

Commissioners Present

Karen Douglas, Vice-Chairperson
David Hochschild
Andrew McAllister
Janea Scott

Staff Present:

Rob Oglesby, Executive Director
Michael Levy, Chief Counsel
Leonidas Payne, Appearing for Public Adviser
Harriet Kallemeyn, Secretariat

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Leslie Baroody	6
Jacob Orenberg	7
Ron Yasny	8
Matthew Fung	9
Virginia Lew	10, 11
Pippin Brehler	17
David Ashuckian	17

Also Present

Interested Parties (* Via WebEx)

Jeffrey D. Harris, Ellison Schneider & Harris
Bradley K. Heisey, High Desert Power
Gary Ledford, Intervenor
Bryan Sherbacow, AltAir Paramount, LLC
Mikhil Kapur, NORESCO
Valerie Winn, PG&E

Public Comment

Valerie Wiegenstein, Mojave Water
Logan Olds, Victor Valley Water
Sean McGlade, City of Victorville
Meg Waltner, NRDC
Tamara Rasberry, Sempra
Robert Raymer, CBIA
Bill Lilly, California Living
Tommy Young, E3 NorCal
Linda Murphy, DuctTesters

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P R O C E E D I N G S

SEPTEMBER 10, 2014 10:04 a.m.

COMMISSIONER DOUGLAS: Welcome to the Energy Commission Business meeting of September 10th, 2014.

Please join me for the Pledge of Allegiance.

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

COMMISSIONER DOUGLAS: All right, so we have nothing on Item 1.

So, let's begin with Item 2 on the agenda, the High Desert Power Project, 97-AFC-1C, proposed order granting the petition to amend requesting the use of alternative water supplies other than State Water Project water or recycled water.

Let's see, let's hear from -- let's hear the staff presentation first, Joseph Douglas.

MR. DOUGLAS: Thank you. Good morning Commissioners, my name is Joseph Douglas and I'm the Compliance Project Manager for the High Desert Power Project.

With me this morning is Jeff Ogata, Assistant Chief Counsel, and Matt Layton from Engineering Office.

Also present are representatives from High Desert Power Trust, the owners of High Desert, and there are

1 interested parties on the phone.

2 The High Desert Power Project is an 830-megawatt
3 natural gas fired, combined cycle power plant that was
4 certified by the Energy Commission on May 3rd, 2000 and
5 began commercial operation on April 2003.

6 The facility is located adjacent to the Southern
7 California Logistics Airport in the City of Victorville, in
8 San Bernardino County.

9 On April 23, 2014 High Desert Power Trust filed a
10 petition with the California Energy Commission requesting
11 to modify High Desert's conditions of certification Soil
12 and Water 1 and Soil and Water 7 to allow High Desert to
13 use, as backup, water other than the State Water Project
14 water, SWP, or recycled water from the Victor Valley Water
15 Reclamation Authority.

16 According to the petition, the proposed revisions
17 are necessary to avoid possible operational disruptions due
18 to drought-related water supply reliability impacts.

19 Due to the statewide drought, SWP water has been
20 substantially curtailed and it is uncertain when it may
21 become available again.

22 The project has also reported some issues with
23 the use of recycled water and is requesting the following.

24 The use of groundwater from Mojave River Basin,
25 MRB, and as a backup water supply and an approval to

1 construct a brine discharge line from the power plant to
2 the City of Victorville Industrial Wastewater Treatment
3 Plant to send wastewater from the pre-treatment of SWP
4 water, before it is banked as a current backup water supply
5 for High Desert.

6 The project owner is required to maintain a
7 groundwater bank as backup, where SWP water is in excess of
8 High Desert's operational needs it is filtered, and then
9 injected into the underlying aquifer for retrieval for High
10 Desert's use when SWP water is not available.

11 The decision specified that High Desert has
12 13,000-acre feet of water as backup supply. High Desert
13 has only been able to achieve about 3,000-acre feet or
14 about one-year's supply at the current capacity factors.

15 A 2009 amendment approved the use of recycled
16 water to augment supplies and to evaluate the feasibility
17 of switching to 100 percent recycled water.

18 So, water staff evaluated the expected water
19 resources impacts from the modified project and found that
20 the area's soil and water would be affected by the proposed
21 project change.

22 Staff agrees that drought conditions warrant the
23 project having backup water sources in case of ongoing
24 disruptions of SWP or of recycled water supplies.

25 Staff recommends approval of the petition with

1 the following stipulations to Soil and Water 1. Recycle
2 water shall be used to the maximum extent possible. The
3 project will still be required to complete the 100 percent
4 recycled water feasibility study due November 1st, 2014 to
5 continue the project's move to maximum use of recycled
6 water.

7 Staff would recommend that the project be allowed
8 limited use of MRB water for no more than two years, or
9 until November 1st, 2016, whichever is later, and for not
10 more than 2,000-acre feet per 12-month period.

11 Banked SWP water may also be used for backup and
12 blending with recycled water during this interim period to
13 minimize the use of groundwater from MRB.

14 And to ensure that High Desert is drought proof
15 for the long term, the project owner shall submit a
16 petition to amend, PTA, no later than November 1st, 2015,
17 that will implement reliable primary and backup water
18 supplies for High Desert that are consistent with State
19 water policies or allow for construction and operation of
20 an alternative cooling system, like dry cooling.

21 Given limited SWP water deliveries in the area
22 and staff's recommendation for a PTA to implement a
23 permanent drought solution, staff recommends that the
24 proposed recycled water discharge line not be considered or
25 approved at this time.

1 It is unlikely that High Desert will receive
2 excessive SWP water to bank, and project water
3 infrastructure changes will likely be included in the
4 November 2015 PTA.

5 Staff also agrees to the language in SORS Water
6 1, provided by the applicant, which clarifies MRB
7 procedures and defines the water year of October 1st to
8 September 30th, and formalizes that the recycled water
9 feasibility study is due November 1st, 2014.

10 The notice of receipt was mailed to the High
11 Desert post-certification mailing list, docketed and posted
12 to the Energy Commission website on May 30th, 2014.

13 Staff analysis of the petition was docketed and
14 posted to the web on August 28th, 2014 and mailed to the
15 High Desert post-certification mailing list on September
16 2nd, 2014.

17 We have received a comment from Gary Ledford, who
18 was an intervener in the original proceeding, and from Bob
19 Sarvey.

20 The Energy Commission staff reviewed the petition
21 and finds that it complies with the requirements of Title
22 20, section 1769(a) of the California Code of Regulations
23 and recommends limited approval of the proposed project
24 modifications, and associated revisions to Soil and Water 1
25 conditions of certification based on staff's findings and

1 subject to the revised condition of certification.

2 COMMISSIONER DOUGLAS: Thank you very much.

3 Let's hear, now, from High Desert.

4 MR. HARRIS: Good morning, Jeff Harris here on
5 behalf of the applicant. To my right is Brad Heisey, with
6 Tenaska, who flew all the way out from Omaha to be with us
7 here today for the meeting, which is important, and
8 Samantha Pottenger.

9 Thank you very much for the opportunity. As Joe
10 summarized, really, the petition asked for two separate
11 things. And the first one was the ability to acquire
12 alternative water supplies to ensure that the project is
13 allowed to continue through the drought.

14 The second one was the discharge, which the staff
15 is currently recommending that you not approve. And we're
16 disappointed by that but we think, ultimately, at the end
17 of the day we've got a way to move forward with the staff
18 here that makes sense for everybody.

19 So, it's really important to highlight right at
20 the top that High Desert is not seeking to change or modify
21 its dedicated use to recycled water.

22 That's, again, I think probably the most
23 important takeaway that you can have with this. We're
24 committed to using as much recycled water as is available.
25 If we can get water of sufficient quantity and sufficient

1 quality that's the -- recycled water of sufficient quality
2 and quantity that's the best outcome for us, okay that's
3 the best supply for us.

4 And, significantly, it's the most economic supply
5 for us. It's the cheapest water supply is the recycled
6 water.

7 So, I really want to punctuate for you we're not
8 looking to get out of that commitment to use recycled
9 water.

10 And Brad can talk more about the historic
11 investments that have been made in the recycled water and
12 how he thinks that's going to be used going forward.

13 So, we remain committed to working with our
14 partners down there, the local water agencies and the
15 Mojave Water Agency to make sure that we can have as much
16 recycled water as is available.

17 So, the authority here is really to get us an
18 alternative supply to get us through this drought concern,
19 so we have it the short term.

20 We have agreement with the staff on the amendment
21 language for Condition Soil and Water 1. And I want to
22 punctuate that point, as well.

23 The language that is Attachment 1 to our filing,
24 staff has reviewed and they find that acceptable.

25 And so, while I do feel the need to kind of

1 explain a little bit about the situation here, I also want
2 to emphasize that at the end of the day we're in agreement
3 on the condition language.

4 And that, I think, is a very important thing for
5 moving this forward as well.

6 Nobody is happy with the language, either staff
7 or applicant, so that must be a good compromise, I think,
8 moving forward.

9 So, why are we here today? Well, we're here in
10 part in response to the Executive Director's admonition to
11 be proactive about water supplies.

12 That's something that was in the letter that the
13 Executive Director sent out to everybody, telling us to
14 explore options for backup water supplies and to be
15 proactive.

16 And our amendment was filed less than three weeks
17 later than that letter coming out. So, really, we are here
18 for that purpose.

19 The facts here are pretty straight forward.
20 We're in danger of being curtailed or perhaps shut down due
21 to drought-related water issues.

22 The project currently is allowed to use two
23 sources of water. One is State Water Project water and the
24 second is recycled water.

25 The State Water Project water is currently

1 unavailable and will remain tenuous going forward.

2 The recycled water supplies have been unreliable,
3 frankly, for us. We have an excellent partner we're
4 working with, but we have been taking water, let's just
5 say, out of spec, meaning outside the actual water
6 requirements and using as much of that recycled water as
7 you can possible use.

8 We've been blending that water with our banked
9 groundwater to make the project operate.

10 Those banked water supplies are, also, rapidly --
11 well, not rapidly, but they are depleting over time. And
12 we're looking forward to make sure that we're going to be
13 able to operate the project going forward.

14 A little history here, I don't know if any of the
15 Commissioners were around when this project was originally
16 certified. I didn't work on the original certification,
17 either.

18 But this project has the unique history of being
19 the only project the Commission ever certified that was
20 prohibited from using recycled water. There was actually a
21 prohibition in the original license that said, you know,
22 you shall not use recycled water.

23 And the historic context there is very important
24 because what was going on at that time is the Mojave Basin
25 was being adjudicated.

1 There was ongoing litigation about how that Basin
2 would be operated. And there were concerns among others,
3 including the Department of Fish and Wildlife, DFG then,
4 about water being able to be made available for those
5 resources, as well.

6 So, we actually began this project with an
7 absolute prohibition against recycled water.

8 Time went by, the adjudication was actually
9 confirmed by the California Supreme Court and the Mojave
10 Water Agency has been managing that Basin since then.

11 And so, in, I think, 2005 we came back to you and
12 asked for the ability to use recycled water, to actually
13 lift the prohibition on the use of recycled water.

14 So, I think that is an important part of history
15 because it shows the consistency that we've had about
16 wanting to use recycled water moving forward.

17 The judgment is also an important thing and it
18 really does give the Mojave Water Agency, MWA, the ability
19 to manage the water in the Basin. They have the ability to
20 meter every acre-foot of water produced.

21 There's payments for a certain amount of pumping
22 above the averages.

23 They have the ability to find replacement water
24 and overall protect the safe yield of the Basin. And
25 that's what's really significantly changed since the

1 original certification.

2 I'm not going to address the specific differences
3 staff and applicant had. Those are in our papers. I don't
4 think I want to dwell on that at all. I want to focus on
5 the agreement that we have on the condition language.

6 I do have four slides that I'd like to show
7 because I think it really puts the water situation down
8 there in context.

9 So, if we could have those up?

10 COMMISSIONER DOUGLAS: I'm sorry to interrupt.
11 We're having a technical difficulty. The WebEx is up, but
12 the phone lines are not hearing.

13 And, actually, we've got a couple of members of
14 the public who, well, at least one and also the rep from
15 Mojave Water Agency is on the phone, so we want to make
16 sure they can hear you.

17 MR. HARRIS: I've been brilliant to this point,
18 I'm sorry they missed it so --

19 COMMISSIONER DOUGLAS: I know, you've been very
20 eloquent. And I don't know how much of it they missed.

21 MR. HARRIS: It may have been on purpose on their
22 behalf so --

23 (Off the record at 10:17 a.m.)

24 (On the record at 10:18 a.m.)

25 COMMISSIONER DOUGLAS: Mr. Harris, all yours.

15

1 MR. HARRIS: Thank you. I do like having a
2 musical interlude in my presentation. So, it probably
3 keeps people from falling asleep.

4 So, I'll actually go through this fairly quickly,
5 but I do want to set the stage for the context for water
6 issues in the Mojave region.

7 So, let's go to the next slide, if we can,
8 Samantha.

9 This is hard for you to read from there. Copies
10 are coming around to you guys, too.

11 But, basically, this is a chronology of
12 significant water bins. It's not everything that's
13 happened.

14 But the two I wanted to highlight and I
15 highlighted kind of in light green there, are the dates
16 related to the judgment, the adjudication of the Basin.

17 I'll give a minute for you all to get your papers
18 because it's easier to read this on the hardcopy.

19 And can we provide the staff with copies, as
20 well?

21 The first date there, the January 10th, 1996 is
22 when the litigation really started around the Mojave Basin.

23 There's a couple of different litigations there
24 and some nuances, but I'm going to just refer to that as
25 the adjudication. It started in '96.

1 The application for certification was filed in
2 '97 and the project was approved in 2000.

3 So, you can see during this period of the initial
4 approval there was actually ongoing litigation about the
5 water situation down there, hence the Commission's
6 condition that we were actually prohibited from using
7 groundwater in the Basin.

8 In August of 2000 the Supreme Court substantially
9 confirmed the decision. It says substantially because it
10 was final as to the parties to the litigation. It would
11 not be final to people who were not parties, so that's why
12 the legal qualifier there.

13 For Commissioner Douglas, probably that word
14 jumped out at you.

15 But anyway, that's where the adjudication
16 happened. And then, thereafter, there a bunch of dates
17 that are missing between 2000 and 2013 that are important.

18 But I really wanted to put that into historic
19 context to understand the history of water use here and how
20 we ended up using recycled water.

21 So, that's the history. And I think why we
22 wanted to emphasize that is I think it goes to really
23 respond to pretty much everything that's said by Mr.
24 Ledford and Mr. Sarvey.

25 Everything they said is actually accurate and

1 correct, but time has moved on. And, significantly, the
2 Basin has been adjudicated and that adjudication has been
3 affirmed by the California Supreme Court.

4 So, that context is important for reading the
5 comments that you'll see from Mr. Sarvey and Mr. Ledford.

6 That's more ancient history, if you will. Let's
7 go to the next slide, Samantha.

8 What's happened more recently in California, as
9 you all probably have been hearing about, the California
10 Landmark Groundwater Legislation, this is the Groundwater
11 Management Act.

12 That's really bills, two Pavley bills and one
13 Dickinson bill together, but the three of them comprise
14 this new legislation.

15 And that legislation, real briefly, requires the
16 creation of groundwater sustainability agencies. That's an
17 agency to manage the groundwater.

18 It creates the creation of a groundwater
19 sustainability plan, which is a plan to manage that
20 groundwater.

21 And it requires that by January of 2020 all high-
22 and medium-priority basins have those GSAs and GSPs, which
23 are going to be hard to say, in place.

24 Okay, so those things are all going forward for
25 all of California.

1 The next slide, please. I will not go through
2 every bullet on this slide. But part of what that Act does
3 is it creates a series of powers for these new groundwater
4 sustainability agencies.

5 And it includes things like the ability to meter
6 and post groundwater charges, require payments for
7 transfers of water, water banking, fees for extraction of
8 water, qualification of rights, and positions of penalties
9 and fees.

10 And again, I won't read that entire list. It
11 will be in your record.

12 But it's a whole series of new authorities that
13 are going to be going with these groundwater agencies.

14 Let's go to the last slide, if we will.

15 Interestingly enough, this new landmark
16 legislation does not apply to the Mojave Basin. But that's
17 actually a good thing, even though it looks kind of
18 pejorative the way it's written there.

19 And it doesn't apply to the Mojave Water Agency
20 because the Mojave Water Agency is already doing these
21 things. They are already the groundwater sustainability
22 management agency.

23 They already have plans in place. They've been
24 doing this, and they can tell you, they're on the phone I
25 believe, I think since 2005 or more recently than that.

1 So, all of those functions that you're going to
2 see in the rest of California are already happening in this
3 Basin. And so, all of that is a long way of saying there
4 are in place, in the Mojave Basin, the protections for the
5 environment, and the protection for the groundwater, and
6 the protection for sustainable yield long term, which is
7 why your staff can recommend approval of this without any
8 significant effects.

9 And I've worn out my welcome. No more music.
10 I'm going to go ahead and stop there and we'll make
11 ourselves to answer any questions.

12 And again, Mr. Heisey is here if you want to ask
13 questions of him about our dedication to the recycled
14 water.

15 COMMISSIONER DOUGLAS: All right, very good.
16 Well, we'll get through the commenters and then we may have
17 some questions.

18 So, we've got, actually -- let's see, we've got
19 Valerie Wiegenstein from Mojave Water Agency, and so let me
20 call on you, first.

21 And then we've also got Logan Olds, from Victor
22 Valley Water, so you'll be up next.

23 Valerie, are you on?

24 MS. WIEGENSTEIN: Yes, I am.

25 COMMISSIONER DOUGLAS: Do you have any comments?

1 Go ahead.

2 MS. WIEGENSTEIN: Yeah, I missed part of the
3 presentation due to technical difficulties, but I did read
4 the staff analysis.

5 And I'm presuming the proposal is to allow them
6 to pump 2000-acre feet for two years as a backup supply.
7 Is that correct?

8 COMMISSIONER DOUGLAS: That's correct, 2000-acre
9 feet per year, for two years is the proposal.

10 MS. WIEGENSTEIN: Okay.

11 COMMISSIONER DOUGLAS: Up to.

12 MS. WIEGENSTEIN: So, I guess one of my comments
13 would be, first of all, which I know High Desert Power
14 project knows this, is they would have to become a party to
15 the judgment that was entered by the court in 1996. And,
16 of course, all the rules that go with that.

17 And also, as far as if the Commission wants to
18 allow them to pump 2000, they may need to purchase more
19 than 2000-acre feet from parties in the Basin because there
20 are requirements to adjust for consumptive use changes.

