

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: ) Docket No. 98-AFC-2  
)  
Application for Certification )  
for the La Paloma Generating )  
Project )  
\_\_\_\_\_)

INFORMATIONAL HEARING

McKittrick School Auditorium  
23250 2nd Street  
McKittrick, California 93251

Wednesday, September 16, 1998  
3:20 p.m. to 5:15 p.m.

Reported and Transcribed by: Marie T. Estebo

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A P P E A R A N C E S

Commissioner Present:

ROBERT A. LAURIE

Staff Present:

STANLEY W. VALKOSKY, Chief Hearing Officer

THOMAS TANTON, Advisor to Commissioner Rohy

For the Staff of the Commission:

MARK S. PRYOR, Siting Project Manager

JEFF OGATA, Legal Counsel

ROGER JOHNSON

ROBERT HAUSLER, Office Manager

MR. YORK, Staff Biologist

DAVID FLORES

CHRISTINA BERKOWITZ

For the Applicant:

ALLAN THOMPSON, Project Counsel

ROGER GARRATT, Development Manager

CATHERINE McDAVID, Environmental Specialist

WILLIAM CHILSON, Environmental Affirmity

WILLIAM STEINER, Woodward-Clyde

RAY HANLEY, Senior Project Manager

SHAWN O'NEIL, Director of Public Affairs

I N D E X

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P R O C E E D I N G S

WEDNESDAY, SEPTEMBER 16, 1998, MCKITTRICK, CALIFORNIA

3:20 P.M.

COMMISSIONER LAURIE: Thank you very much for joining us this afternoon. For purposes of introduction, my name is Robert Laurie. I'm a commissioner with the California Energy Commission. I am one of two commissioners assigned to hear the application for certification filed by La Paloma.

It will be the responsibility of this Committee to offer recommendations to the full Energy Commission upon the completion of our hearing process. I have the pleasure of serving on the Committee with Commissioner David Rohy. Commissioner Rohy is not present today, but his chief adviser Mr. Tom Tanton, to my right, is present. To my left is Mr. Stan Valkosky. Mr. Valkosky is the hearing officer assigned to this case.

It is Mr. Valkosky's responsibility to act as legal counsel to the Committee hearing the project.

Ladies and gentlemen, I think it's important for all of you folks to have an understanding as to who all the different players are involved in this process. So what I'd like to do is

1 first I'd like to have Energy Commission staff offer  
2 their introduction. I would then like the applicant  
3 to offer their introduction.

4                   As we go through the process there will  
5 be opportunity to have staff make a presentation  
6 regarding the project. The applicant will make a  
7 presentation regarding the project and then there will  
8 be full and complete opportunity for the public to  
9 seek information by asking questions or by other  
10 means.

11                   This is an informational meeting. The  
12 purpose is to provide you with that information. If  
13 we fail to do that, then we have failed the purpose of  
14 our meeting.

15                   So first thing's first. Let's continue  
16 with some introduction. Let me turn it over to  
17 staff. If you would introduce yourselves and as you  
18 introduce staff, could you please stand and introduce  
19 yourselves and let the public know what your role is.

20                   And also, ladies and gentlemen, this  
21 hearing is being transcribed. So please speak loudly  
22 enough so that the transcriber can hear you. If we  
23 go too fast or there's too many people speaking at one  
24 time, then I'll attempt to slow us all down because  
25 it's important to have this down on a piece of paper.

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Gentlemen.

MR. PRYOR: Good afternoon.

Is that working?

COMMISSIONER LAURIE: You don't need it.

MR. PRYOR: I don't need it. Good.

My name is Mark Pryor and I am the project manager assigned to the La Paloma case for the Energy Commission.

To my left is Mr. Jeff Ogata. He is our counsel; and Roger Johnson, my supervisor, direct supervisor; and to his left is Bob Hausler and he is Roger's supervisor. He is our office manager; Mr. York, staff biologist. And then we have two new members to the Energy Commission, one just this week. Mr. David Flores and Ms. Christine -- I'm sorry.

MS. BERKOWITZ: Christina Berkowitz.

MR. PRYOR: I'm sorry. I lost that.

COMMISSIONER LAURIE: Thank you.

I'd like the applicant, Mr. Thompson, if you could introduce yourself and the members of your party that you wish to introduce.

MR. THOMPSON: Thank you, Mr. Commissioner.

I think we should all introduce ourselves in two sentences about what we do. My name is Allan Thompson. I'm project counsel for U.S.

1 Generating Company. I assist them through this legal  
2 process to the extent that I can.

3 MR. GARRATT: I'm Roger Garratt and I'm the  
4 development manager for the project.

5 MS. McDAVID: My name is Catherine McDavid.  
6 I'm the environmental specialist on the project.

7 MR. CHILSON: My name is Bill Chilson. I'm the  
8 manager of the environmental affirmity (phonetic).

9 MR. STEINER: I'm Bill Steiner with  
10 Woodward-Clyde Consultants. I'm assisting in the  
11 environmental part of the project.

