, I think, was at issue. It seems to me that, if that should arise in the future, or if it had been brought to the Committee's attention at this point, we probably could have had some sort of a sub-proceeding where parties would brief that issue and the Commission could give an indication of the extent of proof it would require of the reliability and availability of supply. But that did not happen in this case. But, to some extent, that is a legal question, though, as to how much proof would be required to establish a reliable supply.

COMMISSIONER EGGERT: Right, so there really is

actually potentially two distinct issues here, one is the Applicant's concern about the reliability of supply, the other is that aspect as a part of the review process through the Siting Committee, which I think are both very interesting questions.

VICE CHAIR BOYD: I would note in this room a few weeks ago, there was a workshop held by this agency, but in conjunction with and for the Interagency Biomass Working Group, and we just recently went through kind of the results of that workshop, and one of the major issues that came up in that workshop was a concern about supply and reliable supply, so it is a problem that the industry and multiple agencies are aware of, and I just hope that somehow or another we can address that for the future.

CHAIRPERSON DOUGLAS: Mr. Levy, did you have a comment on this item?

MR. LEVY: Yes, I did, just to support the Commission's comments about the redundancy of – actually, the regulation is written in the mandatory, so it is an ministerial duty on behalf of the Presiding member to grant the Applications, it is not just redundant, there is really nothing for the Commission to do. Of course, the Commission can at any time agendize any item for discussion, including withdrawing an application, and ask the Applicant or staff to come and explain to the full Commission for a discussion why the application was

withdrawing.

CHAIRPERSON DOUGLAS: Thank you, Mr. Levy. Commissioner Byron.

COMMISSIONER BYRON: Commissioner Eggert, thank you for bringing this subject up. I mean, the fact that we are having this prolonged discussion and getting into some of the details of a specific project that has been withdrawn indicates that this Commission is interested in the reasons for the withdrawal. I think it is an important part of our job here to understand the reasons and the implications as they affect Applicants. I think the ex parte rules shelter us somewhat from getting information that help us understand our process, changes that may need to be made, that limit us in understanding maybe implications of our own state energy policies, and what goes on at the Public Utilities Commission around procurement and environmental considerations, and their granting Power Purchase Agreements for renewables and otherwise. So, I guess where I am going with this is that it has always been my policy to meet with Applicants whenever I can legally do so outside the ex parte considerations. I would consider my fellow Commissioners and all future Commissioners to meet with Applicants and try and understand better what their limitations are. I have also met with Applicants after they have withdrawn, or we have provided a negative Decision with regard to their AFC, just to make sure that it is clear what the problems were associated with the

various projects that we have conducted. So, I think it is extremely important to our doing a good job, you know that we are going to be accountable to both the Executive and Legislative Branches of Government with regard to how well we do that job.

VICE CHAIR BOYD: Oh, I think you make an excellent point. I just want to ask Mr. Levy, my assumption is, once the case is terminated, as we discussed today, by the Presiding Member, there are no ex parte communication considerations, and we could talk to the staff about the issue, or we could, as Commissioner Byron suggested, meet with or call upon the Applicant for the then terminated project to have a discussion with us about, so that we might learn something from the experience.

MR. LEVY: Certainly, you may. The ex parte prohibitions are limited to pending proceedings, and after the Order is issued, there is nothing pending.

VICE CHAIR BOYD: Thank you.

CHAIRPERSON DOUGLAS: Anything else in presentations and discussions?

VICE CHAIR BOYD: Well, a little factoid that, as Commissioner Eggert and I were with staff again, rigorously reviewing the next in AB 118 Investment Plan yesterday, Commissioner Eggert revealed some detailed staff work that he had engaged in, that I failed to mention during the

consideration of 118, but he did some calculations recently that showed that Californians spend up to $150 million a day on transportation fuel. And the 118 program is lucky to have $100 million a year to spend on its broad purposes, so any leveraging that we do there is extremely significant. But the investment we make is miniscule compared to the investment that people in the state are making on a daily basis.

COMMISSIONER BYRON: I like those kind of comparisons, thank you, Commissioners.

COMMISSIONER EGGERT: I think it was – yeah, it was sort of a good representation of, I think, two items, one is that the size of the market that we are trying to affect is truly massive. I mean, you know, this is $60 billion a year and so, you know, our program, we really do have to think carefully about leveraging that against other private investments, and I think the other is that the importance to the State economy is significant. I mean, this is a very very large fraction of our expenditure as an economy and as one of the largest economies in the world, and the vulnerability of that to fluctuations in the commodity price, you know, that is just the estimate at today's pump price, about $3.00 a gallon; certainly, we know that events could carry that price to higher levels, and have commensurate effects to the overall state economy. So, it was an intriguing comparison that just kind of came out of some quick back of the envelope –

VICE CHAIR BOYD: Well, I thought it was an interesting factoid that any one of us might need some time when we are discussing somebody's desire to use the 118 program for a revolving fund, for other purposes, that they would just minimize our already minimal effort to try to influence this huge component of the California economy. And as one who just spent $7.00 a gallon for a whole week of gasoline, Petrol in Europe, although driving a less than one liter vehicle, why, it is interesting to know the price variables.

CHAIRPERSON DOUGLAS: Anything else? We will go on.

Item 30. Chief Counsel's Report.

MR. LEVY: Yes, Commissioners, and a little bit of irony given the discussion about withdrawal of applications, I would just like to share something public with you about Item 30C on the agenda, developments that happened yesterday in the Yucca Mountain proceeding. For a little bit of background, on March 3rd, 2010, the United States Department of Energy filed a motion to withdraw the license application for the Yucca Mountain High Level Waste Repository, and the motion was supported by California-Nevada, the Nuclear Regulatory Commission, and the motion was opposed by the States of Washington and South Carolina. On June 3rd and 4th, the Atomic Safety Licensing Board heard the motion and, yesterday, I am advised, they issued a Decision denying the Application for Withdrawal of the Application. And I will give you a written

report, hopefully today, and we can discuss it at some time in the future if you like, but I wanted to update you on the proceeding. Apparently, the Licensing Board determined that the Nuclear Waste Policy Act does not allow the Secretary to withdraw the Application, given that the Act mandated the application in the first place.

COMMISSIONER BYRON: And I note that Senator Reid has also already weighed in on this issue, and it is not over yet.

CHAIRPERSON DOUGLAS: Absolutely. Thank you, Mr. Levy.

Item 31. Executive Director's Report?

MS. JONES: I have a very brief report today. with the actions that you took today, we now have encumbered 100 percent of the Block Grants under the ARRA funding. In addition, we have encumbered 88 percent of the SEP Program. The Manufacturing piece is the one outstanding piece, which we are working on. And in addition, to help with the draw down on the Appliance Rebate Program from ARRA, we will be looking at adding additional appliances. We hope to be coming back to you soon with a proposal for additional appliance rebates. Thank you.

CHAIRPERSON DOUGLAS: Thank you, Ms. Jones.

Item 32. Public Advisor's Report.

MS. JENNINGS: I have nothing to report. Thank you.

CHAIRPERSON DOUGLAS: Item 33. Is there any public comment? Is there any public on the phone or the building who

would like to make a comment at this point? Very well, we are adjourned.

(Whereupon, at 12:46 p.m., the business meeting was adjourned.)

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