21 So, they may need to buy -- it's a case-by-case
22 basis, but there would be an adjustment on each acre-foot
23 of production rights that they would either lease or
24 purchase to make sure that the Basin isn't harmed.

25 So, if they needed to pump 2000 and if the use of

1 the power plant would be to 100 percent consume that water,
2 then they would have to purchase 4000-acre feet on the
3 market that's out there.

4 COMMISSIONER DOUGLAS: Thank you. Let me pause
5 there and just as the petitioner if they understand that,
6 and staff if that's captured in the condition to the degree
7 it needs to be?

8 MR. HARRIS: We do understand that. And the
9 language in the condition is consistent with the judgment,
10 so we are bound by all the rules and regulations.

11 We know we are going to have to over-acquire, if
12 you will. That's part of the beauty of having a water
13 master who's managing the Basin, and they have these tools
14 available to manage the Basin.

15 And one of those tools is going to be we're going
16 to require -- require us to acquire more than we will
17 actually pump in terms of rights.

18 And, yes, we are aware of that and we accept it.
19 And I believe the language does capture that, too.

20 COMMISSIONER DOUGLAS: Matt?

21 MR. LAYTON: This is Matt Layton from the
22 Engineering Office. I'm not sure the language does capture
23 that. We put a limit of 2000-acre feet and I'm not sure we
24 actually considered that the Mojave Water Authority would
25 look at it differently for consumption versus, say, an

1 agricultural use.

2 I think that might have to be clarified.

3 Obviously, Jeff is confident, but I'm not sure I am quite
4 yet so --

5 COMMISSIONER DOUGLAS: It sounded to me like it
6 might need to be clarified as well because if we're
7 limiting them to -- it depends on whether we're limiting
8 what they purchase or limiting what they use.

9 And so, let me ask if you could just take a look
10 at that language as we continue hearing from other
11 commenters.

12 MR. LAYTON: I'd be happy to.

13 MR. HARRIS: Could we -- it's up on the board
14 right now. The first underlined sentence is "Alternative
15 water supply obtained from the Mojave River Basin
16 consistent with the judgment after trial dated" blah, blah.

17 That's completely intended to ensure that we're
18 obligated to do everything the judgment requires.

19 COMMISSIONER DOUGLAS: It also says "the project
20 owner shall acquire no more than 2000-acre feet in water
21 year 2014 and 2015".

22 MR. HARRIS: Yeah, we do understand that all of
23 the language that follows is qualified by being consistent
24 with the judgment. And that's an applicable LORS, so maybe
25 that's the best way to think about it.

1 We don't have the option of not complying with
2 the judgment, it is an applicable LORS.

3 If you want to take a look at the language, Matt,
4 and make it even more redundant and repetitive, and say the
5 same thing, that's fine with me. But I think it is
6 covered.

7 COMMISSIONER DOUGLAS: I think, Matt, if you
8 could take a look at the language and --

9 MR. LAYTON: I will.

10 COMMISSIONER DOUGLAS: That would be helpful.

11 So, we are still on comments from Valerie
12 Wiegenstein with Mojave Water District -- Agency? It's
13 Agency sorry.

14 Go ahead. Sorry to have interrupted you, but I
15 didn't want to lose the first two comments you made.
16 Anything else?

17 MS. WIEGENSTEIN: The other thing would be that I
18 know that High Desert Power project currently has a
19 relationship with Victorville, whereby Victorville would
20 pump the water that they've pre-stored for them.

21 Now, is that the same relationship that will
22 occur, that the City of Victorville would pump the High
23 Desert Power project extraction wells for them or would it
24 be High Desert Power project doing that separately from
25 Victorville?

1 COMMISSIONER DOUGLAS: We'll pause there. Mr.
2 Harris?

3 MR. HARRIS: I'll let somebody with the actual
4 knowledge answer that question.

5 MR. HEISEY: So, this is Brad Heisey representing
6 the High Desert project.

7 Yeah, we have an existing arrangement that deals
8 with our aquifer banking system, and it's a relationship
9 with the Victorville Water District to allow for pumping of
10 groundwater that has been pre-injected into this existing
11 aquifer bank.

12 We are proposing, under this structure, to
13 utilize some of that same infrastructure, but we will have
14 to enter into a new arrangement with Victorville Water
15 District to provide for that service of pumping and
16 transferring that water through that same infrastructure up
17 to the High Desert facility.

18 So, we fully recognize that the existing
19 agreement doesn't have significant enough provisions
20 contained within it to deal with this secondary source of
21 water, if you want to call it that.

22 And we'll have to make either modifications to
23 the existing agreement or enter into a new arrangement with
24 Victorville Water District to allow for that water transfer
25 from the ground wells that are dedicated to the High Desert

1 facility up into the delivery point at the High Desert
2 facility.

3 COMMISSIONER DOUGLAS: All right and we have both
4 the Victorville Water District and the City of Victorville
5 on the phone.

6 So, if there's any needed addition or
7 clarification from them, we'll get to that.

8 Other questions Ms. Wiegenstein?

9 MS. WIEGENSTEIN: No, those are the only two I
10 have so far, after reading the assessment.

11 COMMISSIONER DOUGLAS: Well, thank you so much
12 for being on the phone with us this morning and for asking
13 those questions, and that was very helpful.

14 Let's go on, now, to Logan Odds or Olds, Victor
15 Valley Water?

16 MR. OLDS: Yes, Olds just like Oldsmobile.

17 COMMISSIONER DOUGLAS: Thank you.

18 MR. OLDS: Thank you. My comments are relatively
19 simply. I've reviewed the staff report and, of course,
20 we've been in close contact with both the City of
21 Victorville and the Water District, as well as with High
22 Desert Power Plant, and we support their application.

23 We do not offer any comments or questions at this
24 time, other than to lend support to their application.

25 COMMISSIONER DOUGLAS: Thank you very much.

1 Sean McGlade, City of Victorville, your comments,
2 please.

3 We'll give Sean McGlade another moment or two and
4 then we'll go on to Gary Ledford. Sean McGlade, are you
5 there?

6 MR. MC GLADE: Yes, I'm here.

7 COMMISSIONER DOUGLAS: Oh, good.

8 MR. MC GLADE: I would just add that we have been
9 in communication with High Desert Power Project for an
10 amendment to the agreement or a new agreement for the
11 transportation of water to their facility and we're in
12 support of their application.

13 COMMISSIONER DOUGLAS: All right, thank you for
14 being on the phone with us this morning.

15 Gary Redford [sic], I understand you were an
16 Intervener in the licensing process for the High Desert
17 Power Plant.

18 You know, we're now in the compliance phase.
19 We're very interested in hearing from you so go ahead.

20 MR. LEDFORD: Well, thank you. I am talking to
21 you from Cripple Creek, Colorado.

22 And we had a very short period of time to
23 actually respond to the staff's comments.

24 This water project, as a part of High Desert
25 Power, was nearly three years in the workshop, and expert

1 testimony and hearing phase.

2 And I was happy to hear High Desert Power say
3 that everything that I had filed in my papers was accurate,
4 because it is accurate.

5 And I'm an individual Intervener, I suppose, but
6 I was reluctantly appointed the talking part of an expert
7 group that found out early on that the project that they
8 proposed probably wouldn't work.

9 And we tried to convince them that it wasn't the
10 best plan in an over-drafted water basin to get done.

11 Virtually every part of the project that they
12 proposed to do, especially banking the 13,000-acre feet of
13 water has never happened.

14 They've tried a number of things. The High
15 Desert Power project got an amendment to use some
16 wastewater, which is not working according to their own
17 testimony.

18 And the other thing that seems to be completely
19 being ignored right now is that there's another approved
20 project that is also supposed to use wastewater.

21 There is also the High Desert Power project's
22 commitment to do a 100-percent feasibility study, which has
23 now been continued twice.

24 And that 100-percent feasibility study is now due
25 in about six weeks' time, I believe.

1 I will tell you that the people that were
2 concerned about the use of water in the State of California
3 for cooling power plants is the same as it was in the year
4 2000 when we had these hearings.

5 Unfortunately, many of the experts are either
6 dead, two of the key experts are now dead, and some of the
7 others have retired into places that I haven't been able to
8 find, at least in the last two weeks.

9 This appears to me to be another fishing
10 expedition as to what they might be able to do. They're
11 asking for a rubberstamp approval on conditions that went
12 ad nauseam saying that they would never do it.

13 They're testimony was they would never do it.

14 I can read into this record, if you'd like, many
15 pages of testimony. I am prepared to do that.

16 But what I'm asking for is that this hearing be
17 continued and the record be reopened, and that we have
18 evidentiary hearings relating to these issues. That we
19 study whether or not High Desert Power, along with its
20 companion, an already licensed power plant on the same site
21 be determined whether or not it can use recycled water and
22 how all that would work.

23 I think this is a public process and I think that
24 all of the sudden we're --

25 (Temporary loss of WebEx)

1 MR. LEDFORD: -- has not done the things that
2 they were supposed to do.

3 I took an active role. I spent hundreds, if not
4 thousands of hours, and probably hundreds and thousands of
5 dollars in evaluating the use of not only State project
6 water that was destined to recharge this over-drafted
7 Basin, but also whether or not it was fair to the owners of
8 that water to have one set of rules for the stipulating
9 parties, which is what High Desert would come under if they
10 are allowed to use for production allowance.

11 I suspect that if this can all be studied out,
12 they could be allowed to use it. And I do think the
13 conditions should be totally refined to discuss and ensure
14 that the two-for-one provision is what is required and not
15 just left to being not fully disclosed and described.

16 My bigger problem, and if you read my papers, if
17 you read my papers, is whether or not there's water
18 available.

19 There was 19,000-acre feet of surplus water
20 available in 2013 and to the best of my knowledge most, if
21 not all of that water, was actually leased for the purpose
22 of replacement or makeup water assessments.

23 So, to the extent that they would need 4,000-acre
24 feet of pre-production allowance, assuming that was the
25 number, then my concern is that there may or may not be

1 4,000-acre feet of water even available.

2 This would all come out if we had public hearings
3 and we could have people come forward, if High Desert Power
4 could show that they have contracts for the water and all
5 of those things that were discussed.

6 But just to have a ten-minute hearing and not
7 have everybody alerted that was really concerned about this
8 12, 13, 14, 15, 16 years ago isn't the appropriate way to
9 do it, at least in my mind. Thank you.

10 COMMISSIONER DOUGLAS: Thank you, Mr. Ledford,
11 for joining us from Colorado.

12 And at this point I do have a couple questions,
13 but let me see, first, if either staff or petitioner wants
14 to make any additional comments based on what we've heard
15 from anybody so far?

16 MR. LEVY: Commissioners, while they're
17 conferring, may I just make a comment for the record. Mr.
18 Ledford filed several documents, recently, which he's
19 styled as motions.

20 And just so it's clear for everybody, motions can
21 be filed by parties to a proceeding. And as this is the
22 compliance phase, it's after the evidentiary hearings on
23 the application for certification so there really are no
24 parties at this point.

25 So the Commission, just to make it clear, should

1 regard Mr. Ledford's letters and motions as comments and a
2 request for evidentiary hearings, rather than a formal
3 motion.

4 COMMISSIONER DOUGLAS: Thank you for clarifying
5 that. That's correct and, of course, Mr. Ledford is one
6 the line and what we will make sure we do, and what I think
7 we did was have him lay out the arguments and the reasons
8 for the requests that he made.

9 So, Mr. Ledford, we'll go back to you and see if
10 there's anything you'd like to add.

11 But let me see, now, Mr. Harris do you have
12 anything at this point?

13 MR. HARRIS: No, I've had some e-mail exchanges
14 with Mr. Ledford and they've been very pleasant. He's been
15 very professional.

16 I, obviously, have a different view of the facts,
17 but I don't feel the need to go into those.

18 I will note that we have a requirement to file a
19 petition to amend by November 1st of 2015. And to the
20 extent that these issues are issues that he wants to deal
21 with, I think that may be the best forum for those issues.

22 COMMISSIONER DOUGLAS: Thank you.

23 Staff, do you have anything at this point? No,
24 okay.

25 So, let me just ask the petitioner a couple of

1 questions. So, why was it so apparently difficult for the
2 power plant to bank the 13,000-acre feet of water?

3 I mean, initially, it was supposed to be banked
4 in relatively short order and that deadline was extended a
5 couple of times by the Commission.

6 And now, I understand there are about 3,000-acre
7 feet banked and maybe that's about the most that has been
8 achieved over this time period.

9 So, what's going on here? How do we explain
10 that?

11 MR. HARRIS: Well, a couple of things. First
12 off, I think it's really important to understand that we
13 can only bank State Water Project water. And we can only
14 bank that water when the project is operating.

15 One of the things we asked for in the amendment,
16 that staff has basically agreed with, in this petition, was
17 the ability to discharge a little water back through the
18 system so that we would be able to bank water during the
19 times the project is not operating.

20 In simplest terms, we need the heat to be able to
21 process the water to be banked.

22 So, when the water's been available to be used,
23 it's going to be used both to operate the project and also
24 for banking purposes. And so, that's part of the reason
25 that we're in the current banking situation that we are.

1 I guess I would also note that we're unique in
2 this respect. We're the only water user in the entire
3 Mojave Basin who has a bank within the bank. That's sort
4 of vestigial. It's part of the original certification
5 process.

6 But whether a water rights user within the Mojave
7 is required to have a bank within that bank and so it is
8 unique.

9 And one of the things we're looking forward to in
10 the November 15th filing is the ability to bring this
11 application into the 21st Century, the second decade of the
12 21st Century and deal with issues like that.

13 And Brad, do you want to add anything to that?

14 MR. HEISEY: Yeah, again, this is Brad Heisey.
15 So, one of the sort of underlying premises and Jeff has
16 alluded to that here is State Water Project water has to be
17 available to the project in sufficient quantities and
18 quality to allow us to run our banking system.

19 And historically, from inception, State Water
20 Project water has not been fully available to the project.
21 And that's what really put the project behind in meeting a
22 large number of its banking milestones that were originally
23 in the petition.

24 When we made our petition to begin to use
25 reclaimed water for the projects some of those issues were

1 discussed with staff at that time, and banking milestones
2 were removed from our certifications at that time primarily
3 due to the insufficient quantities of State Water Project
4 water that has been made available to us, historically, for
5 this project.

6 So, again, that State Water Project water was
7 supposed to serve two needs, provide day-to-day cooling
8 water for the facility, as well as provide the supply
9 source to allow us to run our banking system.

10 And we have been, historically, receiving lower
11 allocations than originally intended under the construct of
12 this project.

13 MR. HARRIS: And Brad, can you talk a little bit
14 about the need to blend water because that obviously
15 results in you drawing water out of your bank. So, talk a
16 little bit about the blending process, if you would.

17 MR. HEISEY: Yeah, so what we're doing right now
18 and we have built inventories in the aquifer banking, this
19 storage bank that Jeff referred to. We have been building
20 inventories and have, historically, built inventories in
21 that system.

22 And that really is a reserve there for emergency
23 uses or for backup water supply to the project.

24 We have been relying, now, more heavily on
25 reclaimed water with the absolute reduction in State Water

1 Project water this year to the project.

2 But again, as we stated, and these are areas that
3 we have explored with staff from time to time, are the
4 quality of the reclaimed water that is coming to us or the
5 consistency of the reclaimed water that is coming to us
6 requires us to blend with another source water, another
7 stream in order to be able to take larger and larger
8 volumes of reclaimed water through the facility.

9 State Water Project water has been suspended this
10 year for us and has not been available to us as a blending
11 medium, so we've been using our aquifer bank inventory as a
12 blending medium to take the larger quantities of reclaimed
13 water into the project.

14 That's really what's been going on near term.
15 And as Jeff said, and as staff has recommended that we file
16 a petition in November of 2015 to address a collective of
17 issues. They're all very interrelated and interdependent
18 on one another, and probably very complex and too detailed
19 to go into a great amount here, in this forum.

20 But that is the purpose and the intent of the PTA
21 that we're required to file on November 1, 2015, as in
22 staff's modifications or proposed modifications.

23 COMMISSIONER MC ALLISTER: I wanted to ask a
24 quick clarification. So, could you actually go into a few
25 of those details on the quality issues? I mean my

1 understanding is that that's tertiary treated water that
2 you're getting and why wouldn't it meet your spec?

3 And my understanding is that there are projects
4 in the State that do use that level of treated water for
5 cooling directly, I believe, and I want to know what's
6 different here?

7 MR. HEISEY: Well, it is Title 22 water. But we
8 also had, based on the design of our equipment that was in
9 place at the facility had other quality specifications that
10 were embedded within our contractual arrangement that we
11 entered into with Victorville Water District.

12 Victorville Water District supplies that water to
13 us. It has two primary sources of reclaimed water. Our
14 upstream water is supplied from their own City of
15 Victorville or Victorville Water District Industrial
16 Wastewater Treatment Plant.

17 And it also receives water from the Victor Valley
18 Water Reclamation Authority.

19 Mr. Logan Olds was representing the VVWRA. Mr.
20 Sean McGlade, on the phone, was representing the City of
21 Victorville or Victorville Water District.

22 Those are the two primary upstream sources of
23 water supply that satisfy the definition of reclaimed water
24 or recycled water.

25 Embedded within that contract that we have with

1 the City of Victorville, Victorville Water District are
2 some additional quality specifications above Title 22,
3 which is the primary spec for reclaimed water discharge.

4 And that was really to accommodate equipment that
5 we have in our facility and the ability for our facility to
6 process reclaimed water.

7 Again, as Jeff alluded to, historically this
8 project was prohibited from using reclaimed water in its
9 original inception.

10 And, therefore, the design of the project and the
11 design of our facilities was never intended to accommodate
12 the utilization of reclaimed water.

13 And we have been studying reclaimed water, when
14 it's been available to us to try to -- in order to complete
15 the feasibility study that has also been referenced here is
16 our assessment of our internal facilities to accommodate
17 higher levels of reclaimed water use.

18 So, all of those things in combination have been
19 coming into play with the determination as to whether we
20 can accommodate and receive reclaimed water.

21 When the City of Victorville Industrial
22 Wastewater Treatment Plan is our sole source of reclaimed
23 water, that water is outside of our specifications in
24 our --

25 COMMISSIONER MC ALLISTER: That's mineral

1 content, or dissolved solids or what is it?

2 MR. HEISEY: Yeah, it's TDS, it's dissolved
3 solids and silica.

4 COMMISSIONER MC ALLISTER: So, the retrofit
5 requirements -- the requirements for retrofit would be,
6 presumably, in your feasibility study that will be coming
7 soon and any description of that will be coming in the
8 amendment the following year?