12 MR. WILLIAMS: I'm Alan Williams. I'm the  
13 project engineer for the project.

14 MR. HANLEY: I'm Ray Hanley with the licensing  
15 of this project.

16 MR. O'NEIL: I'm Shawn O'Neil, director of  
17 Public Affairs for U.S. Generating Company. I'm in  
18 charge of community relations for projects and  
19 development, construction and operations. So if you  
20 have any questions, feel free to give me a call.

21 COMMISSIONER LAURIE: Ms. Mendonca.

22 MS. MENDONCA: I'm Roberta Mendonca. I'm the  
23 public adviser. And I'm not up there for a specific  
24 reason. Public adviser is here to assist you, members  
25 of the public, in leading your way through the

1 process.

2                   As you can tell today, it's quite  
3 legalistic. We're going to have a transcript. There  
4 may be questions about our process that you would like  
5 to know a little bit more about. I have an 800  
6 number. You're welcome to call me on the 800 number.  
7 I have cards and some background material that you're  
8 welcome to take today.

9                   And also, tomorrow there is a workshop.  
10 The workshop tomorrow is a little bit more informal.  
11 And we won't have that transcribed. But if you would  
12 like information about that, please contact me and  
13 I'll give you information about that.

14                   COMMISSIONER LAURIE: Are there any other  
15 public agencies represented here today that have not  
16 had an opportunity to introduce themselves?

17                   The purpose of today's hearing is to  
18 provide a public forum to discuss the proposed  
19 La Paloma Generating Project, to describe the Energy  
20 Commission review process, and to identify the  
21 opportunity for public participation in the process.

22                   For those interested, a visit to the  
23 project site will be held immediately following the  
24 conclusion of the hearing. The public is invited to  
25 attend that site visit.

1                   If we do not conclude before dark, we  
2 will recess to visit the site and then return here to  
3 resume the hearing. Transportation to the site will  
4 be available.

5                   Ladies and gentlemen, let me assure you  
6 that we will utilize our best efforts to adjourn  
7 before dark.

8                   Today's event is the first in a series of  
9 formal hearings which will extend over approximately  
10 the next year. The commissioners conducting this  
11 proceeding will eventually issue a proposed decision  
12 containing their recommendations on the proposed power  
13 plant. And that is Commissioner Rohy and myself.

14                   It is important to note that these  
15 recommendations must, by law, be based solely on the  
16 evidence contained in public record. To insure that  
17 this happens and to preserve the integrity of the  
18 Commission's licensing process, Commission regulations  
19 and the California Administrative Procedures Act  
20 expressly prohibit off-the-record contacts between the  
21 participants in this proceeding and the commissioners,  
22 their advisers and the hearing officer.

23                   This is known as the ex-parte rule, and  
24 you may hear that word come up often during the course  
25 of the next year. This means that all contacts

1 between a party to this proceeding, and that includes  
2 the applicant as well as staff, and any contact  
3 between a party and Commissioners Rohy or myself and  
4 our staff concerning a substitute matter must occur in  
5 the context of a public discussion, such as will occur  
6 today, or in the form of a written communication  
7 distributed to all parties.

8                   The purpose of this rule is to provide  
9 full disclosure to all participants of any and all  
10 information which may be used as a basis for future  
11 decisions.

12                   I would like to note for the record that  
13 the commission has received a petition to intervene  
14 filed by the California Unions for Reliable Energy. I  
15 would ask at this point whether there is any objection  
16 to that petition.

17                   MR. THOMPSON: We don't necessarily like it,  
18 but we don't object.

19                   COMMISSIONER LAURIE: Thank you, Mr. Thompson.

20                   Seeing no formal objection, an order will  
21 be issued permitting the intervention.

22                   During the course of the hearing, we  
23 intend to proceed in the following manner: First,  
24 Commission staff will provide an overview of the  
25 Commission's licensing process and its role in

1 reviewing the proposed La Paloma project. Next,  
2 Ms. Mendonca, the Commission public adviser, will  
3 briefly explain how to obtain information about and  
4 participate in the licensing process. Finally, the  
5 applicant will describe the proposed project and  
6 explain its plan for developing the project site.

7                   Upon completion of these presentations,  
8 interested agencies and members of the public are  
9 invited to ask questions.

10                   Following these presentations, we will  
11 turn to a discussion of scheduling and other matters  
12 addressed and staff's September 11th issue  
13 identification report.

14                   We will now begin with presentations.  
15 Let me turn the matter now over to Mr. Pryor. And,  
16 ladies and gentlemen, what I would ask you to do in  
17 the interest of time is hold your questions, please  
18 write them down. Again, our purpose for today's  
19 meeting is to address your information desires, but in  
20 order to do so in an expeditious fashion, we would ask  
21 that you hold your questions until the presentations  
22 are complete.

23                   Thank you.

24                   First, are there any questions regarding  
25 the process we're going to follow here today?

1 Thank you.

2 Mr. Pryor.

3 MR. PRYOR: Thank you, Commissioner Laurie.

4 Again, my name is Mark Pryor. And I am  
5 the project manager assigned to the case. That's the  
6 person that keeps the strings pulled together in the  
7 right direction. That's the way I like to think about  
8 that.