9 MR. HEISEY: Yeah, the assessment of our where
10 our plant is bottlenecked, if you will, from the ability to
11 process or handle that water is part of this overall
12 feasibility study assessment.

13 And what modifications that might be necessary to
14 the plant are going to be encompassed within that
15 feasibility study assessment.

16 And from time to time VVWRA water or the ratio of
17 VVWRA water to industrial wastewater treatment water does
18 vary. The VVWRA plant might be down for maintenance, in
19 which case we're getting a sole stream of water from the
20 City's Industrial Wastewater Treatment Plant, which tends
21 to be off specification relative to our contractual terms.

22 We have temporarily suspended those contractual
23 restrictions so that we can take reclaimed water or are
24 willing to take off-spec reclaimed water into our facility,
25 particularly in light of the situation that we have this

1 year with the State Water Project water being suspended.

2 So, we're doing a number of different things
3 around the project and around the operations of the asset
4 on a day-to-day and hour-to-hour basis to balance the
5 water, incoming water that's available to us with regard to
6 how it fits in our process, and allow the plant the ability
7 to perform as it needs to, to satisfy its obligations in
8 the energy market.

9 COMMISSIONER DOUGLAS: So, a related question for
10 you, then. You know, the feasibility study is something
11 that has been due and part of the staff proposal is to
12 provide another year for you to complete the feasibility
13 study.

14 Can you help us understand why the extension is
15 needed and why it's not possible to move to a much higher
16 level or 100 percent reclaimed water now?

17 MR. HEISEY: Well, the first point of clarity,
18 the feasibility study is due November of this year.

19 COMMISSIONER DOUGLAS: Correct.

20 MR. HEISEY: The staff is recommending that we
21 file a petition to amend our certification November 1,
22 2015, which is a more all-encompassing, taking the results
23 of the feasibility study, as well as other conditions
24 within the environment relative to other sources of water
25 supply, reliable sources of water supply that may be

1 available to us to -- as the staff described, to make the
2 project more drought-resistant.

3 And so, that is what is actually due in November
4 of 2015.

5 Our feasibility study will be delivered November
6 of 2014.

7 We have sought extensions to that feasibility
8 study on delivery time line, and that was primarily driven
9 by the unavailability of reclaimed water through this
10 history.

11 We entered into a contract with Victorville Water
12 District to begin taking reclaimed water in 2010.

13 That water that was made available to us or not
14 made available to us in the time frame that we've had, has
15 left us without the ability to truly study the effects that
16 it has on the plant.

17 We have not been able to sustain deliveries or
18 receive sustained deliveries from our supplier over that
19 time horizon, either due to their capital projects, and
20 improvements and changes, and modifications they were
21 making to their facilities that restricted their flow to
22 us.

23 But there's a myriad of reasons and issues that
24 drive how historical -- the reclaimed water has been
25 available to the project historically.

1 That has been discussed with staff over time and
2 that is how we sought to get extensions to the delivery
3 date on the feasibility study. Primarily, to allow us and
4 afford us the opportunity to have access to sustained
5 reclaimed water supplies to allow us to truly assess and
6 evaluate what modifications and changes might be necessary
7 within the plant.

8 MR. HARRIS: And let me just add to that, too,
9 that the extensions are not a deleterious act on our
10 behalf. I think the extensions were things staff agreed to
11 because if we had filed the feasibility report two years
12 ago it would have said flat out it's infeasible, a hundred
13 percent infeasible. The supplies were not coming in at
14 that time.

15 And so, I won't presume to speak for the staff on
16 that, but I think the longer -- the more data we have about
17 the feasibility, the more likely it is to be shown to be
18 feasible, quite frankly.

19 So, I guess I want folks to understand that, you
20 know, if you had demanded a feasibility report two years
21 ago we would have given you one and you would not have
22 liked it at all.

23 I'm not sure you're going to like the new one a
24 whole lot more. I think what it's going to show, without
25 pulling the curtain too far back, is that we have to

1 continue to blend water supplies from various sources.

2 It's not the 100 percent recycled feasibility
3 study, it's the feasibility study.

4 And it is more feasibility in 2014 than it would
5 have been if we had delivered it to you in 2012. So, I
6 think that's an important point. There's a benefit from
7 that extension and one I think that the staff saw in
8 granting the extension.

9 COMMISSIONER MC ALLISTER: Well, so, I mean staff
10 modified your application and your desired outcome to sort
11 of pull it to two years and limit the quantity of water, et
12 cetera.

13 I mean I'm certainly, given the history here,
14 concerned about the implementation period for, you know,
15 activities such as possible retrofits to deal with recycled
16 water, to clean it up on-site.

17 I mean those are significant investments that it
18 sounds like you may have to make and, you know, could leave
19 the facility without a water supply.

20 MR. HARRIS: Well, we --

21 COMMISSIONER MC ALLISTER: So, how do you intend
22 to deal with any delays that do come up?

23 MR. HARRIS: Sorry to interrupt. Yeah, we are
24 very much looking forward to filing that petition. There
25 may be, and we've used this term in the past, a bridge

1 period.

2 The Commission approved one project that we
3 worked on that didn't have a recycled water supply, but it
4 was on the horizon. So, during the time when the recycled
5 water was not available we used a different supply and
6 referred to that as the bridge period.

7 We might require some kind of bridge, as well,
8 between the current configuration of the project and
9 whatever the ultimate decision is on the 2015 amendment.

10 But I think we would role that into that
11 amendment process. And as we did in the past, you write a
12 condition that says, you know, here's your water supply
13 until this milestone.

14 And then when the milestone occurs, you switch to
15 the new supply or you have the additional facilities. So,
16 I think it can be dealt with in that petition.

17 COMMISSIONER MC ALLISTER: Well, it seems to me
18 that, I mean just generally speaking, this has not been a
19 surprise. I mean this is not a surprise. This thing is
20 like a freight train coming over the decade that you've
21 been operating, or so.

22 So, it's a little -- I know there are challenges.
23 I mean having a water-cooled power plant that's not on the
24 coast and is actually in the high desert is just
25 fundamentally a challenge in today's day and age.

1 But, anyway, I think Commissioner Scott has a
2 follow up.

3 COMMISSIONER SCOTT: Yeah, I had similar
4 questions and concerns, too, on what you've heard from both
5 Commissioner Douglas and Commissioner McAllister.

6 And it's kind of the same thing. I guess, given
7 the reliability or maybe the lack of reliability of the
8 sources of water supply why the feasibility studies are --
9 continue to be pushed out.

10 But one question, you mentioned earlier in your
11 remarks that there have been a lot of investments that have
12 been made. And I do think it would be helpful for us to
13 hear what some of those are.

14 And then, I had a question also for our staff in
15 terms of the public process that goes along with this. And
16 we heard that concern from some of our commenters in terms
17 of, okay, is the feasibility study something that the
18 public will be able to comment on? As we get to the
19 petition for the amendment?

20 I think it would be helpful for you to just
21 clarify the points where the public will be able to be
22 involved as the process goes on. So, those are the two
23 questions, one investments and one public process.

24 MR. HARRIS: So, I'm sorry, your question,
25 Commissioner, was about the investments we've made to date

1 to be able to use as much recycled water as feasible?

2 COMMISSIONER SCOTT: Yes.

3 MR. HARRIS: Yeah, sorry, did you hear a
4 different --

5 MR. HEISEY: I can speak in general terms because
6 I, obviously, don't have any of those very specific dollar
7 amounts sitting in front of me.

8 But when we made a petition to amend Soil and
9 Water Conditions to allow us to use recycled water, we made
10 investments through Victorville Water District or through
11 the City of Victorville to effectively fund the upgrade of
12 their reclaimed water delivery system.

13 They installed a million-gallon storage tank and
14 they made modifications to their pipeline system to
15 accommodate deliveries to the High Desert facility.

16 And all of that infrastructure was funded by the
17 High Desert facility or we shared in funding of the
18 pertinent facilities that were directly associated with our
19 desire to use reclaimed water with the City of Victorville.

20 Subsequent to that we've spent a number of, a
21 significant numbers of dollars of consulting dollars, and
22 on engineering design, review and assessment of how the
23 facility reacts to and accommodates the use of reclaimed
24 water.

25 And so, there's a dollar amount invested in

1 engineering services and consulting services that we have
2 put into play here to help us establish and deliver
3 ultimately what will be contained within the feasibility
4 study.

5 And in conjunction to that we have another couple
6 of projects where we have identified bottlenecks within the
7 system that require modifications.

8 We are attempting to proceed forward with those.
9 Right now we have two of those projects that are presented
10 to staff for staff-approved modifications. That if we get
11 approval from staff to proceed, we will construct a couple
12 of modifications to our cooling tower blow-down system to
13 de-bottleneck or to assist us in de-bottlenecking that
14 system.

15 All of those things are desired and actions that
16 we need to take in order to be able to more reliably take
17 higher quantities of reclaimed water into the facility.

18 So, we have a couple of construction projects
19 pending that we're hoping to get approval for to be able to
20 proceed on, and move to construction yet this fall that
21 will de-bottleneck the system.

22 And these are all items that we have identified
23 through study and analysis as part of the feasibility
24 study.

25 So, there's an ongoing desire for us to commit

1 capital to look at our plant process, as it's designed, and
2 assess where we need to make modifications and changes.

3 We'll continue to work with the City of
4 Victorville or Victorville Water District to see what other
5 things can be accommodated to ensure more reliable delivery
6 on an hourly basis to our plant.

7 As everyone knows, we truly do need to look at
8 this as a very granular delivery situation. We generate
9 power on an hourly basis into the California market. The
10 plant operates and the mix of water supply or the mix of
11 needs for cooling on an hour-to-hour basis changes with the
12 amount of power that we're delivering into the market.

13 So, this is a very granular view for us, the mix
14 and the capabilities of any particular one supply source
15 that may be available in a particular hour, how the plant
16 is dispatched in that particular hour all factor into how
17 much water supply we can take into the plant given the
18 current conditions of the plant and the current operations
19 of the plant.

20 So, it's a very granular project and design
21 problem for us to deal with on a day-to-day basis.

22 We're not talking about annual averages or things
23 over a broad time horizon. When we're looking at the
24 operations at the plant, we're looking at a very granular
25 and very nuances component, trying to figure out what the

1 optimal mix is on any given hour. And how our plant is
2 behaving and reacting to changing constituents within the
3 streams of water that we're trying to process.

4 MR. HARRIS: And let me add that, as I said
5 before, recycled water is our cheapest supply of water.
6 It's our preferred and we want to use as much as possible.

7 Well, one of the increased expenses from power
8 generation is having to deal with multiple supplies. The
9 more variety you have in your water sources, the more
10 treatment equipment you're going to need.

11 And you'll have equipment that's more important
12 to recycled water than it is to State Water Project water,
13 than it is to banked groundwater.

14 So, we have every economic incentive to use as
15 much recycled water as possible and to minimize our costs
16 and our capital costs for potential changes by using that
17 one supply.

18 So, the more supplies we have, the more this
19 becomes a water treatment plant attached to a power plant,
20 as opposed to a power plant with a water treatment plant.

21 COMMISSIONER DOUGLAS: I think there was another
22 question to staff.

23 MR. OGATA: Yes, thank you, Commissioner Scott
24 for asking that question. This is Jeff Ogata. I'm
25 Assistant Chief Counsel.

1 We have recently instituted an electronic filing
2 system, as you're aware, and that has greatly enhanced the
3 ability for the public to track what's going on in our
4 siting and compliance matters.

5 So in this case, when we receive the feasibility
6 study in November, once it's put into dockets and it's
7 released to the public everyone will have access to it
8 immediately.

9 We always allow public comment on any of these
10 documents that are filed.

11 So, certainly, if you sign up on the list serve,
12 if you have comments you can send it to the docket, you can
13 send it to the current compliance project manager, who's
14 Mr. Joseph Douglas sitting to my right.

15 The petition to amend, when that's filed last
16 year, I can't really tell you for sure how it's going to be
17 handled.

18 But it's highly likely, given our past review of
19 these things that this will be a major amendment. And so,
20 whether or not a committee will be asked to be assigned to
21 that or not, we'll have to take a look at the amendment
22 when it comes in.

23 But if that's the case, then a committee will be
24 assigned. There will be two Commissioners and this will be
25 done with a lot of public review and comment.

1 Even if that's not the case, petitions to amend
2 are still subject to public comment and we certainly will
3 take into account any other comments the public has to
4 make.

5 We are aware, of course, that this is a very
6 interesting subject matter that people are concerned about.

7 And since staff also was concerned about this at
8 the time of licensing, we will take this obviously very
9 seriously, as we do everything.

10 But, of course, we understand water's a big deal
11 so we will be making sure that we take into account public
12 comment.

13 And we will do a full review of this petition, as
14 we do in all things.

15 In this case, as Mr. Douglas pointed out, staff
16 did review every technical area for this petition and it
17 was only the water issue that any of our technical staff
18 had comments about. So, that's why this is very focused on
19 just the Water and Soil Condition.

20 But yes, we do have a very public process and we
21 will certainly make sure that we let the public know that
22 comments are acceptable.

23 COMMISSIONER MC ALLISTER: I just have a couple
24 more questions, shifting gears a little bit.

25 So, you mentioned your obligations in the energy

1 market and I am curious as to, you know, what those are?

2 In particular, my understanding is that, you
3 know, you're a merchant plant.

4 I'm wondering if you have any PPAs, sort of are
5 you entirely on the spot market?

6 Your capacity factor seems remarkably high and I
7 imagine, after ten plus years' of operation it looks like
8 that's been pretty high, so you're able to compete
9 successfully in that whole sale market.

10 So, I'm kind of wondering if you could describe,
11 sort of confirm those statements and talk a little bit how
12 you operate and what your -- you know, you consider to be
13 your obligations in the power market?

14 And part of what I'm trying to get at is it seems
15 like there's some headroom to make some serious investments
16 in your plant.

17 I'm also certainly concerned about the San Onofre
18 area situation of reliability in Southern California.
19 That's something we have to take into account, as well.

20 But, you know, you're doing pretty well from sort
21 of the metrics that I've seen, and I'm wondering if you
22 could talk us through that a little bit.

23 MR. HEISEY: From a power dispatch perspective
24 you are correct, we are a merchant facility. So, we offer
25 our energy into the CAISO market every day. And depending

1 on how the CAISO market is satisfied, and CAISO manages
2 that process, they will either give us a day-ahead award
3 and schedule the facility, or we will have self-scheduled
4 our plant in to deliver energy, if we believe the economics
5 are there to allow us to operate.

6 And so, our capacity factors have been -- I don't
7 have the numbers in front of me, but sort of in the 65
8 percent range on an annual basis.

9 COMMISSIONER MC ALLISTER: So, in this day and
10 age that's quite high for a merchant plant like that,
11 right?

12 MR. HEISEY: Yeah, and so I think that is
13 somewhat reflective of the situation and the need for
14 combined cycle generation in the State of California,
15 particularly in light of Southern California and
16 disruptions in the market, the significant loss of a
17 baseload facility, San Onofre, out of that marketplace.

18 To some extent, some of that void may be being
19 filled, although we cannot, you know, identify that
20 expressly, but may be filled by facilities like High
21 Desert, which is a combined cycle power plant.

22 And so I think, you know, that has afforded the
23 opportunity for us to generate electricity.

24 As you know, the capacity market is bifurcated in
25 this State. We don't have a long-term off-take agreement.

1 We don't receive any structured compensation from any of
2 the load-serving entities.

3 We sell our RA product from time to time, and
4 seasonally or annually to load-serving entities if they're
5 out in the market looking for that.

6 But again, quite frankly, to support or sustain
7 significant additional capital investments within this
8 plant, you know an energy off-take or more assurance to our
9 revenue stream would be a desired effect.

10 COMMISSIONER MC ALLISTER: Okay, so that's what
11 I'm trying to get out.

12 MR. HEISEY: We don't have certainty to our
13 revenue stream. It is variable and very much dependent on
14 how that plant is utilized in the market.

15 COMMISSIONER MC ALLISTER: So, do you have a
16 Catch 22 here where you need a PPA to justify the
17 investment, but you're not going to get a PPA if you have
18 that uncertainty?

19 MR. HEISEY: And so, we will attempt to manage
20 the efforts on a go-forward basis as best we can in order
21 to have our facility survive in the market.

22 COMMISSIONER MC ALLISTER: Well, it seems like to
23 me the now adjudicated Water Basin is kind of bailing you
24 guys out for the near term and you've got to figure out a
25 plan. So, it seems very clear.

1 COMMISSIONER DOUGLAS: I have, I think, one more
2 question and then I do want to go back to Mr. Ledford and
3 see if he has any comments.

4 And I'll go back to staff and see if they have
5 any suggestions on the condition or whether they think it's
6 okay as is.

7 So, I guess my question is you referenced
8 challenges with supply of recycled water as being one of
9 the factors that -- maybe not the only factor, that made it
10 difficult or infeasible to do the feasibility study for a
11 hundred percent or near a hundred percent use of recycled
12 water.

13 What were some of those issues and what is the
14 likelihood of that water supply being more secure and from
15 your perspective?

16 MR. HEISEY: Quite frankly, I'm not sure that I
17 can address what are all the upstream supplier's issues.
18 We sort of get residual information.

19 When we ask for water supply to be delivered to
20 us, the City of Victorville or Victorville Water District
21 will either tell us it's available or not available for
22 delivery.

23 I do know, but I don't have any of the specific
24 dates in front me, but VVWRA had a large-scale capital
25 project that they were working on, their Shay Road Plant

1 for some period of time.

2 And for some period of time Shay Road was not
3 delivering water to the City of Victorville, Victorville
4 Water District and, therefore, that water was unavailable
5 to us.

6 I don't have those specific dates in front of me.
7 But there were some things that were going on and overall,
8 hopefully, enhancing the capabilities of that facility and
9 allowing for more sustained and reliable delivery of
10 supply.

11 But we would have to go back and do research with
12 or have inquiry with VVWRA or Victorville Water District
13 for specific instances.

14 And I'm not sure, you know, whether any of those
15 gentlemen are still on the phone or not.

16 But I guess the underlying, the point of
17 reference for us is we asked for whether reclaimed water
18 supply is available to the project on a particular day or a
19 particular hour in a particular day and the answers will
20 vary over time.

21 And certain days it is truly available to us and
22 then we have to ask how much quantity is available to us,
23 and what the quality of that water is and whether it meets
24 our specifications.

25 So, all of those things come into play on a daily

1 basis and as to whether that water is available to us on
2 any particular day, in a particular quantity and quality
3 that we need to receive.