9 The process that we go through in citing:  
10 The Energy Commission has permitting authority for  
11 thermal power plant's 50 megawatts or greater as well  
12 as all related facilities, such as transmission lines,  
13 water pipelines and natural gas supply lines. We are  
14 the lead agency for CEQA or the California  
15 Environmental Quality Act. We coordinate very closely  
16 with other federal, state and local agencies.

17 Commissioner Laurie alluded to the time  
18 frame. There is a -- it's a 12-month review process.  
19 Prefiling has been done. Data adequacy of the  
20 application has been completed. We're now in the  
21 discovery phase of the process, the information  
22 hearing today, the site visit today. We will have a  
23 data request workshop tomorrow in Buttonwillow. And  
24 we will have scoping activities occurring.

25 The analysis. The first product that

1 comes out of this will be the staff's preliminary  
2 staff assessment or PSA. We will then have workshops  
3 on this analysis and then produce the final staff  
4 analysis. Evidenciary hearings are held, and a  
5 decision for the draft proposed decision, a comment  
6 hearing which is a minimum of 15 days, and the hearing  
7 and the decision will be made.

8                   If the project is approved, then  
9 compliance will occur afterwards during the entire  
10 time that the site exists through monitoring.

11                   It is an open public process. We hold  
12 workshops and hearings. Notices are given out 10 to  
13 15 days in advance. We also have mailing lists. We  
14 have a proof-of-service list and I keep agencies or  
15 interested persons' list, that would include property  
16 owners. Some of you may be a property owner.

17                   Where can you obtain documents? For  
18 instance, the application itself. One copy has been  
19 provided to the Beale Memorial Main Library in  
20 Bakersfield. One is here at the McKittrick Elementary  
21 School Library. There is one at the Buttonwillow  
22 Branch Library. In addition, we have a copy at the  
23 Energy Commission Library in Sacramento. And we also  
24 have a website. The Energy Commission website is  
25 [www.energy.ca.gov/citingcases](http://www.energy.ca.gov/citingcases), and for La Paloma it's

1 slash La Paloma. The dockets unit is at the Energy  
2 Commission, 1516 9th Street, Sacramento. And that is  
3 where all the docket materials reside.

4                   The ex-parte role. And this is how I  
5 characterize it, with a line. We have the various  
6 players in the process. The Commission at the top of  
7 the Committee, then the applicant, staff, intervenors,  
8 agencies, the public and the public advisory. You see  
9 arrows going everywhere. I did not have this in a  
10 handout. I apologize. It didn't make it into there.

11                   The red line is the ex-parte line. Above  
12 the line and below the line, we don't have  
13 communications without benefit of a publicly-noticed  
14 meeting or -- well, a meeting or a hearing.

15                   Coordination between local, state and  
16 federal and ourselves. It says that we are to go  
17 state mediation for CEQA. In this case, we'll be  
18 working with the Bureau of Land Management and U.S.  
19 Fish and Wildlife Service -- you're aware of them so  
20 far -- California Department of Fish and Game is a  
21 state agency, Kern County, and with the San Joaquin  
22 Valley Unified Air Pollution Control District. We  
23 will also be working with local water agencies.

24                   What will staff do? Staff will review  
25 and analyze the proposed project, a 13.6 mile

1 electrical transmission line, an eight-mile water  
2 supply pipeline, a two-mile potable water pipeline and  
3 an 870-foot natural gas supply pipeline. We will  
4 focus on issues that are related to public health,  
5 safety and welfare, environmental consequences and the  
6 engineering aspects of the project.

7                   The analysis must comply with laws,  
8 ordinances, regulations and standards, or called LORS  
9 by us. The environmental assessment must identify  
10 environmental consequences, identify mitigation  
11 measures, recommend conditions of certification and  
12 evaluate alternatives, such as citing alternatives to  
13 facilitate public and agency participation in issue  
14 resolution and coordination of all the federal, state  
15 and local licenses and permits.

16                   For your information, once again, there's  
17 my name, phone number and e-mail address.  
18 Mr. Valkosky's phone number and e-mail address, he's  
19 the hearing officer. Roberta Mendonca, the public  
20 adviser, her phone numbers and her web address. And  
21 Mr. Chilson, I didn't provide his phone number but we  
22 can get that to you. He has a contact number. He is  
23 the La Paloma Generating Company's contact.

24                   This concludes my portion of the citing  
25 process. Are there any questions?

1 Commissioner.

2 COMMISSIONER LAURIE: Did you intend to go into  
3 a description of the project or did you intend to  
4 leave that to the applicant?

5 MR. PRYOR: I intend to leave that to the  
6 applicant, sir.

7 COMMISSIONER LAURIE: Thank you.

8 Ms. Mendonca, did you wish to amplify any  
9 of your previous comments?

10 MS. MENDONCA: Just one comment that I would  
11 like to make.

12 Basically we're all here today for an  
13 informal participation and our committee hearing and  
14 workshops and all of the -- even evidenciary hearings  
15 are open to free-form participation.

16 You've heard the word "intervenor  
17 meetings," and if you decide that you're interested in  
18 the project and you want to be a party, visit this  
19 table, to cross-examine witnesses and submit  
20 testimony, then you would apply to be an intervenor.  
21 My office will supply you with the applications for  
22 that process. I'll give you all the information on  
23 that.

24 Thank you.

25 COMMISSIONER LAURIE: Mr. Thompson, were you

1 planning on using any overheads?

2 MR. THOMPSON: No, I don't believe so.

3 COMMISSIONER LAURIE: Okay. Thank you.

4 MR. GARRATT: My name is Roger Garratt and I'm  
5 the development manager for the La Paloma Generating  
6 Project.

7 First off, I'd like to thank Commissioner  
8 Laurie, the Commission, the Commission staff and the  
9 public adviser and the members of the public for  
10 coming out this afternoon.

11 What I'd like to do is just take a couple  
12 of minutes and provide a briefing of the project.  
13 I'll try and be fairly brief on the description so  
14 that it leaves more time for the questions that you  
15 may have later on.

16 The project, La Paloma Generating  
17 Project, is a 1,048 megawatt power generation  
18 facility. It's proposed to be sited roughly two miles  
19 southeast of town at the intersection of Reserve Road  
20 here and Skyline Road, just on the north side of the  
21 road.

22 And as Commissioner Laurie mentioned,  
23 there will be a site visit for people who would like  
24 to go out there at the end of this meeting.

25 The site itself, the fenced-in area, is

1 roughly 23 acres. And the reason that we selected  
2 this site was that the way that we think of this  
3 facility is that it's a conversion facility from one  
4 form of energy to another, from natural gas to  
5 electricity. And there's a major interstate gas  
6 pipeline that parallels Reserve Road, just probably a  
7 hundred feet off the road. And so our connection to  
8 the pipeline literally runs 3- or 400 feet across the  
9 road to connect into this major interstate pipeline.

10                   The electricity itself will be delivered  
11 via transmission line, a 14-mile transmission line  
12 approximately to the midway substation, which is east  
13 of Buttonwillow. If you've read the map -- driven on  
14 58 east of town, I'm sure you've seen the big  
15 substation there. And that's really a main hub on the  
16 energy grid within the State of California.

17                   This facility is a merchant plant,  
18 meaning it's providing wholesale electricity to bulk  
19 purchasers. And so what we're doing is really  
20 delivering it into the system at this point right here  
21 where it then goes to the various users.

22                   In addition to the transmission line,  
23 which I might add, other than the first 9/10ths of a  
24 mile will follow existing transmission lines all the  
25 way to the substation. So we're paralleling existing

1 transmission corridors. In addition to the  
2 transmission line, there's an eight-mile water  
3 pipeline to the California Aquaduct. There's a  
4 two-mile pipeline that will parallel Reserve Road to  
5 connect it to the existing West Kern Water District  
6 potable water system. And then there's a little tap  
7 into the gas pipeline that I mentioned.

8                   The technology itself, we will utilize  
9 combined technology. And if you're familiar with some  
10 of the cogeneration facilities that are around here,  
11 it's very similar technology. This is scaled up.  
12 Most of the cogen facilities are in the neighborhood  
13 of 50 megawatts, but it's very similar technology.  
14 Natural gas is fired in the combustion turbine. The  
15 exhaust heat of the turbine is recovered in a heat  
16 recovery steam generator, a heat exchanger. And that  
17 heat is used to make steam which is fed into a steam  
18 turbine to make additional electricity.

19                   So the difference between this and the  
20 cogen facilities is that the cogens are making steam  
21 that they're pumping into the ground and enhance all  
22 recovery. In this case, steam is going through a  
23 steam turbine to make more electricity. And as a  
24 result of this type of process, this will be one of  
25 the most efficient power plants in the world when it's

1 up and operating in the year 2001.

2                   In terms of the exhaust gas, we will use  
3 selective catalytic reduction on three of the units.  
4 And we're proposing to use a new in-take technology  
5 called SCONOX on the fourth unit to reduce analex  
6 emissions. And we're proposing to reduce analex  
7 emissions down to two-and-a-half parts per million and  
8 CO emissions down to ten parts per million.

9                   And the numbers may not be all that  
10 meaningful. But to put it into perspective, there's  
11 two or three other projects that are going through the  
12 fermenting process at this time and when those four  
13 projects come on-line, they will be the cleanest  
14 projects in the United States.

15                   In terms of biological impacts, I  
16 mentioned the site itself is 23 acres. Once the  
17 construction is complete, there is essentially three  
18 more acres of disturbed property. Essentially, that  
19 acreage is the transmission towers and the turn-outs  
20 at California Aquaduct. So essentially there's 26  
21 acres of disturbed habitat.

22                   The project that mitigate that habitat  
23 will be purchasing roughly 225 acres of habitat as far  
24 as a habitat conservation plan.

25                   In terms of land use, the site itself is

1 currently zoned A for agricultural purposes. A power  
2 generation facility is a compatible use.