4 And I just don't have all of those specifics here
5 for you, today.

6 COMMISSIONER DOUGLAS: All right, well thank you.

7 Mr. Ledford, going back to you, anything you'd
8 like to add at this point?

9 MR. LEDFORD: I do, thank you very much.

10 The one statement that was made was that they
11 have 3,000-acre feet in their water bank. It's my
12 understanding that the 3,000-acre feet has not been subject
13 to the dissipation requirements and that no study's been
14 done on that.

15 Speaking specifically about reclaimed water,
16 there's two upstream projects that are being built, one in
17 Apple Valley and one in Hesperia. My understanding is that
18 the RFP for those two facilities is out and both of those
19 cities have a desire to use reclaimed water on projects
20 such as golf courses.

21 (WebEx unavailability)

22 COMMISSIONER DOUGLAS: All right, we'll wait for
23 a minute and see if Harriet can get him back.

24 MR. LEDFORD: -- questions and the risks that
25 were involved with --

1 COMMISSIONER DOUGLAS: Mr. Ledford, I'm sorry, we
2 lost the phone connection for about a minute. So, let's
3 see --

4 MR. LEDFORD: Uh-oh.

5 COMMISSIONER DOUGLAS: And so, I'm sorry, you
6 were probably being terribly eloquent and we didn't hear a
7 word beyond that you were talking about how there would be
8 other potential users for recycled water, such as golf
9 courses, and that's when we lost it.

10 MR. LEDFORD: Okay, yeah, golf courses, and
11 parks, and other open space areas. And the Cities of
12 Victorville and Hesperia have a desire to be able to use
13 the same water that's currently being used as a part of the
14 High Desert Power project.

15 There is a stipulation and a growing stipulation,
16 it's my understanding, with California Department of Fish
17 and Game, I believe, that they get the first 9,000-acre
18 feet of water out of VVWRA in order to recharge the
19 riparian habitat that's around and below the Victor Valley
20 Wastewater Authority.

21 I think my biggest point here is there are some
22 many issues that were studied and agreed to, and
23 stipulations made, and like I said I could go through the
24 testimony and I could go through what -- San Walowski
25 (phonetic) would ask very specific questions about you're

1 taking this at your own risk, and you understand that these
2 are all the issues, and you understand that there may not
3 be State Project Water available.

4 Every single point that they're making as to why
5 that they should be able to do it, those things were all
6 made before.

7 And the adjudication as to whether or not there
8 would be free production allowance that could be leased to
9 anybody, those issues were also studied, and discussed and
10 talked about.

11 And at the end of the day the conditions that
12 were stipulated to, or mandated language, there were times
13 when I -- the original conditions had issues like "may",
14 that the project may be able to use.

15 And I would ask the question, "may" is a "may"
16 word. We're looking for "shall" word.

17 And they went back and the staff said Mr.
18 Ledford's right, we need to change those words, it needs to
19 be "shall".

20 And I mean here we are 12 years later with the
21 same, actually, exactly the issues that we raised. And we
22 said this is going to be a problem for this power project.

23 And, of course, we were looking for protection of
24 the water basin and we weren't looking to not see this
25 project approved. We're happy to see it approved.

1 But we think that dry cooling or wet/dry cooling
2 was the appropriate mitigation for cooling this power plant
3 and we still think that.

4 And my problem with rubberstamping these
5 conditions today, like this, is the Commission is not
6 getting a full view of what needs to go on.

7 And I think the public does need to be involved.
8 Maybe they won't be interested, I don't know. The people
9 that were interested with me, like I said, some of them are
10 still around. The key people, Roy Hamson (phonetic), who
11 was former director of the Division of Water Resources
12 Control Board and have very strong opinions, and Jack
13 Binescroft (phonetic), who had a master's degree in water
14 engineering and was on the MWA Board for a period of time,
15 both of those gentlemen are no longer with us.

16 And we have their sworn testimony that we could
17 bring back before the Commission.

18 And while the lawyer, Jeff, I think, for the
19 Commission said we allow public comments, I made a lot of
20 them.

21 My real question is, is the public really
22 involved? We spent months and months, and years, actually,
23 on this water issue to get the conditions that said if they
24 didn't comply with those conditions that they would not
25 operate this power plant.

1 I think that's unfortunate, but I don't think
2 that it's the end of the day. With some capital investment
3 they can invest in dry cooling and they'll be up and
4 running.

5 And if they get it going now, they could still be
6 up and running.

7 But I think to do it without a public period,
8 they could advance the -- or you could advance the
9 requirement or reopening this case now, as opposed to
10 waiting for another year.

11 And the only other thing, because I'm sure I'm
12 losing, so since I'm losing I would like the condition that
13 relates to the use of free production allowance, if the net
14 effect is that they need 2,000-acre feet of water for 100
15 percent consumptive use, that you embody the exact language
16 that they would have to acquire 4,000-acre feet in order to
17 do that.

18 How they're going to do it, I don't know. But,
19 anyway, I guess they have a plan.

20 Thank you very much for the opportunity to be a
21 public participant.

22 COMMISSIONER DOUGLAS: Thank you very much for
23 all of your comments, and all of your questions, and also
24 your participation in the licensing proceeding.

25 Staff, do you have any proposed changes to the

1 condition?

2 MR. OGATA: Yes, Commissioner Douglas. Again,
3 this is Jeff Ogata.

4 I will be referring to Attachment 1 of the High
5 Desert Power Trust comments, which was filed by Ellison H.
6 Schneider on September 5th. It's transaction number
7 203039.

8 And Attachment 1 is now on the screen for you.
9 And I'm going to be very specific to subparagraph A, which
10 is the third sentence, which is the first sentence that the
11 applicant proposed.

12 The project -- it currently reads "The project
13 owner shall acquire no more than" and we want to change the
14 word "acquire" to "consume".

15 So, it essentially would read, "The project owner
16 shall consume no more than 2,000-acre feet of water".

17 And it continues on into Mr. Ledford's point and
18 to the water master's point, the sentence continues to say
19 that, "The acquisition, use and transfer of MRB adjudicated
20 water rights shall be in compliance with the judgment,
21 rules and resolutions of the MWA water master".

22 So, we believe that that will ensure that if
23 they're going to consume 2,000, then whatever the water
24 master says that they need to buy, if it's double that,
25 then they will have to abide by those rules.

1 COMMISSIONER DOUGLAS: Thank you.

2 Mr. Harris?

3 MR. HARRIS: Matt Layton is brilliant, as always.
4 We find that language acceptable. That was certainly our
5 intent and I think you've heard me describe it that way.

6 So, with the changing of that word, "acquire" to
7 "consume", we're pleased with that change and certainly
8 accept it.

9 COMMISSIONER DOUGLAS: All right, very good.

10 I had a couple of comments to make and then I'll
11 see if anyone has a motion on this item.

12 So, you know, a couple of thoughts. First of
13 all, we are in a serious drought right now and we have a
14 strong State interest in ensuring that with the drought,
15 and potential impacts on water supply for this project but,
16 also, potentially other plants in the State.

17 And with San Onofre down and backup plans being
18 put in place for that, it is important in my view to
19 provide some bridge and some opportunity for this project
20 to continue to operate.

21 So, I'm glad that staff has proposed a two-year
22 time frame for that and I'm also glad that there is an
23 amendment process contemplated and required to start next
24 year.

25 Because that will be an important forum for

1 questions, such as the very good questions that Mr. Ledford
2 raises to be adjudicated more thoroughly than we're able to
3 do at this moment, although, we have been able to have a
4 fairly substantial discussion of a lot of these issues.

5 I think it's very helpful, extremely helpful that
6 the water basin has been adjudicated. That gives me and
7 probably staff, as well, and we'll hear from the other
8 Commissioners in a moment, those who'd like to speak, more
9 comfort in terms of allowing for the groundwater use,
10 limited as proposed, and on a short-term basis for plant
11 cooling.

12 I will say, though, that of course wet cooling in
13 the desert, with groundwater, is not something that was
14 favored by the Commission when this plant was approved and
15 it's probably less favored today, than it was then.

16 So, to the extent that the petitioner is
17 contemplating bringing us a proposal that would extend use
18 of groundwater into the future, you know, certainly we will
19 need to look at the evidence and we will need to consider
20 very carefully the implications, and the facts that are put
21 before us.

22 And so, you know, I'm not in a position to say
23 yes to that, now, and I'm not in a position to say no to
24 that, now. That would come with more information.

25 But it would certainly -- I'll just very, very,

1 very strongly encourage you to bring forward a proposal
2 that minimizes the use of groundwater to the maximum degree
3 that you think you can.

4 And to the extent that you're proposing a bridge,
5 hopefully it will not be a long bridge or a very wide one.

6 So, those would be some initial thoughts for your
7 benefit, such as they are.

8 Let me ask if anyone else has comments at this
9 point or a motion?

10 COMMISSIONER MC ALLISTER: I just have a quick
11 comment. So, we're understanding the next milestone here
12 would be a November 1st submittal of a plan.

13 You prefer that -- you sort of intimated or
14 stated that we might not like it that much. I really hope
15 that's not the case. Would really like to see -- I'm a
16 little astonished to hear that the state of relations,
17 seemingly, at least intuiting from sort of reading between
18 the lines from your statements, with the Victorville
19 entities, the water district and the city, don't have
20 advanced negotiations going on for a reliable supply of
21 water. And that's the concern.

22 And I think that certainly needs to be worked
23 out. If those are our -- the sources of recycled water,
24 then let's target them and try to harness them.

25 But having said that, I fully agree with

1 Commissioner Douglas that, you know, times have changed in
2 the last decade or so. We have an adjudicated water
3 district that has granted us more flexibility and given you
4 more flexibility, and freed up some water for temporary use
5 with a cap on it.

6 So, I'm supportive of staff's recommendation,
7 with those limitations, to move forward to allow the
8 project to keep operating in the current context of
9 reliability in Southern California. I think that's
10 appropriate.

11 But that doesn't remove the major issues that
12 still have to be worked out. And, seemingly, the progress
13 has been sort of too slow on.

14 And so, I think this is a temporary measure and
15 the real rubber hits the road with any application -- you
16 know, with the plan for recycled water and then an
17 application after that.

18 And so, I think this is a good plan going forward
19 and I'm happy to make a motion.

20 So, I'll move Item 2.

21 COMMISSIONER SCOTT: Second.

22 COMMISSIONER MC ALLISTER: Oh, actually, with the
23 amendment as stated by Mr. Ogata.

24 MR. OGATA: Thank you. If I may, I just want to
25 make sure the record is clear on this.

1 COMMISSIONER MC ALLISTER: Okay, yeah, go for it,
2 yes.

3 MR. OGATA: Again, we're referring to the
4 conditions proposed by staff, as amended by the Applicant
5 in their Attachment 1, the document I referenced.

6 Staff is in agreement with that.

7 And just for the record, if you wouldn't mind if
8 I just sort of summarized quickly the major things of these
9 changes because I'm not sure everyone's had a chance to
10 take a look at this.

11 COMMISSIONER MC ALLISTER: Yes and I'll just move
12 referring to what you just said.

13 MR. OGATA: So, again, the major changes here are
14 allowing the project owner to consumer no more than 2,000-
15 acre feet in the water year, which is October to September,
16 pursuant to the rules of the adjudication.

17 We also added that at the project owner's
18 discretion dry cooling may be used, instead, if an
19 amendment to the Commission's decision to allow dry cooling
20 is approved.

21 We added that the project owner shall report all
22 use of water from all sources to the Energy Commission's
23 CPM on a monthly basis, in acre feet.

24 The project owner shall submit a petition to
25 amend no later than November 1, 2015 that will implement

1 reliable primary and backup High Desert Power Plant water
2 supplies that are consistent with State water policies or
3 an alternate cooling system, like dry cooling.

4 We've added additional language about the
5 adjudication.

6 We've changed the date for the feasibility study
7 to November 1, 2014. It was 2013, so that they will submit
8 that in a few months.

9 And the project owner shall submit a petition to
10 amend no later than November 1, 2015 that will implement
11 reliable primary and backup water supplies that are
12 consistent with State water policies, or an alternate
13 cooling system like dry cooling.

14 So, I think -- I just wanted to make that clear
15 that I think we've addressed the concerns that the
16 Commission has just articulated.

17 COMMISSIONER MC ALLISTER: Great.

18 COMMISSIONER DOUGLAS: Thank you. So, we have a
19 motion. Do we have a second?

20 COMMISSIONER SCOTT: Second.

21 COMMISSIONER DOUGLAS: Thank you.

22 All in favor?

23 (Ayes)

24 COMMISSIONER DOUGLAS: Item passes unanimously,
25 four in favor.

1 MR. HEISEY: Thank you very much.

2 COMMISSIONER DOUGLAS: Thank you.

3 All right, let's go on to Item Number 3,
4 Sacramento Municipal Utility District proposed order
5 approving the Executive Director's recommendation that
6 Sacramento Municipal Utility District's contract with
7 CalEnergy, LLC be found compliant with the Emission
8 Performance Standard.

9 Michael Nyberg?

10 MR. NYBERG: Good morning, Commissioners. All
11 right, hopefully a short item.

12 My name is Michael Nyberg and I'm an Electric
13 Generation System Specialist in the Energy Assessments
14 Division.

15 On August 21st, 2014 the Sacramento Municipal
16 Utility District submitted an emissions performance
17 standard compliance filing pursuant to Title 20 of the
18 California Code of Regulations, section 2900.

19 The filing is for a long-term investment with
20 CalEnergy, LLC for renewable energy from ten geothermal
21 projects located in Imperial County.

22 The power purchase agreement calls for 30
23 megawatts of baseload power phased in over three 10-
24 megawatt increments for a duration of 22 and a half years.

25 At 30 megawatts, the Sacramento Municipal Utility

1 District's contract represents less 10 percent of the total
2 340 megawatts of available capacity from the specified
3 units.

4 Staff completed the review of the filing and
5 determined that the contract is compliant with the
6 Emissions Performance Standard, pursuant to section
7 2903(b), which states that, "Any in-state or out-of-state
8 power plant that meets the criteria of a renewable
9 electricity generation facility, as defined in Chapter 8.6
10 of Division 15, of the Public Resources Code is deemed to
11 be compliant".

12 The geothermal unit specified in the power
13 purchase agreement meets this requirement.

14 Therefore, staff recommends that the Energy
15 Commission find that the covered procurement described in
16 the compliance filing complies with the Energy Commission's
17 Greenhouse Gases Emissions Performance Standard, Title 20,
18 section 2900 of the California Code of Regulations.

19 Thank you.

20 COMMISSIONER DOUGLAS: Thank you very much.

21 Questions Commissioners or comments?

22 Is anyone from SMUD in the room or on the phone?

23 Would you like to make any comment?

24 (Off-mic comment)

25 COMMISSIONER DOUGLAS: All right, thank you. No

70

1 comments at the moment from SMUD, but they're available for
2 questions.

3 All right, do we have a motion on this item?

4 COMMISSIONER HOCHSCHILD: I'll move the item.

5 COMMISSIONER SCOTT: Second.

6 COMMISSIONER DOUGLAS: All in favor?

7 (Ayes)

8 COMMISSIONER DOUGLAS: The item's approved.

9 MR. NYBERG: Thank you.

10 COMMISSIONER DOUGLAS: Thank you.

11 Item 4, order instituting rulemaking proceeding,
12 proposed order instituting rulemaking update to the
13 Building Energy Efficiency Standards. Peter Strait.

14 MR. STRAIT: Good morning, Commissioners.

15 From its enactment in 1976 the Warren-Alquist
16 has, in section 25402, directed us to prescribe efficiency
17 standards for new construction and to periodically update
18 these standards.

19 For over 30 years we've reliably revised and
20 improved the Building Energy Efficiency Standards, adapting
21 to new technologies and following advancements in best
22 practices and building techniques.

23 We're here today to request a formal beginning
24 for the next periodic update to the standards.

25 The Warren-Alquist Act also directs us to

1 increase public participation and improve the efficacy of
2 the of the standards by involving stakeholders in public
3 meetings prior to the start of the formal rulemaking
4 period.

5 Our staff have engaged with stakeholders in a
6 series of pre-rulemaking public workshops primarily
7 discussing the draft proposals for code updates provided by
8 the utility-funded Codes and Standards Enhancement, or
9 CASE, program.

10 Following these workshops the CASE team has
11 worked to finalize and deliver their proposals to us and
12 have worked closely with our staff to make sure that their
13 proposals address all of the elements required by statute,
14 such as technical feasibility and cost effectiveness.

15 As we begin to receive these final proposals,
16 staff are now ready to begin developing a set of staff-
17 proposed amendments to the Building Energy Efficiency
18 Standards that incorporate the proposals, along with the
19 comments and feedback received at the workshops and our own
20 analysis of the proposal information.

21 For this reason we have come before the
22 Commission to request an order instituting rulemaking that
23 directs staff to take the next steps necessary to begin a
24 formal rulemaking proceeding.

25 Our proposed next steps are to develop amendments

1 to the current standards that consider both the proposals
2 and the comments received to date, then present these
3 amendments at a pre-rulemaking workshop at the start of
4 November that will allow us to gather and incorporation
5 additional stakeholder feedback into the package of
6 materials that will begin a formal rulemaking likely within
7 the month of January.

8 Following this schedule will allow the Commission
9 to consider adoption of proposed revisions in the spring of
10 2015 and submit our materials, if adopted, to the
11 California Building Standards Commission for inclusion in
12 their triennial code adoption cycle.

13 Both myself and Pippin Brehler are available to
14 answer any questions that you may have.

15 COMMISSIONER DOUGLAS: Thank you, Peter.

16 We've got some public comment on this item, as
17 well. Let me start with Meg Waltner, NRDC.

18 MS. WALTNER: Hi, my name is Meg Waltner and I'm
19 here on behalf of the Natural Resources Defense Council,
20 and our 1.4 million members and online activists, 250,000
21 of whom are in California.

22 Thank you for the opportunity to comment today.
23 We are pleased to see the Commission considering the order
24 instituting rulemaking for the 2016 Title 24 Building
25 Energy Standards and strongly support the CEC moving

1 forward on this rulemaking.

2 Title 24 is a critical component to California's
3 Energy and Climate Protection Policy. The code ensures
4 that new buildings and major renovations in California meet
5 minimum levels of efficiency. It reduces harmful
6 greenhouse gas emissions and emissions other pollutants,
7 cuts California's energy bills, helps avoid the need for
8 new generation and cuts peak power demand.