3                   Now, in terms of benefits to the County  
4 and to the local community, the particular parcel that  
5 we will be buying is currently owned by Chevron.  
6 Chevron pays a hundred seventy-nine dollars per year  
7 in property taxes at the present time. This is an  
8 estimate that was done for us by the Kern Economic  
9 Development Commission. This shows that in over ten  
10 years the facility would pay \$42 million in property  
11 taxes and assessment. So roughly \$4.2 million per  
12 year as compared to a hundred and seventy-nine  
13 dollars.

14                   And I think one item of interest is the  
15 McKittrick School District would receive \$3.6 million  
16 over that ten-year period. So significant property  
17 tax paid to the local community.

18                   In terms of jobs during construction.  
19 We're looking at an -- estimating an average of 400  
20 construction jobs, peaking at perhaps 700 jobs. And  
21 then once the project's in operation, we estimate 35  
22 full-time positions. And these would be -- these  
23 would be jobs that are very compatible with local  
24 skills. That's one of the reasons that we chose to  
25 locate here.

1           COMMISSIONER LAURIE: Mr. Garratt, let me  
2 interrupt for a moment.

3           Was it your representation that in  
4 regards to County entitlement, you do not need any  
5 land use entitlement or zoning change entitlement?

6           MR. GARRATT: Yes.

7           COMMISSIONER LAURIE: Would the County  
8 ordinarily demand you need a special use permit for  
9 this operation?

10          MR. GARRATT: I believe that's right.

11          MR. CHILSON: The answer is yes, but for the  
12 Energy Commission.

13          COMMISSIONER LAURIE: So you deny that they  
14 seek a special use permit from the County?

15          MR. CHILSON: We do not.

16          COMMISSIONER LAURIE: Thank you.

17          MR. GARRATT: In terms of traffic impacts, one  
18 of the nice things about a facility like this is that  
19 the primary commodity that the plant uses is natural  
20 gas, which is delivered by pipeline. There is no  
21 alternative fuel, not oil trucks like other power  
22 plants.

23                   And so the primary traffic impact once  
24 the plant is up and operating will be the workers who  
25 drive to and from the plant each day and a handful of

1 other deliveries that maybe average two or three  
2 deliveries per week.

3                   I don't believe there will be traffic  
4 impacts during the construction phase. On the  
5 positive side, this is a reasonably short period of  
6 time. It's probably 18 months at the site. And we  
7 will work with the school district to make sure that  
8 our workers' shifts are scheduled outside of school  
9 district hours so that they're on the road coming to  
10 work before the school buses are out in the morning.  
11 And that they are leaving the site to go home after  
12 the school buses have taken the kids home. And we'll  
13 work with the school district in Kern County to  
14 mitigate traffic in other ways as well.

15                   In terms of noise, this is one of the  
16 exhibits out of our application. In fact, the  
17 application is over here on the table. It's two  
18 binders that are about four inches thick and I'd  
19 encourage you to take a look at that.

20                   What this shows is that there's noise  
21 levels at various distances from the plant. And at  
22 the edge of McKittrick, what this shows is there's a  
23 noise level of 40 dba. Put that in perspective with  
24 the background noise that is measured, and we made  
25 measurements around the clock, is higher than 40 dba.

1 So this is quieter than the background noise that  
2 you'll hear in the community.

3                   So that really concludes your basic  
4 information about the project. I certainly encourage  
5 you to come up and talk to us individually. There's a  
6 briefing book that provides a more detailed  
7 information. Make sure you get a copy of that and  
8 read it and contact us if you have questions or  
9 concerns, because as part of this process, we're  
10 committed to working with the public to make sure that  
11 your concerns are answered and addressed.

12                   One additional point to make is in terms  
13 of water. The project will consume 6,000-acre feet  
14 water per year. We will be purchasing the water under  
15 a long-term supply contract from the West Kern Water  
16 District. It's important to note that although we're  
17 building this line from the plant to the Aquaduct,  
18 that this does not represent a new taking from the  
19 Aquaduct. This is water that the West Kern Water  
20 District has been taking out for years. And we're  
21 just changing the location from a point downstream to  
22 here.

23                   And we'll be -- as part of this contract,  
24 we will be paying the water district in excess of \$2  
25 million per year for water, which should have the

1 benefit of helping keep rates low for the people  
2 within the West Kern Water District territory.

3                   In terms of the water disposal, we will  
4 dispose of water through deep water injection wells.  
5 And if you've been paying attention to things going on  
6 at the site over the last couple of weeks, you may  
7 have noticed a drill rig out there. And we drilled a  
8 test well that we're currently testing. So we  
9 actually have some core samples of the material from  
10 the wells.

11                   For some of you folks, this may be old  
12 hat, but we thought it was pretty neat so we decided  
13 to bring them along.

14                   Thank you.

15                   COMMISSIONER LAURIE: Anything else,  
16 Mr. Thompson?

17                   MR. THOMPSON: Nothing else right now.

18                   MR. TANTON: Mr. Garratt, just a clarification.

19                   You refer to a payment to the water  
20 district of \$2 million for the 6,000-acre feet, is  
21 that the marginal cost or is that the total cost that  
22 you'll be paying?