9 The savings from Title 24 add up. Since 1975,
10 Californians have saved over \$30 billion in energy bills
11 thanks to Title 24.

12 The current update to Title 24 is particularly
13 important as it will lay the groundwork for meeting
14 California's zero net energy goals.

15 As you're well aware, California has goals that
16 new residential construction be zero net energy by 2020 and
17 nonresidential construction be zero net energy by 2030.

18 The CEC should ensure that the 2016 standards are
19 on track to meet these goals.

20 To achieve this, the 2016 standards should be
21 adopting about half the cost-effective measures that are
22 expected to be needed in a ZNE home in 2020.

23 Slower progress will just be kicking the can down
24 the road and makes achieving the ZNE more difficult in the
25 2019 code cycle, and deprives California of inexpensive

1 emissions reductions.

2 For residential buildings, the CEC appears to be
3 on the right track with the measures discussed during the
4 pre-rulemaking stakeholder workshops. And we have
5 submitted detailed comments in writing.

6 But at a high level we support the measures
7 proposed with some suggested modifications.

8 In general, we urge the Commission to adopt the
9 highest levels that are shown to be cost effective, and we
10 urge that cost effectiveness be judged compared to historic
11 practice, which is not the same as the most recent edition
12 of the code.

13 For nonresidential buildings, we are disappointed
14 that the CEC is content with just keeping up with ASHRAE.

15 For almost 40 years the Commission has led the
16 way with advanced energy-efficiency requirements for
17 commercial buildings, many of which subsequently found
18 their way into the ASHRAE code.

19 But now, in the face of these ambitious ZNE
20 goals, the CEC is poised to say that keeping up with the
21 national standard adopted last year is good enough.

22 We understand the need to focus on residential
23 given the more near-term goal, but this should not be used
24 as an excuse to ignore cost-effective, nonresidential
25 measures, in particular, those that have been shown to be

1 cost effective in the case analyses.

2 In particular, nonresidential insulation and
3 indoor and outdoor lighting power densities and controls
4 are areas that further potential cost-effective savings
5 exist.

6 Looking forward both to the 2016 standards and
7 beyond, the CEC should move towards evaluating energy
8 savings and cost effectiveness on a whole building basis,
9 rather than measure by measure, which will lead to deeper
10 energy savings and lower costs.

11 One necessary element to this is a functional
12 energy rating and labeling system in California which does
13 not currently exist.

14 To facilitate this, we recommend that the CEC
15 work to harmonize the national and California HERS systems
16 more closely going forward.

17 It is also important to recognize the importance
18 of programs, such as EPIC and the CPUC incentives in
19 helping lay the groundwork for zero net energy buildings in
20 California.

21 These programs are important not just for the
22 2016 cycle, but for the 2019 cycle and beyond. And we urge
23 you not to lose sight of what's needed now for 2019, even
24 though we're working on 2016.

25 And, finally, in light of the current drought and

1 the urgent need for water conservation in California, we
2 recommend that the CEC also be looking at further water
3 conservation measures as part of Title 24, both in part 6
4 and part 11.

5 And we'd welcome further discussions on specific
6 measures. In particular, compact hot water distribution
7 systems.

8 Thank you again for the opportunity to comment
9 and we strongly support the CEC moving forward with Title
10 24 2016. Thank you.

11 COMMISSIONER MC ALLISTER: Just before you sit
12 down, you mentioned a labeling system. I just wanted to
13 understand, you're talking about for buildings --

14 MS. WALTNER: Right, for homes.

15 COMMISSIONER MC ALLISTER: -- like an Energy Star
16 type --

17 MS. WALTNER: Yeah, so California has its own
18 HERS system and then there's a national HERS system that
19 close to half of new construction nationwide uses, and
20 we're asking that you work to harmonize those two systems
21 more closely than they are today.

22 COMMISSIONER MC ALLISTER: So, kind of an
23 integrated system like standardized.

24 MS. WALTNER: A crosswalk between the two
25 systems, yeah.

1 COMMISSIONER MC ALLISTER: Okay, thanks.

2 MS. WALTNER: Thank you.

3 COMMISSIONER DOUGLAS: All right, thank you.

4 Tamara Raspberry, Sempra Energy Utilities.

5 MS. RASBERRY: Good morning, thank you

6 Commissioners, Tamara Raspberry representing the Southern
7 California Gas Company and San Diego Gas and Electric.

8 The Sempra Energy Utility Company has been and
9 will continue to be partners with the Energy Commission on
10 Title 24 rulemaking.

11 We ask that the Commission receive, respond and
12 act on any issues raised by stakeholders during this
13 process.

14 But we continue to look forward with working with
15 you, as we have on the last -- the cycles previously.

16 And I'm available for any questions that you may
17 have, thank you.

18 COMMISSIONER DOUGLAS: Thank you.

19 Any other comments on Item 4?

20 Mr. Raymer?

21 MR. RAYMER: Thank you, Madam Chair and the
22 Commissioners, Bob Raymer with the California Building
23 Industry Association.

24 We, too, are in support of opening up the OIR.
25 We've already been attending and commenting at the CASE

1 study workshops and the prehearing workshops.

2 With that said, we should be completed with our
3 first set of cost impact analyses towards the end of this
4 week, early next week.

5 It's our goal and desire to meet with CEC staff
6 for sort of a kickoff of the same type of discussions we
7 had three years ago where we figure out what we've done
8 wrong in developing the cost impact analysis and perhaps
9 find out from CEC staff that there needs to be a greater
10 level of clarity in the proposed standards.

11 And so, we're looking forward to initiating that
12 within the next three weeks. And so with that, we support
13 opening the OIR.

14 And we also support the comments by NRDC.
15 Developing that crosswalk on a national versus state HERS
16 program that could be very helpful to, particularly, those
17 national builders who have a huge presence here in
18 California. Thank you.

19 COMMISSIONER DOUGLAS: All right, thank you.
20 Thanks for being here. Thanks for your comments.

21 All right, any comments or a motion on Item 4?

22 COMMISSIONER MC ALLISTER: So, I would just say,
23 you know, we have a timeline that we have to comply with on
24 getting the standards developed.

25 There's been lots of work and staff, and the

1 building industry and other stakeholders have really been
2 doing a lot of sort of pre-analysis work to kind of get us
3 to this point where we can kick off an OIR and sort of hit
4 the ground running, and I think that's great.

5 Obviously, it moves us into a formal process
6 where there's all the public participation access and all
7 the rules of participation apply.

8 But if you sort of back out the timeline from
9 when we need to have applicable standards in January 1 of
10 2017, back up the timeline and we really have to start the
11 OIR now to get there. So, that's the point of all of this.

12 So with that, I will move Item 4, if there are no
13 other comments.

14 COMMISSIONER DOUGLAS: Well, I'll just make a
15 brief comment, actually, after all that. I realized that I
16 would be remiss if I didn't say that obviously the Building
17 Efficiency Standards that the Energy Commission does are
18 one of the most important things that we do.

19 And I'm just very pleased that -- pleased to see
20 this item come up on the agenda and to get, you know, going
21 with the actual rulemaking for the 2016 standards. And I'm
22 happy to see a number of the key stakeholders in that
23 process here today.

24 So, I'll look forward to hearing about it.

25 COMMISSIONER MC ALLISTER: Should I make one more

1 comment?

2 COMMISSIONER DOUGLAS: Go ahead, Commissioner
3 McAllister.

4 COMMISSIONER MC ALLISTER: So, if we're putting
5 this in context, you know, we have to be at the residential
6 ZNE, you know State policy we have a goal, a very clear
7 goal that we need to be residential ZNE by 2020.

8 That gives us after this, after this code, after
9 this cycle that would be applicable in January of 2017, we
10 have one more cycle to get us there to be applicable on
11 January 1st, 2020.

12 And then we have another decade on the commercial
13 front.

14 Very much appreciate the comments by NRDC, and
15 others on some of the particulars that could help us make
16 that incremental progress and aiming at that clear
17 trajectory that we need to have.

18 Some of those things are actually, you know, in
19 process and being contemplated, kind of developed as part
20 of a bigger strategy. Many of them, I would say.

21 And there are going to be some challenges that I
22 think -- well, there are going to need to be some things
23 that need to happen that are going to challenge our
24 traditional definition of kind of the property and the
25 building envelope -- or the building, the sort of the way

81

1 the sort of permitting process and builder development
2 process proceeds.

3 And by that I just mean if we're going to get to
4 ZNE we have to have different -- we have to have relatively
5 flexible ways to do -- you know, obviously, we need to get
6 the efficiency down very tight, but we also need to have
7 more flexible ways to do self-generation for all cases, for
8 the vast majority of new buildings.

9 And so, there are a lot of components of
10 developing the building code that also applies to existing
11 buildings. And that's a challenge, as well, that we're
12 going to try to work through with stakeholders. You know,
13 if not this cycle, then the following cycle and the ones
14 after that.

15 So, this is, I think, a very important step
16 forward on this road to this long-term vision that we all
17 have, and I think in California we agree on it is a
18 worthwhile thing to do.

19 And I'm very happy and I want to thank staff on
20 all the work to get us to this point. You know, OIR, the
21 heavy lifting never stops.

22 And so, I think if we keep that long-term view we
23 can, you know, put one foot in front of the other and we
24 can get there.

25 So, I think this is an important sort of

1 milestone along that road.

2 COMMISSIONER DOUGLAS: All right, well, thank
3 you, Commissioner McAllister.

4 COMMISSIONER MC ALLISTER: But I did make the
5 motion.

6 COMMISSIONER DOUGLAS: I'll join you in thanking
7 staff.

8 We have a comment. Come on forward.

9 MR. LILLY: My name's Bill Lilly. I'm President
10 of California Living. And we test approximately 500
11 houses, almost 500 houses a month for new construction for
12 Title 24 compliance.

13 And when I was listening to what was going on,
14 I'd like to really encourage you to address some of the
15 issues we have as of 2013, that we just found out through
16 surveys and talking to builders that I deal with every day.

17 I deal with Pulte, Standard Pacific, a lot of
18 different builders.

19 So, I just want to encourage you to deal with the
20 problems we have right now, solve them together so we can
21 hit that goal in 2020.

22 Because we have a huge bump in the road that a
23 lot of people are not getting the savings we should get in
24 the energy field unless it's done.

25 And I want to also promote the universal HERS

1 score and with the whole country. I think that is
2 something that we all can agree with.

3 So, thank you.

4 COMMISSIONER DOUGLAS: And thank you for your
5 comments. This is definitely an opportunity to bring those
6 ideas forward.

7 COMMISSIONER MC ALLISTER: And I also just, you
8 know, as the Lead Commissioner on Energy Efficiency, and
9 both Appliance and Building Standards, I make my best
10 effort to be as available to actors out there in the
11 industry who are doing the hard work on the ground to --
12 you know, and invite you that when flags come up to come to
13 my office, and I'm happy to meet and be problem solving on
14 these fronts.

15 COMMISSIONER DOUGLAS: Great. So, we have a
16 motion. Do we have a second?

17 COMMISSIONER HOCHSCHILD: Second.

18 COMMISSIONER DOUGLAS: All in favor?

19 (Ayes)

20 COMMISSIONER DOUGLAS: The item's approved.

21 Thank you.

22 MR. STRAIT: Thank you very much, Commissioners.

23 I'd also like to send a personal thanks to all of
24 the stakeholders that have been participating in our
25 process so far.

1 We've had a lot of really good comments given
2 back to us and we look forward to working with you as we
3 move forward.

4 COMMISSIONER DOUGLAS: Great. Well, thank you.

5 Let's go to Item 5, Pilot Scale and Commercial
6 Scale Advanced Biofuels Production Facility Grants. This
7 grant solicitation sought proposals for the development of
8 new or the modification of existing California-based
9 biofuel production facilities that can sustainably produce
10 low carbon transportation fuels.

11 Bill Kinney, please.

12 MR. KINNEY: Good morning Commissioners, I'm Bill
13 Kinney from the Emerging Fuels and Technology Office.

14 And today I'm here seeking approval for two
15 projects totaling \$8 million in funding from the
16 Alternative and Renewable Fuel and Vehicle Technology
17 Program for the development of new or modification of
18 existing California-based biofuel production facilities
19 that can sustainably produce low carbon transportation
20 fuels.

21 First, I am presenting for approval an agreement
22 to provide \$3 million to GFP Ethanol, LLC to support
23 implementation of the California In-State Sorghum Program.
24 GFP Ethanol will be contributing over \$18 million in match
25 funds for this project.

1 The Energy Commission grant will be used for the
2 acquisition and processing of about 92,000 tons of grain
3 sorghum for the production of low-carbon intensity ethanol
4 transportation fuel.

5 The use of grain sorghum at GFP Ethanol's Pixley
6 facility in Tulare County will lower the carbon intensity
7 of fuels they produce to 65 grams of CO2 equivalent per
8 megajoule, or less, almost 20 percent below CARB's, the
9 California Air Resource Board's LCFS reference baseline for
10 California corn ethanol.

11 GFP Ethanol will also participate in the
12 California In-State Sorghum Program. The primary goal of
13 the GFP Ethanol project, in partnership with this program,
14 is a transformative feedstock development and incentive
15 program to support significant expansion of California-
16 produced grain sorghum feedstock.

17 This feedstock diversification will allow
18 California ethanol to qualify as an advanced biofuel under
19 the Federal Renewable Fuel Standards Program.

20 And GFP also has a pending LCFS application at
21 the Air Resources Board.

22 The project will diversify ethanol production at
23 a commercial facility that has the capacity to produce a
24 total of 60 million gallons per year.

25 Sorghum ethanol will reach 9 million gallons over

1 the project duration.

2 This project will support the existing 35 jobs at
3 the GFP Ethanol facility. In addition, several hundred
4 indirect jobs would be expected in feed stock production,
5 materials handling, and other associated activities based
6 on the USDOE estimates in the San Joaquin Valley, where
7 unemployment rates often exceed 15 percent.

8 Implementation of the California In-State Sorghum
9 Program, a proposed collaborative of universities, ag
10 producers, seed vendors and ethanol producers will support
11 the development of grain sorghum as a reliable feedstock
12 for a lower carbon California ethanol industry.

13 Establishment of a sorghum ethanol technical
14 advisory group will be led by the UC Kearney Ag Research
15 Center and CSU Fresno Center for Irrigation Technology.

16 Staff is asking the Commission to approve the
17 proposed award in the amount of \$3 million.

18 Would you like me to go ahead then and present
19 the other one or did you want to ask questions?

20 COMMISSIONER DOUGLAS: Please present the other
21 one as well.

22 MR. KINNEY: Okay. Next, I am seeking approval
23 of an agreement to provide \$5 million to AltAir Fuels, LLC
24 to support the second phase of an expansion project to
25 increase renewable diesel production and jet fuel capacity

1 from 30 million gallons per year to 40 million gallons per
2 year at an existing facility in Paramount, California.

3 AltAir Fuels will be contributing over \$24
4 million of the approximately \$29 million total project
5 cost.

6 This facility will convert low carbon intensity
7 feedstocks, such as waste corn oil, beef tallow and
8 camelina oil into clean burning renewable diesel, a drop-in
9 fuel that replaces petroleum diesel.

10 This phase two expansion will allow for a future
11 expansion of up to 150 million gallons of annual production
12 schedule for 2017.

13 The project will be the first drop-in liquid fuel
14 funded by the AB 118 or AB 8 program.

15 AltAir is converting an existing petroleum
16 refinery for this purpose.

17 If approved, this project is expected to be
18 completed and operational by January 2015.

19 The average carbon intensity of the fuel produced
20 by AltAir will be 16.1 grams CO2 equivalent per megajoule,
21 which is an 83 percent reduction from the petroleum
22 baseline, based on an average LCFS certified carbon
23 intensity for the three separate feedstocks.

24 AltAir intends to participate in both the Federal
25 EPA's RFS2 program, as well as the LCFS Carbon Credit

1 Trading Program administered by the California Air
2 Resources Board.

3 This phase of the project is expected to reduce
4 greenhouse gas emissions by over 200,000 tons of CO2
5 equivalent over the three-year project term, while
6 displacing 10 million per year of petroleum diesel. That
7 is from our contribution.

8 Over 300 direct and indirect jobs will be
9 supported by this phase of the project in feedstock
10 production, materials handling and bio-refinery operations.

11 The City of Paramount has a 21.9 percent poverty
12 rate, a 13.2 percent unemployment rate, and a per capita
13 income less than half of the California State average. So,
14 this is an impacted area that will benefit very much from
15 this project.

16 In accordance with the California Environmental
17 Quality Act guidelines, staff has reviewed the City of
18 Paramount's initial study and mitigated negative
19 declaration. It has no information indicating that the
20 environmental documentation is inadequate and has
21 considered this initial study and mitigated negative
22 declaration in deciding whether to recommend approval of
23 the proposed agreement.

24 Staff is asking the Commission to approve the
25 proposed grant award in the amount of \$5 million.

1 And Brian Sherbacow, who is the President of
2 AltAir Fuels, has asked to make a brief statement and
3 answer any questions you may have.

4 I am also happy to answer any questions, thank
5 you.

6 COMMISSIONER DOUGLAS: Thank you very much,
7 thanks for the presentations.

8 And yes, let's here now from Brian Sherbacow.

9 MR. SHERBACOW: Good morning. I just wanted to
10 make a couple of brief points, first to express
11 appreciation for consideration of this important project,
12 by the Commission and then, specifically, to also express
13 appreciation for the work that the staff has performed to
14 date.

15 We look forward to continuing that work.

16 And then, second, to make a commitment to the
17 Commission here with regard to collaboration as we go
18 forward, in particular with regard to sharing of
19 information.

20 So, AltAir Fuels has sort of a history or
21 culture, if you will, of collaboration with the partners
22 that have enabled us to develop this project over the last
23 five years.

24 In particular, we were born out of a Department
25 of Defense initiative, put together by or with Honeywell.

1 And as a result of that initiative, we were able
2 to commence development of this project at Paramount.

3 The project, as Mr. Kinney mentioned, will be the
4 first drop-in fuel project funded by this program. And
5 it's important, I guess, for me to express that I guess I
6 broke a cardinal rule of mine, which is to try to be first
7 in line to be second when doing these types of
8 developments.

9 And as a result, I've learned the challenges
10 associated with being first. And as such, I think that
11 there's still some challenges ahead of us. And as such,
12 and with this grant and the commencement of this
13 relationship I think that we can collaboratively explore
14 and understand some things that can both benefit us
15 commercially, as well as our ability with the nature of our
16 project to help accomplish many of the goals of the Energy
17 Commission, itself.

18 And so, I guess a few important points to make
19 about the project would be the ability of a drop-in fuel to
20 greatly utilize existing infrastructure and, specifically,
21 displace petroleum counterparts and, hence, tremendously
22 drop greenhouse gas reduction.

23 So, with all respect to first generation fuels,
24 such as ethanol and biodiesel, what is unique and very
25 special about what we make is we make essentially a

1 molecularly identical drop-in replacement molecule or fuel
2 that can, we think, displace as opposed to act as an
3 additive to petroleum fuels.

4 And, specifically, repurpose existing
5 infrastructure which are, you know, billions if not
6 trillions of dollars that we can repurpose or reutilize
7 very cost effectively, and allow us simultaneously to
8 become commercially competitive.

9 The other thing that's important about this
10 particular project is, being it's the first commercial
11 project of its scale in California, is we have an ability
12 to again meet some of the goals inside California, and do
13 so locally.

14 So, to date the primary supply of renewable
15 diesel within California has come from outside of the
16 State, and outside of the country, in particular.

17 And so, we have ability to, in addition to
18 addressing greenhouse gas issues here in California, do so
19 on a local basis, helping with local supply and energy
20 security.

21 So, that's my comments for you today.

22 COMMISSIONER MC ALLISTER: Thanks very much for
23 being here.

24 I guess, so sort of to recap, this is actually
25 more of a true refinery process than traditional biodiesel,

1 so there's a little bit of an energy penalty, which is why
2 it's 83 and not lower than that, but that's still pretty
3 darn good, right?

4 MR. SHERBACOW: It is, it's sort of --

5 COMMISSIONER MC ALLISTER: I guess I'm
6 summarizing. I'm sort of condensing what you said, but
7 just so that I understand it properly.

8 MR. SHERBACOW: Well, I guess that some of that
9 energy penalty, if you will, is there's still
10 transportation associated with the logistics of the supply
11 chain so you're never going to be completely perfect. We
12 do need to bring things to the refinery.

13 It was sort of an ah-ha moment for me when I
14 looked at renewable diesel fuels versus the first
15 generation fuels is that when you think about what
16 petroleum is, you look at what we're looking for
17 feedstocks, they essentially started in the same place.
18 So, we're looking at triglycerides or animal fats, or
19 greases, which is what petroleum was.

20 And what Mother Nature did over a million years,
21 essentially we were able to do through our process very
22 quickly.

23 So, the primary difference between a first
24 generation fuel, and particularly biodiesel versus
25 renewable diesel, is that we are a completely deoxygenated

1 fuel, whereas biodiesel still has that oxygen. And, hence,
2 it has some impairments with regard to energy content and
3 fungibility in terms of being able to go into the same
4 tanks, pipelines, and ultimately use in engines. It's a
5 little bit different.

6 Whereas, the primary first step of our process is
7 actually de-oxygenation. So, we have a hydro treating
8 process in which we add hydrogen and actually remove,
9 through that process, the oxygen and actually produce water
10 in our process, and through that combination.

11 COMMISSIONER MC ALLISTER: Interesting.

12 MR. SHERBACOW: But what we end up with, in
13 addition to that water is a molecule that looks essentially
14 the same as a petroleum molecule. The second step is
15 essentially to modify that molecule so that it's got the
16 right performance characteristics that would match, you
17 know, the particular needs.

18 What that allows us to do is reutilize a
19 significant amount of existing equipment.

20 So, what we've done in our partnership at the
21 refinery, in Paramount, is essentially take over
22 approximately a third of the existing refinery.

23 And, really, we look at it more as an enhanced
24 revamp of the refinery as opposed to a new or a significant
25 addition of equipment to.

1 And really, the biggest issue is that because we
2 have in the first stage oxygen associated with it, at high
3 temperature and pressure it's very corrosive.

4 So, really, we're going in and essentially
5 changing or upgrading metallurgy to a significant amount of
6 that first state equipment. But it's almost like in kind.

7 So, our process is very similar to petroleum
8 refining. It's just we're doing it renewably.

9 COMMISSIONER MC ALLISTER: Yeah, this is great.

10 Anyway, we all here at the Commission got a
11 chemistry lesson today. And who knows what's next.

12 But I really appreciate your being here. It's
13 interesting stuff and really important for the LCFS.

14 COMMISSIONER SCOTT: I would also thank you very
15 much for being here and for your great presentation and
16 also to Bill for his good presentation.

17 A couple of things I would underscore or
18 highlight that they already mentioned and, actually,
19 Commissioner McAllister mentioned some of them as well,
20 too.

21 But this is really neat. With the drop-in fuels
22 like this I mean you get the potential for emission
23 reductions right away.

24 And as Mr. Sherbacow said, you also can utilize
25 sort of the current infrastructure and current engines,

1 which is pretty neat.

2 And then I think projects, like both of these,
3 you know, when they are successfully completed and in
4 operation, as you mentioned, you know, they'll provide
5 fuels for the Low Carbon Fuel Standard that we're trying to
6 meet here in California.

7 And also, you know, for the Renewable Fuel
8 Standard that we're trying to meet nationwide.

9 So, I support both of these projects.

10 COMMISSIONER DOUGLAS: All right, do we have a
11 motion?

12 COMMISSIONER SCOTT: I move approval.

13 COMMISSIONER DOUGLAS: Of A and B?

14 COMMISSIONER SCOTT: Actually of Item 5.a and
15 5.b.

16 COMMISSIONER DOUGLAS: Thank you.

17 COMMISSIONER MC ALLISTER: And I'll second.

18 COMMISSIONER DOUGLAS: All in favor?

19 (Aye)

20 COMMISSIONER DOUGLAS: The item's approved, thank
21 you very much.

22 MR. SHERBACOW: Thank you.

23 MR. KINNEY: Thank you, Commissioners.

24 COMMISSIONER DOUGLAS: Item 6, Alternative Energy
25 Systems Consulting, Inc., possible resolution approving

1 Agreement 600-14-002 with Alternative Energy Systems
2 Consulting for a \$249,999 contract.

3 Let's see, Leslie Baroody go ahead.

4 MS. BAROODY: Good afternoon, Commissioners, I'm
5 Leslie Baroody in the Fuels and Transportation Division, in
6 the Emerging Fuels and Technologies Office.

7 And I'm seeking approval for a proposed
8 resolution for Agreement 16-14-02, with Alternative Energy
9 Systems Consulting for a \$249,999 contract.

10 This contract would fund development of a set of
11 recommendation on statewide strategic actions to guide the
12 deployment of electric vehicle charging stations and
13 support the Governor's Executive Order V162012, and the
14 Zero Emission Vehicle Action Plan.

15 This past year the Energy Commission funded the
16 National Renewable Energy Laboratory to develop a statewide
17 plug-in electric vehicle infrastructure assessment.

18 That report provides a scenario analysis to
19 project future charging station needs to support a million
20 zero emission vehicles by 2020, for California, and for
21 each of the PEV planning regions in the State.

22 It also provides guidance on infrastructure
23 planning, although it does not prescribe detailed plans for
24 infrastructure deployment.

25 The purpose of this contract is to provide a more

1 detailed DC fast charger deployment plan, as well as the
2 next steps on statewide strategic PEV infrastructure
3 actions that will take into consideration all of the
4 regional plans and the latest findings on charging station
5 deployment.

6 This project will also provide a communications
7 plan with supporting material to reach out to consumers,
8 businesses, auto dealerships and fleet owners to promote
9 ZEV awareness and demand.

10 The contractor will also prepare summary
11 communication materials on all of the Energy Commission's
12 regional PEV readiness plans, as well as advise the Energy
13 Commission on how to fulfill its role in the Pacific Coast
14 Collaborative.

15 Staff requests Energy Commission approval of this
16 contract. Thank you.

17 I also believe we have the two project managers
18 on the phone this morning.

19 COMMISSIONER HOCHSCHILD: Leslie, just a question
20 for you. I saw yesterday the State passed a very
21 significant milestone, having over 100,000 electric and
22 plug-in electric vehicles.

23 What portion of those are electric vehicles, pure
24 electric vehicles? Do you know offhand?

25 MS. BAROODY: I don't know the exact proportion.

1 But in places like the Bay Area it's more than 50 percent.
2 In places like Los Angeles it's actually less than 50
3 percent.

4 COMMISSIONER HOCHSCHILD: Okay. And we had some
5 testimony probably, you know, eight or ten months ago here
6 from a gentleman who was kind of comparing the state of
7 play in California to Oregon and Washington, and was making
8 the case we're far behind those states.

9 I mean what's your assessment today on how we're
10 doing relative to those states?

11 MS. BAROODY: With regard to infrastructure?

12 COMMISSIONER HOCHSCHILD: I think we are a
13 different state. So, we are much larger. We have major
14 metropolitan areas all over the State.

15 Our interstate highway, I-5 for instance, runs
16 through the middle of the State and we don't have all of
17 our major metropolitan areas along that interstate.

18 In Oregon and Washington they've done very well
19 with their fast chargers along their Interstate 5, and they
20 intersect all their major metropolitan communities.

21 California, however, has developed a network of
22 charging stations in the major metropolitan areas of the
23 State and we've already begun to connect those regions with
24 fast chargers.

25 So, I'd say we're making great progress. And

1 it's good to have a little friendly competition.

2 COMMISSIONER HOCHSCHILD: Sure, thank you.

3 COMMISSIONER SCOTT: I would underscore Leslie's
4 point just a little bit. Oregon has done a fantastic job.
5 They have some really dynamic folks working on this and
6 they've got some very, very creative ideas about how they
7 put things together.

8 But Leslie's right, they've got a network of 43
9 fast chargers along I-5 and that connects pretty much -- I
10 think is it 80 percent? It might be 90 percent of the
11 population of Oregon lives within sort of a 50-mile radius
12 of that.

13 And so, it's a little bit simpler than in
14 California, where we're such a big State. And as Leslie
15 mentioned, we've kind of got population centers and they're
16 not all along one major highway.

17 And that's one of the purposes, I think, of this
18 consulting agreement that we're trying to put together. We
19 have a great proposal that the National Renewable Energy
20 Lab did for us and sort of said, here's about how many
21 chargers we think you'll need across the State.

22 And we really need to figure out how to take that
23 to the next level and how do we implement that, and where
24 are the places we need to get some of these DC fast
25 chargers in place.

1 Where are the other places where we're missing,
2 you know, some level 2s or some of the other things to kind
3 of take it to the next step, to the next level, and that's
4 what the consultants will do for us under this.

5 So, I'm excited to have it.

6 COMMISSIONER DOUGLAS: Great. Do we have a
7 motion on this item?

8 COMMISSIONER SCOTT: I move approval of Item 6.

9 COMMISSIONER HOCHSCHILD: Second.

10 COMMISSIONER DOUGLAS: All in favor?

11 (Ayes)

12 COMMISSIONER DOUGLAS: The item's approved.

13 MS. BAROODY: Thank you.

14 COMMISSIONER DOUGLAS: Thank you very much,
15 Leslie.

16 Item 7, Leyden Energy, Inc. proposed resolution
17 approving the termination with cause of Agreement ARV-10-
18 015 with Leyden Energy, Inc.

19 Jacob.

20 MR. ORENBERG: Good morning, Commissioners, my
21 name is Jacob Orenberg and I'm the Project Manager for
22 Grant ARV-1-015 with the Leyden Energy, Inc.

23 Leyden was provided with an Alternative and
24 Renewable Fuels and Vehicles Technology Grant, the purpose
25 of which was to modify Leyden's Fremont, California

1 facility to produce cost-competitive vehicle batteries
2 using their proprietary battery chemistry.

3 The Alternative and Renewable Fuels and Vehicles
4 Technology Program provides grants such as these to
5 manufacturers of electric vehicles and electric drive
6 components with the intent of fostering and developing in-
7 state electric vehicle industries.

8 The majority of these grants are successful.
9 However, Leyden ran out of investor funding prior to
10 achieving profitability.

11 Leyden subsequently entered into a general
12 assignment for the benefit of creditors to resolve their
13 outstanding debts.

14 This assignment involved transferring and selling
15 all company assets. The loss of which precludes the
16 successful completion of this grant.

17 As such, staff requests the Energy Commission
18 approve this agenda item for the termination with cause of
19 agreement ARB-10-015 with Leyden Energy, Inc.

20 COMMISSIONER DOUGLAS: Thank you, Jacob.

21 Questions or comments, Commissioners?

22 Okay, well, let me just see if we have a motion
23 to approve Item 8, which would terminate -- or Item 7,
24 which would terminate this agreement.

25 COMMISSIONER HOCHSCHILD: I make that motion.

1 COMMISSIONER SCOTT: Second.

2 MG PEABODY: All in favor?

3 (Ayes)

4 COMMISSIONER DOUGLAS: The item's approved with
5 three votes and when Commissioner McAllister steps back
6 into the room we'll see if he would like to add on.

7 Let's go on, then, thank you Jacob, to Item 8.

8 Noresco, LLC, proposed resolution approving
9 amendment to agreement 400-12-003 with Noresco to add
10 \$1,551,000 to complete additional work that falls within
11 the original scope, but is more than originally budgeted
12 for.

13 Ron Yasny.

14 MR. YASNY: Good afternoon, Commissioners, Ron
15 Yasny, Energy Commission Agreement Manager in the Building
16 Standards Office of the Efficiency Division here at the
17 Energy Commission.

18 I'm here today to request from the Commission an
19 amendment to our contract agreement 400-12-003, a contract
20 totaling approximately \$4 million.

21 This is a three-year technical support agreement
22 which the Buildings Standards Office has entered into for
23 technical assistance required to complete the triennial
24 update to Part 6 of the Building Energy Efficiency
25 Standards of Title 24 of the California Building Code.

1 We are using this contract and these contractors
2 to provide technical assistance to support the 2013 update
3 and to develop the 2016 update to the standards.

4 And this cycle also included support for the
5 Energy Efficiency Program for existing buildings, AB 758.

6 The specific cycle also included continuing the
7 development of public domain software used to comply with
8 the Building Energy Efficiency Standards.

9 The public requested several added functions and
10 training for this software and to meet these new requests
11 in a timely fashion, this particular contract task was
12 expanded and funds were spent to satisfy the legitimate
13 needs of these stakeholders.

14 The request before you today is to add an
15 additional \$1,551,000 spending authority to the agreement
16 to complete the original work established by the contract,
17 which is critical to meeting our responsibilities related
18 to the 2016 update.

19 With that said, I'm here to supply any additional
20 information you may require.

21 COMMISSIONER DOUGLAS: Thank you very much. Any
22 questions or comments on this item?

23 We also -- I'm sorry we do have Michael Kapur
24 with NORESCO on the phone. Do you have any comment?

25 MR. KAPUR: No, not yet.

1 COMMISSIONER DOUGLAS: All right, thank you.

2 Commissioner McAllister?

3 COMMISSIONER MC ALLISTER: Yeah, so I think --
4 well, just very briefly, I appreciate the staff
5 presentation. I know the scope of work has been very
6 carefully vetted and, you know, I've discussed it with
7 staff at some length.

8 And, really, sort of the top line is that we take
9 being responsive to stakeholders very seriously and when
10 get -- you know, we don't take compliance for granted.

11 And when we get needs, and requests, and sort of
12 a requirement, really, for customer assistance to help
13 things function better we want to do that.

14 And so, as we go through these code update cycles
15 and we develop, particularly with CBEC development and,
16 obviously, we all know this is the big lift this time
17 around in this code update that that has required some
18 nimbleness on the part of the Energy Commission to deal
19 with stuff as it comes up.

20 And that's taken some resources and this is, in
21 some ways, a replenishment of those resources and coverage
22 of the kinds of customer service that we feel obligated to
23 provide.

24 And so, that's kind of the top level story from
25 my perspective, and not getting into the technical details

1 of what those sorts of services and support actually have
2 been.

3 But keeping the ball rolling down the road
4 towards, really, completing -- providing ongoing customer
5 service so that people can adapt to and fulfill their
6 obligations under the code is really important. So, that's
7 what this is all about.

8 COMMISSIONER DOUGLAS: All right, thank you.

9 COMMISSIONER MC ALLISTER: Great so --

10 COMMISSIONER DOUGLAS: Do we have a motion on
11 this item?

12 COMMISSIONER MC ALLISTER: I will move Item 7 --
13 or, no, I'm sorry, I will move Item 8.

14 COMMISSIONER SCOTT: Second.

15 COMMISSIONER DOUGLAS: All in favor?

16 (Ayes)

17 COMMISSIONER DOUGLAS: This item is approved.

18 And for just a moment let me go back to Item 7.
19 We had a vote on Item 7 and Commissioner McAllister, do you
20 wish to vote on this item?

21 COMMISSIONER MC ALLISTER: Yeah, that's a clear
22 one. I'll add my "aye" vote to Number 7.

23 COMMISSIONER DOUGLAS: All right, thank you.

24 Let's go on to Item 9, then, Building Natural Gas
25 Technology Grants PON-13-503. This grant solicitation

1 sought proposals for research and demonstration of emerging
2 energy efficiency technologies and improvements to
3 processes and operations.

4 Matthew Fung.

5 MR. FUNG: Good morning, Commissioners, I'm Matt
6 Fung from the Energy Efficiency Research Office and I'm
7 here seeking a recommendation to approve the resolution to
8 award seven projects from the Building and Natural Gas
9 Competitive Grant solicitation, PON-13-503.

10 The total proposed award is for \$5,345,272 in
11 PIER natural gas funds.

12 In December of 2013 staff released the program
13 opportunity notices in the research areas of building
14 technology innovations, energy related indoor environmental
15 quality, and NOx control devices for residential and
16 commercial natural gas appliances.

17 This PON was conducted in a two-stage format in
18 which 18 abstracts for stage one were received and 14 were
19 invited to submit for full proposals for stage two.

20 Eleven full proposals were received, scored and
21 ranked within their respective research areas.

22 The notice of proposed awards were released in
23 July of 2014, which detailed the seven proposals that are
24 being proposed for funding today, three for building
25 technology innovations and two each for indoor

1 environmental quality and NOx control devices.

2 So, the first project is Lawrence Berkeley
3 National Lab's grant proposal that will address the
4 challenge of developing a clean-burning natural draft
5 burner for residential and commercial cooking appliances by
6 adapting a unique ring stabilizer technology originally
7 developed for natural draft commercial appliances.

8 It is expected that this technology will
9 significantly reduce NOx emissions while maintaining
10 compliance for emissions of other pollutants, as well as
11 maintaining or improving the energy efficiency of the
12 appliance.

13 And the second proposed project, also with LBL,
14 will analyze the impact of ventilation rates on indoor air
15 quality due to occupancy, CO2 concentration, and
16 continuously emitted indoor pollutant concentrations in
17 commercial buildings and schools.