23                   MR. GARRATT: That would be the full cost.

24                   MR. TANTON: The full cost.

25                   Do you know --

1           MR. GARRATT: But that's an estimate based  
2 on -- I know -- I could give you precisely what their  
3 rate is for purchasing. Although we're purchasing it  
4 under a contract, we're paying the tariff rate for raw  
5 water.

6           MR. TANTON: Would it be fair to assume then  
7 that the existing user of that water is going to  
8 assume tariff rate?

9           MR. GARRATT: The existing users of -- existing  
10 industrial users are paying that same rate. Some of  
11 this water now is going into a banking program.

12          MR. TANTON: Okay. Thank you.

13          COMMISSIONER LAURIE: Do you have any  
14 questions?

15          MR. VALKOSKY: No questions at this time.

16          COMMISSIONER LAURIE: Staff, do you have any  
17 questions?

18          MR. PRYOR: No, sir.

19          COMMISSIONER LAURIE: Ladies and gentlemen,  
20 I'd like to now provide the public with an opportunity  
21 to ask questions, offer comments. We want to make  
22 sure that you are heard adequately. What I would ask  
23 you to do is we have an empty table to your right, my  
24 left.

25                   Mr. Pryor, if you could make the

1 microphone available.

2 Ladies and gentlemen, at this time I  
3 would invite your input. And any question is  
4 appropriate at this time, questions regarding the  
5 project itself, questions regarding our process.  
6 There will be future hearings so if we don't hear from  
7 you today, we will be happy to hear from you  
8 tomorrow.

9 MS. MENDONCA: Commissioner Laurie.

10 COMMISSIONER LAURIE: Yes, ma'am.

11 MS. MENDONCA: One additional comment that I'd  
12 like to make about the public process. There's a  
13 sign-in sheet right by the door. And I don't know if  
14 you got information about the hearing in the newspaper  
15 or perhaps you are a landowner, but if you would like  
16 to receive a mailed notice for future hearings and  
17 workshops, please sign in and check off that box and  
18 you'll be added to our mailing list.

19 COMMISSIONER LAURIE: Thank you, Ms. Mendonca.

20 Ladies and gentlemen, let me again,  
21 before I close the hearing, ask for input at this  
22 time.

23 Hearing none, let the record reflect that  
24 we have closed the public hearing.

25 MR. THOMPSON: Mr. Commissioner.

1 COMMISSIONER LAURIE: Sir.

2 MR. THOMPSON: If any of you have questions  
3 that occur to you later, you clearly have an avenue to  
4 ask those questions through the Energy Commission, but  
5 I want you all to know that you have avenues to ask  
6 those questions directly to us. Anyone that you see  
7 here, you can stop and grab a business card. And if  
8 you have questions and you want to write to us later  
9 or give those questions to us later, we will write to  
10 you in response.

11 MR. O'NEIL: If I could add to what Allan just  
12 said. Our local telephone number --

13 COMMISSIONER LAURIE: Sir, before we speak, we  
14 have to identify ourselves for the record first.

15 MR. O'NEIL: Yes, sir. Excuse me.

16 Shawn O'Neil with the U.S. Generating  
17 Company.

18 We do have a local telephone number here  
19 where you can call us directly.

20 COMMISSIONER LAURIE: I will now refer the  
21 matter to Mr. Valkosky who will ask staff for a  
22 discussion regarding scheduling.

23 MR. VALKOSKY: Thank you, Commissioner Laurie.

24 At this time as part of our proceeding,  
25 we'll focus on the September 11th issues and

1 identification report prepared by staff. What I would  
2 like staff to do is to summarize it for the benefit of  
3 those who may not have read it, bring out to the  
4 Committee's attention any principal dates or possible  
5 schedule implications that they see and various events  
6 happening.

7                   Then, Mr. Thompson, I would like the  
8 applicant to respond to what's appropriate to staff's  
9 tentative issues and schedule. And then we will  
10 entertain any questions from the other parties in the  
11 Committee concerning the schedule.

12                   Mr. Pryor.

13                   COMMISSIONER LAURIE: Ladies and gentlemen, let  
14 me indicate that I was premature in closing the public  
15 hearing. Do not consider the public hearing closed.  
16 We have a ways to go.

17                   Mr. Pryor.

18                   MR. PRYOR: Thank you, Commissioner.

19                   The staff issued an issue identification  
20 report at the end of last month. I would like to  
21 present to you most of the overview and what our  
22 issues are at the time.

23                   Over the potential issues, we need to get  
24 an early identification of issues for the Committee,  
25 for the applicant, for the agencies involved and you

1 the public.

2 Major issues. What is the definition of  
3 a major issue? Well, it's a project that impacts --  
4 the project impacts that may be difficult to  
5 mitigate. The project as proposed may not comply with  
6 laws, ordinances, regulations or standards, or LORS.  
7 We may have potential conflicts over findings and  
8 conditions of certification. We may have potential  
9 technical issues in air quality -- which we do have  
10 right now -- air quality, biological resources, soils  
11 and water resources and waste management.

12 Potential scheduling issues. Local air  
13 district permits, federal air district permits are  
14 usually an issue. Biological consultation by U.S.  
15 Fish and Wildlife Service, and California Department  
16 of Fish and Game may be an issue. Transmission line  
17 study from PG&E may be an issue.