18 LBL will also evaluate the accuracy of real time
19 outdoor flow measurement technologies, demand control
20 ventilation CO2 sensors, and occupancy counting
21 technologies.

22 The project results, together with other
23 available data will be used to develop occupancy-specific
24 guidelines for using CO2 sensors and demand control
25 ventilation systems and for measurement of the ventilation

1 rates.

2 The next project proposed is a grant for LBL's
3 field study that will identify what types of mechanical
4 ventilation devices will be useful in improving ventilation
5 indoor air quality, measure and characterize indoor air
6 quality, determine occupant perceptions of and satisfaction
7 with indoor air quality in their homes, examine
8 relationships among home ventilation characteristics.

9 The team will evaluate how to provide adequate
10 ventilation in homes, while reducing infiltration beyond
11 Title 24 Building Standards, while still providing
12 acceptable indoor air quality.

13 The fourth proposed project is with Gas
14 Technology Institute, in partnership with Tetra-Tech, will
15 demonstrate a Dynamic Staged Entrainment ultra-low NOx
16 boiler or burner for a commercial steam distribution
17 system.

18 The DSE burner offers a cost-competitive
19 alternative to equipment currently available to
20 California's steam generation market, but not widely uses.
21 While operate at sub-9 parts per million of NOx levels.

22 This proposed grant will move the DSE technology
23 towards commercialization, ultimately helping to bring to
24 market a cost-competitive, efficient alternative for
25 California commercial boiler operators seeking to reduce

1 operating costs and greenhouse gas emissions.

2 The next proposed project is Altex Technologies
3 grant that will design, build and test a selective non-
4 catalytic burner for a commercial scale boiler that will
5 achieve less than five parts per million NOx emissions.

6 This emission test will be a significant
7 improvement over the current South Coast Air Quality
8 Management District limit of nine parts per million.

9 This new burner will require added chemicals --
10 well, not require added chemicals or catalysts to treat the
11 flue gases post-combustion is expected to yield a three
12 percent improvement thermal efficiency.

13 The next project proposed is a proposed grant by
14 Fischer-Nickel which will demonstrate a hot water system-
15 specific energy-efficiency measures in commercial food
16 service.

17 The team will quantify the energy and water
18 savings from optimizing the distribution system and recover
19 waste heat from the dishwasher.

20 Lastly, the proposal of the final project
21 proposed for today is also through Fischer-Nickel. This
22 project is to demonstrate a combination of commercial food
23 service appliances to improve overall cook line efficiency
24 and to validate commercial kitchen ventilation optimization
25 techniques to encourage the kitchen design community to

1 adopt these measures.

2 Monitor equipment will include convection ovens,
3 fires, boilers, griddles, and thin-bottom stock pots.

4 The team will conduct a collaborative research,
5 design and demonstration program to measure energy use and
6 increase the efficiency of standard commercial kitchen
7 lines.

8 So, now, staff requests a recommendation to award
9 these seven proposals and I am available to answer any
10 questions.

11 Marla Mueller and (inaudible) are also here to
12 assist in answering questions.

13 COMMISSIONER DOUGLAS: Thank you very much.
14 Commissioners, any questions?

15 COMMISSIONER MC ALLISTER: I just want to call
16 out that there are a few projects in here that really are
17 focused on maintaining performance while decreasing NOx
18 emissions. And it's really trying to make sure that we can
19 have our cake on the efficiency front and eat it, too, on
20 the NOx front.

21 So that research, as air quality -- you know, as
22 air quality, obviously, at South Coast particularly, but
23 all of the State as air quality and ozone precursors are
24 something that we continually have to be on the lookout to
25 improve on because there are still out-of-compliance in the

1 State in terms of ground level ozone.

2 That those fixes can come with an air quality --
3 I'm sorry, with an energy-efficiency penalty. And so,
4 really, doing the research to make sure that doesn't happen
5 or to, you know, minimize that and even improve efficiency,
6 if we can, is super, super important.

7 And taking a broad view of our environment here,
8 you know, to get working together with other agencies,
9 particularly ARB in this case, and the local air districts
10 I think is super important.

11 So, I'm fully supportive of this item. Okay, so
12 I'll move Item 9.

13 COMMISSIONER SCOTT: Second.

14 COMMISSIONER DOUGLAS: All in favor?

15 (Ayes)

16 COMMISSIONER DOUGLAS: This item is approved,
17 thank you.

18 Item 10, Silicon Valley Leadership Group,
19 proposed resolution approving a no-cost co-sponsorship with
20 the Silicon Valley Leadership Group for the 2014 Silicon
21 Valley Leadership Group Data Center Efficiency Summit.

22 Heather?

23 MS. LEW: I'm obviously not Heather. I'm
24 Virginia Lew and I'm representing Heather Bird on this
25 item.

1 So, the staff is seeking approval of this no-cost
2 co-sponsorship of the 2014 Silicon Valley Leadership Group
3 Data Center Efficiency Summit.

4 The Summit will be held at Santa Clara University
5 on November 5th.

6 The Summit was created to provide an opportunity
7 for members to collaborate and exchange information on Data
8 Center energy-efficiency activities, to encourage further
9 innovation, to improve energy efficiency, and to provide a
10 path for promising technologies into the marketplace.

11 The Summit provides an ideal opportunity for the
12 Energy Commission's Research and Development activities and
13 other innovative emerging technologies for data centers to
14 be showcases, thus facilitating their commercialization and
15 marketability.

16 Lawrence Berkeley National Laboratory will be
17 presenting an Energy Commission-funded Energy Efficiency
18 Data Center demonstration project at this Summit.

19 The Energy Commission has been a no-cost co-
20 sponsorship since 2008.

21 As a result, staff recommends approving this no-
22 cost co-sponsorship.

23 And if you have any questions, I'll be happy to
24 answer them now. Thank you.

25 COMMISSIONER DOUGLAS: Thank you.

1 Comments or questions?

2 COMMISSIONER MC ALLISTER: I spoke at this thing
3 last year, either one or two years ago. Is it every two
4 years or is it every year?

5 MS. LEW: It's every year.

6 COMMISSIONER MC ALLISTER: It's every year. I
7 think last year, then, I must have spoken at it. And it's
8 a really good -- it's a good event.

9 Data centers are not -- obviously, they're not
10 going away, they're scaling up and efficiency is a big
11 focus of the Energy Commission. It was been for PIER for a
12 good decade and it will continue, I assume to be of
13 interest.

14 So, I'll just go ahead and move this item, Item
15 10.

16 COMMISSIONER HOCHSCHILD: I second.

17 COMMISSIONER MC ALLISTER: If nobody has other
18 comments.

19 COMMISSIONER DOUGLAS: All in favor?

20 (Ayes)

21 COMMISSIONER DOUGLAS: This item's approved.

22 Thank you very much.

23 MS. LEW: Thank you.

24 COMMISSIONER DOUGLAS: All right, Item 11,
25 Pacific Gas and Electric Company, a proposed resolution

1 approving Agreement 300-14-001 with PG&E for a \$20,000 co-
2 sponsorship for the 2014 Emerging Technology Summit.

3 All right, Virginia, we've got your name in here
4 this time.

5 MS. LEW: Okay, thank you.

6 We are seeking approval of a \$20,000 co-
7 sponsorship with the Pacific Gas and Electric Company for
8 the 2014 Emerging Technology Summit.

9 This Summit will be held in San Francisco from
10 October 20th through the 22nd.

11 The Summit is sponsored by the Emerging
12 Technologies Coordinating Council and the members include
13 Pacific Gas and Electric Company, Southern California
14 Edison, San Diego Gas and Electric, Southern California
15 Gas, Los Angeles Department of Water and Power, the
16 Sacramento Municipal Utility District, the California
17 Public Utilities Commission and the Energy Commission.

18 And for each Summit one of the members is the
19 host. And this year it's PG&E will be hosting the Summit.

20 This conference provides an opportunity for the
21 Energy Commission's research and development activities and
22 other emerging technologies to be showcased and
23 highlighted, thus facilitating their commercialization and
24 marketability.

25 It also provides an opportunity to identify

1 future research needs and avoids -- and an ability to share
2 information about programs, thus avoiding duplication.

3 This year's projects, at this year's Summit,
4 projects at our research centers will be highlighted, such
5 as the California Lighting Technology Center, the Western
6 Cooling Efficiency Center, and the Food Service Technology
7 Center.

8 And each of these centers have received funding
9 from the Energy Commission's Research and Development
10 Program in the past.

11 The Energy Commission staff will also be hosting
12 an informal session to highlight our research and
13 development activities.

14 And Commissioner McAllister will be one of the
15 primary speakers.

16 Therefore, we recommend approval of this \$20,000
17 co-sponsorship and I'll be happy to answer any questions
18 you might have.

19 COMMISSIONER DOUGLAS: Thank you very much.

20 We have public comment by Valerie Winn, with
21 PG&E.

22 MS. WINN: Good afternoon, Commissioners. I just
23 wanted to express our support for this item. We look
24 forward to continuing to partner with the CEC and with
25 other State agencies on this, you know, important Emerging

1 Technology Summit.

2 As Virginia's already noted, there's a lot of
3 engagement from the CEC on this and we're looking forward
4 to Commissioner McAllister's participation.

5 And, you know, in addition to just presenting or
6 providing a forum for people to talk about emerging
7 technologies, we also hope that this discussion will really
8 lead to an opportunity for us to, you know, kind of spur
9 innovation in this area and have it least to really
10 specific items that utilities can implement and advance the
11 technology.

12 So that it's not just pure R&D, but actually
13 actionable results that we can use in our day-to-day
14 business.

15 So, we look forward to your participation and ask
16 for your approval of this item. Thank you.

17 COMMISSIONER DOUGLAS: Thank you.

18 COMMISSIONER MC ALLISTER: So, in spite of my
19 participation, it is a star-studded event.

20 And I want to just really reiterate what Valerie
21 just said, which is, you know, the R&D is fundamental, but
22 it also needs to have a path to commercialization.

23 And I think a lot of what we need to focus on --
24 or another thing we need to focus on is how to get down
25 that path to actually get installs done with the -- that

1 take full advantage and get scale from the R&D that the
2 Coordinating Council and all the stakeholders involved in
3 the emerging technology area are already doing.

4 So, really getting it out in the market so we can
5 scale it up.

6 But I think the Energy Commission's been a core
7 partner. I mean Virginia laid out all the points. So,
8 obviously, I'm supportive.

9 So, okay, so I'll move Item 11.

10 COMMISSIONER HOCHSCHILD: Second.

11 COMMISSIONER DOUGLAS: All in favor?

12 (Ayes)

13 COMMISSIONER DOUGLAS: The item's approved.

14 Thank you, Virginia.

15 MS. LEW: Thank you.

16 COMMISSIONER DOUGLAS: Item 12, Minutes, possible
17 approval of the August 27, 2014 Business Meeting Minutes.

18 COMMISSIONER SCOTT: I'll move approval of the
19 Minutes.

20 COMMISSIONER MC ALLISTER: I'll second.

21 COMMISSIONER DOUGLAS: All in favor?

22 (Ayes)

23 COMMISSIONER DOUGLAS: The Minutes are approved.

24 Lead Commissioner or Presiding Member Reports and
25 we'll start with Commissioner Scott, any reports today?

1 COMMISSIONER SCOTT: Hi, I do have a report for
2 you all. Just one, and I wanted to mention that last week
3 I went to participate in the Clean Air Technology
4 Initiative.

5 It's an initiative that's a collaborative effort
6 between the USEPA, the California Air Resources Board, the
7 Energy Commission, the San Joaquin Valley Air Pollution
8 Control District and the South Coast Air Quality Management
9 District.

10 And it was a really great afternoon. I mean,
11 basically, what we did was kind of a round-robin around a
12 set of agencies, including the ones I listed, and we also
13 had Department of General Services was there, the U.S.
14 Department of Energy was there, the Federal Transit
15 Administration was there, the Federal Highway
16 Administration, the Federal Rail, the PUC -- let's see, who
17 else, the Governor's Office, Department of Defense, and a
18 few others.

19 And so, what was really great is what we were
20 talking about on transportation because it's such a big
21 piece of the pie that we need to figure out how to solve in
22 both the South Coast and in San Joaquin.

23 Kind of what are the different agencies working
24 on? What types of things do they have the ability to fund?
25 What types of policies do they have the ability to put in

1 place?

2 And just really talked collaboratively about what
3 are things that we can do that might be complementary of
4 one another.

5 You know, as I mentioned, those are two of the
6 highest -- those are the two areas in the State that have
7 the highest level of ozone pollution.

8 The EPA showed us a map that was a little bit
9 scary for me because it shows when you get farther out in
10 the future, and I can't remember the exact year, most of
11 the -- when you look at the current standards most of the
12 country will be meeting them, except for these two areas.

13 And so, the work that we do on transportation and
14 I think probably a lot of the work that we do on things
15 like the natural gas projects that we just talked about,
16 even though those are stationary, are going to be really
17 important.

18 And so, I just wanted to highlight for you that
19 we had had that conversation. We didn't come up with,
20 necessarily, any solutions. But all agree that we need to
21 focus on that and continue to, where we can, make sure that
22 our efforts align.

23 One of the places -- the two highest are diesel,
24 heavy-duty diesels and that includes sort of the Class 8
25 long-haul trucks, the drayage trucks, things like that.

1 But then it's also the ports, the ships and the
2 locomotives. So, those are kind of the big ones that
3 everyone is trying to focus on because if you can get those
4 emission reductions down that will help a lot into air
5 basins that need reductions basically yesterday.

6 So, anyway, that was a great meeting and that was
7 last week, and I just wanted to let you guys know about
8 that.

9 COMMISSIONER DOUGLAS: Thank you, Commissioner
10 Scott.

11 Commissioner McAllister.

12 COMMISSIONER MC ALLISTER: So, just a quick
13 question. So, those are particulate emissions that folks
14 are focused on or kind of across-the-board criteria or --

15 COMMISSIONER SCOTT: These are -- so, I think --
16 that's a great question. What we were focused on, I think,
17 is the NOx emissions because of the Ozone Standards. It's
18 the Ozone Standards that are going to be the tough ones to
19 meet.

20 COMMISSIONER MC ALLISTER: Yeah, I got it.

21 COMMISSIONER SCOTT: But we're looking across the
22 board because as you note, you know, exposure to diesel
23 particulate matter is not good, also. And we're also
24 looking to figure out how to meet the climate change goals.

25 And so, we did have a conversation about what

1 types of technologies, or ideas or initiatives get at all
2 of those.

3 COMMISSIONER MC ALLISTER: Yeah, thanks.

4 We had a recent Business Meeting and I really
5 haven't done much since then. No, I'm just kidding.

6 (Laughter)

7 COMMISSIONER MC ALLISTER: But I'm going to pass
8 on a report this month.

9 COMMISSIONER DOUGLAS: I'm going to pass, as
10 well.

11 Commissioner Hochschild?

12 COMMISSIONER HOCHSCHILD: Just real briefly, I've
13 gotten really good feedback from our adoption of the west-
14 facing PV incentive. And I'll be tracking that closely to
15 see how much market adoption we get of that.

16 Hopefully -- there was one article, "Helping the
17 duck face west" -- or "fly west" or something like that.

18 But next week Commissioner Scott and I are flying
19 down to San Diego with staff to visit the Navy and the
20 Marines, and talk to a whole bunch of folks and a whole
21 bunch of issues.

22 And other than that, I don't have a whole lot
23 else to report.

24 COMMISSIONER MC ALLISTER: You're changing
25 evolution. You're making ducks fly west. That's pretty

1 amazing. Pretty amazing, congratulations on that. No,
2 that's a good step. So, yeah, thanks for leading that.

3 COMMISSIONER DOUGLAS: Great, thank you.

4 Let's go on, now, to the Chief Counsel's Report.

5 MR. LEVY: Hello, Commissioners. I don't have a
6 report for you today, either.

7 COMMISSIONER DOUGLAS: All right, Executive
8 Director's Report?

9 MR. OGLESBY: Nothing to add today.

10 COMMISSIONER DOUGLAS: Thank you.

11 The Public Adviser's report?

12 MR. PAYNE: Leon Payne on behalf of Alana Mathews
13 and there's no report from the Public Adviser this month.

14 COMMISSIONER DOUGLAS: All right, thank you very
15 much.

16 Now, we have three members of the public who have
17 given us cards, indicating they'd like to speak.

18 Let's start in the public comment section of the
19 agenda. So, let's start with Tommy Yung -- Young,
20 probably. Come on forward.

21 MR. YOUNG: Good afternoon, Commissioners and
22 thank you for the opportunity to speak.

23 My name is Tommy Young. I'm the owner of E3
24 NorCal. We're a small energy consulting company here in
25 Sacramento, with 12 employees.

1 And I'm speaking today on behalf of Energy Code
2 2013. We're an ad hoc committee.

3 We put out a survey last month asking people to
4 weigh in on their experiences with the 2013 code and offer
5 ideas for improving its implementation.

6 I'm here to give you a high level overview and
7 then let my colleagues get a bit more specific.

8 Every survey has a subtext, an underlying
9 question it wants to answer, and our was what effective
10 would a 25 percent increase in efficiency or decrease in
11 consumption, along with new regulations, forms, workloads
12 and tools have on an industry, and what impact might that
13 have on a market and its players.

14 What started the whole thought process of this
15 was actually Commissioner McAllister's clear and consistent
16 message over the last couple of years that the type of real
17 change called for on this march towards net zero wouldn't
18 come through simple mandates, but there must be buy-in from
19 the stakeholders.

20 And I'm actually -- I found last year's June 2013
21 business meeting. He said to get there, to zero net
22 energy, "To get there it's really going to have to be a
23 handshake in the middle with industry, the Commission and
24 all the supporting stakeholders in there".

25 So, the survey was our attempt at determining if

1 we, as this -- and I call it a symbiotic organism, the
2 energy-efficiency industry, are we seeing eye to eye? Are
3 we reading from the same play book?

4 The survey was 15 questions long, a mix of
5 multiple choice and essay, and developed to elicit comments
6 on a platform.

7 And this was of most importance, that that
8 platform be moderated, low volume, one-voice-at-a-time,
9 absolutely no yelling.

10 We had over -- it ran for two and a half weeks.
11 WE had over 300 responses. Over 15,000 words, alone, in
12 the essay responses from architects, building officials,
13 KBEC members, engineers, HERS raters and we were all pretty
14 amazed.

15 So, the results, and here's where I lean on
16 sports metaphors because it's football season and that's
17 where I'll start.