18 The air quality issues that we have  
19 identified so far include the air quality offsets;  
20 emission reduction credits or ERCs; interpollutant  
21 offsets; start-up impacts, the one-hour NO2 standard;  
22 best available control technology or BACT; and the use  
23 of SCONOX.

24 Cumulative impacts. If other products  
25 are proposed in the area, implications to the project

1 schedule are -- we have a preliminary staff assessment  
2 scheduled for February 5th, '99; a preliminary  
3 determination of compliance from the air district  
4 scheduled for 2/22/99. So there's a couple of weeks  
5 there that we've issued a staff assessment pretty much  
6 knowing what we're going to get from the preliminary  
7 DOC, but not quite sure. So we have to work that  
8 out. And a final staff assessment is for April 8th,  
9 '99. And the final determination of compliance is a  
10 few weeks after that. Once again, that's an issue  
11 that we must work out with the air district.

12                   Biological resources. Agency  
13 coordination with California Fish and Game; Fish and  
14 Wildlife Service; and Bureau of Land Management. We  
15 are having a meeting tomorrow afternoon, at least with  
16 BLM, to discuss how our processes are going to  
17 ducktail.

18                   Further consequences due to state and  
19 local project. Water, especially on the delta. You  
20 may have heard of the CALFED program. It's a large  
21 program that does address water issues in the delta.  
22 Will that have any effect? Will those projects have  
23 any impact?

24                   Biological resource mitigation  
25 implementation plan. We have to, once again there's

1 coordination issue, timely completion of when that  
2 will be done.

3                   Water resources. Again, to echo what was  
4 just said for biology, there is a state water project  
5 allocation controversy related to the delta. What are  
6 the impacts?

7                   Waste water discharge and disposal. I  
8 don't recall if applicant mentioned it just a minute  
9 ago. I may not have been paying attention. I  
10 apologize. They're proposing to use deep well  
11 injection. One of two permits will be required  
12 depending in which strata this is injected into. Will  
13 it be a refill water quality control board permit or  
14 will it be an EPA or Environmental Protection Agency  
15 permit? We have to find that out.

16                   Some potential land use conflicts.  
17 Conflicts with existing wells. Evidently there are  
18 some wells that are underneath where the transmission  
19 line would go. It would be kind of odd, I guess, to  
20 have a drill rig go out there and start playing around  
21 and have this transmission line right over it. So we  
22 have to figure that out.

23                   Setbacks. The general plan requires most  
24 section lines as in the one-mile section be designated  
25 as future freeway right-of-ways with 80-foot setbacks

1 on both sides of the line at elevations below 1,000  
2 feet.

3                   Now, we understand there's a small  
4 section of the property that meets -- a couple section  
5 of lines and is below a thousand feet. This will  
6 require, from what I understand, a general plan  
7 amendment which the County is already working on. The  
8 applicant is prepared to address that to you today, if  
9 you would like.

10                   COMMISSIONER LAURIE: Let me interrupt.

11                   I had earlier asked whether any land use  
12 or zoning entitlements are going to be necessary. The  
13 response was no. You're indicating that there will be  
14 either a variance or general plan amendment regarding  
15 setbacks?

16                   MR. PRYOR: I believe what will happen and what  
17 the County is proposing is to remove that part of  
18 those two section lines in that area from the  
19 requirement in the circulation element of the general  
20 plan from that requirement, be freeway right-of-ways.

21                   Cumulative impacts. Cumulative impacts  
22 may exist at this midway substation. It's already a  
23 converging point of many existing transmission lines.

24                   Traffic. Construction traffic, workers,  
25 construction workers, construction work itself, the

1 traffic generated by that, the trucks coming in and  
2 out with the materials.

3                   Transportation of hazardous materials.  
4 The applicant is proposing to use aqueous ammonia for  
5 the SCR, for the selective catalytic reduction. So  
6 there will be deliveries of that every week or so,  
7 from what I understand.

8                   An alternative to the deep well  
9 injection. If they do not do that, it will be a zero  
10 waste water discharge system. If that's used, there  
11 may be impacts on traffic and local features due to  
12 the removal of that waste by truck.

13                   We're concerned about the location of the  
14 school here and the two highways that intersect right  
15 in front of the school.

16                   The thumbnail sketch of our proposed  
17 schedule. You see Day minus 14 up there, that's 14  
18 days before the Commission accepted the application is  
19 complete. We are now at Day 21, the information  
20 hearing, issue scoping and site visit. Tomorrow we  
21 will have a data request workshop. That will be in  
22 Buttonwillow at the Pioneer Senior Citizen Center at  
23 9:00 A.M. We will be addressing air quality, water  
24 resources, biological resources and the traffic and  
25 the waste management.

1                   We'll start the dialogue with the  
2 applicant. We've provided them with data request,  
3 request for more information. That will be tomorrow.  
4 The first one. That will not be the only one. There  
5 will be others. And there will be notices. They will  
6 either be held down here or up in Sacramento. Some of  
7 them have really no interest to many people, so we do  
8 hold them up in Sacramento.