18 So, using the handshake that Commissioner
19 McAllister talks about, there's a handshake that takes
20 place in the middle of this field between the two teams,
21 before every game.

22 And what I found from the survey was that
23 handshake has yet to happen. There's a lot of confusion
24 and the natural byproduct of frustration that's out there.

25 And my take is that the stakeholders currently

1 aren't buying into or being sold the overall game plan.

2 One of the simplest, the clearest things to see
3 was that the rule book is changing so fast that the players
4 and the rest can't keep up.

5 And I hate to say this, but it feels like a lot
6 of the fun out of being an energy consultant is happening.

7 And I'll finish up with this, I see the red.

8 So, I'm going to wrap it up with a factoid, and I
9 thought about this the other day, January 1st, 2020 is less
10 than 2,000 days away. And for those of you keeping score,
11 it's 1,939 calendar days, 1,331 workdays.

12 And I hope our survey comes to be seen after the
13 initial shock as an attempt at honest dialogue. I hope
14 that it's seen as an industry meeting the CEC in the middle
15 of the field to shake hands, and then sitting down to work
16 out the strategy and tactics for how we, as a team,
17 accomplish our goal.

18 And lastly, ZNE is a really big paradigm-shifting
19 deal and this is a great opportunity for the CEC to ask the
20 industry what's it going to take to create that buy-in and
21 get you in the game.

22 COMMISSIONER DOUGLAS: Thank you for your
23 comments.

24 Bill Lilly, California Living.

25 MR. LILLY: Bill Lilly with California Living

1 Energy.

2 We test approximately 500 houses almost a month,
3 every month for residential efficiency, almost 90 percent
4 in new construction.

5 And I'm here with Tommy and Linda to express some
6 points that we've heard from our builders out there.

7 I've talked to KB this last week, the last couple
8 of weeks, Taylor Morrison, Pulte Homes. And this is one of
9 the first times -- I've been in energy conservation since
10 1976 and this is one of the first times I've seen a group
11 of builders, who are supposed to be a big part of what we
12 do starting to say, well, I'm really thinking about not
13 doing any more energy efficiency above the minimum.

14 Now, these are some builders that we really need
15 to have them be able to be a part of this energy efficiency
16 to reduce our carbon footprint.

17 But it's gotten so onerous that they -- one guy
18 at Taylor Morrison told me, he says, it used to take me
19 three clicks to go ahead and get signed on just for my
20 signature, and now it takes me 10 and 12.

21 Now, clicks, you know, how long does that take?
22 But these people are not necessarily dealing with computers
23 all the time.

24 There's issues like that for classes that come
25 up. Another builder says that we had -- he goes to one

1 class and one calls says one thing, another class says
2 another.

3 Now, this is not to say like the providers aren't
4 doing a good job. I think they're really doing a yeoman's
5 work with all the issues they have to deal with.

6 And just it's come on so quick, with so many
7 changes it's hard to grasp. And it's been a lot tougher to
8 get things to comply with the software.

9 And a couple of the questions -- what I'd like to
10 say is one thing that I was really pleasantly surprised, in
11 talking to the person with NRDC, that both sides of the
12 political persuasion really want a universal rating system
13 that I think is advantageous for our country. Like RESNET,
14 NRDC, the builders, they're all for that.

15 But that's one part that was never even
16 mentioned, or at least to a small degree.

17 But I'd like to go through a couple of responses
18 to kind of illustrate what I just mentioned when talking to
19 the builders on some of the survey questions that Tommy put
20 together.

21 Now, this question's involving the 2013 Energy
22 Code regulations. And the first question: "Is the 2013
23 Energy Code clearly written?"

24 Seventy-seven percent said disagree or strongly
25 disagree. That's huge out of 300 responses.

1 Now, you've got to remember these people don't
2 like writing surveys or taking surveys, so they took a lot
3 of time to write a lot of essays and answer these
4 questions.

5 The next question: "I can easily find the
6 sections of the code that impact me?"

7 Seventy-three percent strongly disagreed or
8 disagreed.

9 "The section of the code that directly impact me
10 are simple to understand?"

11 Eighty-five percent said strongly disagreed or
12 disagree.

13 "I can find the answer to questions I have about
14 the code?"

15 Seventy-eight percent disagreed or strongly
16 disagreed.

17 "The Energy Commission seems to be concerned
18 about my overall experience?"

19 COMMISSIONER DOUGLAS: Excuse me, are you --
20 you're going to submit this or you have submitted this to
21 us?

22 MR. LILLY: Yes, we have, we want to submit this.

23 COMMISSIONER DOUGLAS: Okay, let me encourage
24 you -- you're through the three minutes. Let me encourage
25 you to not --

1 MR. LILLY: Let me finish this one question and
2 I'll be done.

3 COMMISSIONER DOUGLAS: Please, go ahead.

4 MR. LILLY: "The Energy Commission seems to be
5 concerned about my overall experience?"

6 Ninety-one percent disagreed or strongly
7 disagreed.

8 Thank you for your time.

9 COMMISSIONER DOUGLAS: Thank you for being here
10 today.

11 Linda Murphy?

12 MS. MURPHY: Good afternoon. My name is Linda
13 Murphy and I work for DuctTesters. They're a Title 24 and
14 HERS rating company.

15 I've been an energy consultant implementing the
16 Title 24 standards for 29 and a half years.

17 I've been through several code changes, as you
18 can imagine.

19 Code changes are always challenging in terms of
20 understanding the changes and how they impact the
21 construction industry.

22 My tools as an energy consultant have always been
23 the standards, the res and the nonres manual, the ACM
24 manual, the appendices, and the compliance software. These
25 are my trusted allies.

1 This code has been exceptionally challenging as
2 it's obviously much stricter than the previous code. And
3 not being able to rely on my trusted tool, the software has
4 been exceptionally frustrating.

5 I feel a carpenter pulling out my tape measure to
6 make a cut and mark my spot, and then re-measure to make
7 sure, only to find out that my cutting spot moved.

8 And then I measure it again because surely it's
9 my error, you know, it's my fault, only to find that the
10 spot moved again.

11 The people who answered this survey, this small
12 survey are feeling the same way as that carpenter.

13 Although strides have been made since January 1st
14 and July 1st, we're still not able to model building
15 conditions, such as walk-out basements, mini-splits or
16 ducts and conditioned space.

17 Not being able to use ducts and conditioned space
18 directly impacts multi-family buildings who are struggling
19 percentages better than Title 24 for funding.

20 But worse than that, after using QII for the past
21 several years, I have people that are opting out of QII.
22 It's too expensive, they can't use it anymore.

23 It's too expensive to have the insulation
24 installed per manufacturer specifications and seal it all
25 properly, and now do all the additional requirements added

1 to the QII list.

2 The results of the survey in their preliminary
3 form indicate that although the CBEC Res and Com are free,
4 energy consultants hesitate or simply don't want to use it.

5 They will spend their money using a software
6 that's simple to use and that they're familiar with.

7 Many nonresidential modelers take exception to
8 having to re-draw a perfectly good building, drawn by a
9 licensed architect.

10 It has added enumerable hours to a Title 24
11 project that wasn't there before, causing money lost and
12 builders unhappy about the length of time it takes to get
13 their Title 24 documents.

14 Plus, the industry is not trusting the results.
15 After upgrading to Version 3 just yesterday, we reran
16 several plans to get ready to upload to the registry. We
17 found a loss of compliance margin of 4 percent on a couple
18 of two-story homes.

19 Now, that's frightening and now we have to spend
20 time figuring out whether it's us, did we do something
21 wrong, or did we not do something we were supposed to do,
22 or is in the software upgrade, something in there.

23 Now, I understand that you don't want to hear all
24 of the things that are going wrong or causing the industry
25 pain and that you want to hear about solutions or ideas to

1 make things better.

2 And, you know, that's what we want as well. We
3 try, but as the results of this survey are normalized and
4 made statistically official, and if I give it even a 25
5 percent margin of error, the results indicate that our
6 voices are not being heard. And the perception is that our
7 voices don't matter.

8 We want to help you. We are your implementers of
9 the standards. We've been trying to reach out to you. And
10 all the industry is for you to reach out and work with us.

11 In conclusion, let's all take a step back and
12 take a breath. Let's have an industry and Commission
13 collaboration.

14 We can't wait long, though, because construction
15 is happening out there right now, as I speak to you.
16 Issues need resolving. Let's meet as soon as possible to
17 begin working on a realistic path to make the standards
18 work as a whole.

19 I have copies here, hardcopies for you of the
20 essay questions of all those people that took the survey
21 wrote.

22 And I implore you to take the time to read
23 through them. Thank you for your time.

24 COMMISSIONER DOUGLAS: Thank you and thanks for
25 the copies.

1 COMMISSIONER MC ALLISTER: Yeah, thanks for being
2 here. To all three of you, thanks for being here. And the
3 folks you represent, who filled out the survey.

4 You know, I am -- you know, we have to balance
5 here in a process hard-nosed decisions and trying to keep
6 our long-term goals in mind with really working with
7 stakeholders in a good-faith effort to solve problems, and
8 do all that in a civil way.

9 And I really appreciate the way that you have
10 approached this up to now and I absolutely commit to
11 engaging on these issues to solve them.

12 And, you know, I think there are going to be
13 many, many details and probably variable opinions across
14 the industry. It sounds like there's consensus on a few
15 items. Maybe, you know -- well, I won't bring up the Tax
16 Code but, you know, it's complicated.

17 But that's not a reason to have it be workable
18 for, you know, the vast majority of practitioners out there
19 who, you're absolutely right that we depend on to get the
20 job done on the ground.

21 So, I want to, for really just right now, express
22 my commitment and my direction to staff to sit down and
23 work through the issues that you've identified.

24 And I've said in previous meetings, and I'll say
25 again now that I think the -- in the grand scheme of

1 things, and where we are going in this State, moving to an
2 open source CBEC is absolutely the right thing to do.

3 And I continue to believe that. And I think that
4 it is something that, you know, I definitely do not plan to
5 waiver on. And I think we've made incredible strides on
6 that front.

7 So, part of what we're seeing is sort of the
8 growing pains or the transition pains of that and again,
9 not to minimize them.

10 So, I want to actually ask staff if sort of you
11 could put into context the process forward, because I
12 believe you've thought about that.

13 MR. STRAIT: Certainly, I can provide --
14 actually, I should say this is Peter Strait. I'm the
15 Supervisor of the Standards Development Unit that we have.

16 I can say that some of our steps forward,
17 certainly on the issue of code clarity, cleanup of the 2013
18 code language is part of what we're doing with the 2016
19 code cycle. It's an explicit item that we're trying to
20 collect, areas where we can phrase things more clearly
21 without changing their regulatory affect.

22 And to the extent that there have been any
23 comments collected in here, by industry, about places in
24 the code where we can improve the clarity of code, we are
25 absolutely interested in having that so we can try to make

1 our best attempt to incorporate as much as we can into the
2 2016 code cycle.

3 To that extent, I would absolutely recommend that
4 this survey and these results be docketed for the 2016
5 proceeding, so that we have them officially within our
6 record. And we would absolutely work to incorporate them
7 as we move forward.

8 Regarding the software development, obviously
9 we've -- we would like to have released a CBEC version one
10 and have it have been absolutely perfect right out of the
11 gate.

12 But we are continuing, I think, to rise to the
13 challenge that's presented by offering the software, this
14 incredibly complicated piece of software. And we are
15 absolutely responsive where there are issues that are
16 brought to us from the parties that are affected by these
17 changes.

18 And we certainly sympathize, when we correct
19 something internally way down in the guts in the engine
20 that it has an effect that may startle somebody that's
21 using the newer version.

22 Please let us know and we can find out, and try
23 to work with you to try to find out what's happened, and
24 whether it's on our side or something that was entered
25 slightly differently the second time around.

1 COMMISSIONER MC ALLISTER: Peter, could you -- on
2 the docketing of comments could you, or maybe legal talk
3 about what that actually means so people understand?

4 Maybe, Mr. Brehler, you could sort of say what
5 process that triggers to have something like that docketed?

6 MR. BREHLER: Certainly. Good afternoon,
7 Commissioners, my name is Pippin Brehler, Senior Attorney
8 with the Energy Commission.

9 The Dockets Office is the public window for the
10 Energy Commission and it's the window at which information,
11 materials, documents from interested persons are submitted
12 to the Commission to be considered in the proceeding.

13 We have a dockets window, a physical location on
14 the second floor. We also have a website and an e-mail
15 address through which documents can be submitted to the
16 docket.

17 Once they're into the docket, they're available
18 for staff to review and consider in developing the proposed
19 regulatory text, potentially available for the Commission
20 to rely upon in adopting the regulatory text and they
21 become part of the record of the proceeding.

22 I would note on that, though, that there is a
23 bright line between what we call the pre-rulemaking
24 activities that we've done to date and the OIR, and then
25 the formal -- what we call the formal rulemaking proceeding

1 that will begin with a notice of proposed action and
2 proposed regulatory text, and a formal public comment
3 period that will begin, hopefully, this coming January, as
4 mentioned in the earlier presentation on the OIR item.

5 So, what that means for interested persons, it's
6 important to submit their comments to the docket so that we
7 can review them as early as possible.

8 And if any comments remain -- if folks have
9 remaining concerns, they should submit them again during
10 the formal comment period to ensure they're in both aspects
11 of that record.

12 COMMISSIONER MC ALLISTER: Thanks.

13 So, Peter did you want to -- oh, go ahead,
14 Michael.

15 MR. LEVY: For transparency, maybe Mr. Brehler
16 can also explain how to easily find the docket, the
17 relevant docket on the dockets web interface.

18 And also, remind folks that there's a way to
19 automatically sign up so that once you're on the list you
20 can self-subscribe and you'll receive notices of anything
21 goes out, once you're signed up to the docket list.

22 MR. BREHLER: Yeah, absolutely.

23 So, Mr. Strait right now is taking over the
24 computer screen to show folks where, on the Energy
25 Commission's website, we have a webpage for the 2016

1 Building Energy Efficiency Standards proceeding, as well as
2 a docket website -- or webpage for the dockets.

3 MR. STRAIT: So, I'm just really quickly going to
4 walk through. When we talk about docketing something this
5 is where you can go. And this is true for any of the
6 proceedings or anything that we're doing that somebody may
7 wish to submit something on.

8 A quick search for "dockets" will come up to the
9 webpage for our docket unit. And this page contains a lot
10 of information about how to submit things to us, as well as
11 links to resources that allow folks to search what's
12 currently -- what proceedings are currently active.

13 If anyone needs any help with any of this, they
14 can call our Energy Standards hotline, which is under -- or
15 our Title 24 hotline, and I'll go to that next.

16 The main webpage for the Building Energy
17 Efficiency Standards can be found by hovering over the
18 "Efficiency" tab and then going to "Building Energy
19 Efficiency".

20 And on this page we have links to the 2013
21 standards, which is what's currently in effect.

22 We have links to the 2016 standards and the pre-
23 rulemaking work we're doing that's going to lead to the
24 next code cycle.

25 And there's also links over here, down here at

1 the bottom of the "go-to" menu, you've got Energy Standards
2 hotline.

3 That has e-mail addresses and phone numbers that
4 you can use to directly contact us. We have a toll-free
5 number that can be called anywhere within California.

6 Outside of California there's a 916 number that
7 can be called.

8 So, any of that can be used to reach out to us
9 and we try to be as responsive to those as possible.

10 MR. BREHLER: So, those are the windows or one
11 side of the coin for how interested persons can contact us.

12 The other side of that coin is how interested
13 persons get notice of what we're doing. And we ask that
14 folks who are interested in following this proceeding to
15 subscribe to the Building Standards or Efficiency list
16 servers through which we send out notices of key events,
17 milestones, items for consideration like today's order
18 instituting rulemaking, workshops, notices of business
19 meetings and agendas where items related to the 2016
20 standards will be considered.

21 And folks can sign up for that on the page that
22 Peter has brought up.

23 MR. STRAIT: Yeah.

24 COMMISSIONER MC ALLISTER: So, the other thing I
25 would say, so that's great for the 2016 proceeding.

1 Certainly, much of this is going to be relevant.

2 And I would ask, actually, though, that in the
3 near term that staff meet, and I am happy to participate in
4 those meetings to give them some structure, if that's
5 needed, or whatever's going to move the discussions forward
6 on the particular issues that are giving folks heartburn,
7 so that we can really unpack those, and understand them,
8 and figure out what the nearer term fixes might be.

9 As we then approach, you know, as a bridge over
10 to the 2016 proceeding.

11 I think that's really what we're hearing the
12 stakeholders want and I think that's what we need to try to
13 deliver.

14 And, you know, not knowing all of the details
15 that are contained in the comments from folks so --

16 MR. ASHUCKIAN: This is Dave Ashuckian. I'm the
17 Deputy Director for the Efficiency Division.

18 And I just want to start by saying, you know, as
19 you all have said already, you know, this has been a major
20 upgrade to our standards this time.

21 I think the biggest change has been the new
22 reforms in the registry of forms, so that -- the attempt to
23 get increased compliance.

24 We understand that there may have been challenges
25 and that the industry feels like we haven't shaken hands on

1 the process. We would like to change that impression and
2 do have that handshake.

3 We have been working with the stakeholders. We
4 have been addressing all the issues that come to us as
5 quickly as we can, when they come to us.

6 I've already been in contact with Tommy Young,
7 Mr. Young, to have that meeting. We actually are scheduled
8 after this business meeting to actually have a first look
9 at the results of their survey, and again on Friday to have
10 a more in-depth discussion on the issues that are raised.

11 So, you know, in addition to what I'll call the
12 more formal process that staff just described we are -- you
13 know, we're trying to work with staff and with the industry
14 stakeholders on an informal basis to address and make the
15 process as easy as possible.

16 We understand that they are our partners in
17 making this a successful program.

18 MR. BREHLER: And one other item, Commissioners,
19 and Ms. Murphy, if I could get your contact information,
20 I'll go ahead and docket this after the meeting for you.

21 Thank you.

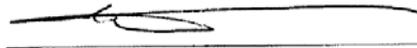
22 COMMISSIONER MC ALLISTER: Great, thanks. So,
23 clearly a lot of work to be done and I think that's the
24 right approach. And again, you know, the devil will be in
25 a little bit of the details here and whatever, I guess, the

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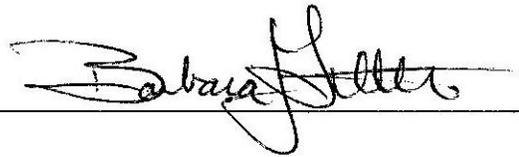
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