9                   13 October, we should be getting  
10 responses to the data request back from the  
11 applicant. 5 February next year, we should be filing  
12 our preliminary staff assessment or PSA. Then, as I  
13 mentioned, a couple of weeks later we should be  
14 getting a preliminary determination of compliance, if  
15 we don't have it already. 22 March, prehearing  
16 conference. 8 April, we will file our staff -- final  
17 staff assessment. These are all proposed days. And  
18 then the DOC, 22 April. From 28 April to 7 May, there  
19 will be hearings held. And finally, if all goes  
20 according to plan on 25 August, the decision will be  
21 adopted by the Commission.

22                   COMMISSIONER LAURIE: Mr. Valkosky, do you have  
23 any questions?

24                   MR. VALKOSKY: Yes, I do, Commissioner, but  
25 perhaps it may be most efficient to hear the reaction

1 that applicant has.

2 COMMISSIONER LAURIE: Mr. Thompson, can you  
3 comment specifically as to the County's general  
4 planning department?

5 MR. THOMPSON: Yes. In fact, a brief comment  
6 on a number of the issues that were raised will be  
7 done by Mr. Chilson. Bill Chilson is manager of  
8 permitting and siting for U.S. Generating Company and  
9 he will talk to the substantive issues raised briefly,  
10 but also talk of the schedule and schedule  
11 implications.

12 COMMISSIONER LAURIE: Let me ask the  
13 transcriber, can you hear adequately?

14 THE TRANSCRIBER: Yes.

15 COMMISSIONER LAURIE: If you have any problems  
16 or at such time that you'd like to take a break, let  
17 us know.

18 THE TRANSCRIBER: Thank you.

19 COMMISSIONER LAURIE: Sir.

20 MR. CHILSON: My name is Bill Chilson. I'm  
21 manager of environmental permitting with U.S.  
22 Generating Company. I would like to just comment  
23 briefly on your question, Commissioner Laurie,  
24 concerning the land use and the change in the general  
25 plan as required.

1                   I think staff directly stated that there  
2 is a law in the circulation, a part of the general  
3 plan in the circulation element which designates  
4 section lines as having 80-foot setbacks.

5                   We were not aware of that when we put in  
6 our AFC. And so after the AFC was circulated to Kern  
7 County, the Planning Department called this to our  
8 attention. We had a meeting with them several weeks  
9 ago and we filed a letter on that meeting to the  
10 staff. It's in the docket office, I believe.

11                   And at that time the County indicated  
12 that they would just redesignate the area where our  
13 plant is and take those section lines and the 80-foot  
14 setback out of the circulation element. It's our  
15 understanding, checking yesterday, that a draft staff  
16 recommendation to that effect is nearing completion  
17 and that it will be on the consent calendar on  
18 December 5th -- December 7th. I'm sorry.

19                   COMMISSIONER LAURIE: This is a proposed  
20 general plan amendment that's going to be on the  
21 consent calendar?

22                   MR. CHILSON: That was what we were told by the  
23 planning director for the County because it's very  
24 minor. We're talking about -- the property sits  
25 almost at the 1,000-foot contour, and above that there

1 are -- this designation in the circulation that  
2 doesn't apply. Also, there's a major transportation  
3 route out there, Skyline and Reserve Road. And  
4 clearly, building a highway along the section line  
5 doesn't really make a lot of sense.

6 COMMISSIONER LAURIE: Well, let me clarify the  
7 reason for my question, Mr. Chilson, and I do not  
8 intend to question the County's procedures.

9 It's the interest of the Committee not to  
10 get hung up with timing issues regarding discretionary  
11 County action over which we have no control. So the  
12 Committee will consider, if not today then perhaps at  
13 some future point, some appropriate time where we're  
14 going to be checking the status of that general plan  
15 process, and if necessary putting in some time  
16 deadlines to insure that our process is not held up by  
17 the County's process.

18 At this time I don't see any necessity in  
19 addressing that issue, provided you are continuing to  
20 move in a timely manner.

21 MR. CHILSON: Yes, Commissioner.

22 I would like to just briefly respond to  
23 some of the other issues that staff has raised. Many  
24 of these, in fact all of these are issues which we're  
25 all aware of and working very hard on. And we believe

1 that all of them can be resolved or we wouldn't be  
2 here today.

3 I might check off the list of issues  
4 raised in air quality. We are in advanced stages of  
5 acquiring offsets for the project. And there is one  
6 of the staff data request that is -- that asks about  
7 the status and what offsets we're going to be  
8 supplying. And we believe we'd be able to respond in  
9 mid October with the actual certificate numbers of the  
10 offsets that we plan to use for the project.

11 Secondly, there's been some questions  
12 asked about best available control technology. We're,  
13 I think, proud of our proposal to limit NOX emissions  
14 to two-and-a-half parts per million. And we're also  
15 proud to propose SCONOX, which is the first time that  
16 that's been used on a project of this size. We  
17 believe that it's technology that ultimately will be  
18 successful or we wouldn't be proposing it on our  
19 plant.

20 However, because it is a new technology,  
21 we will be asking for some special dispensation in the  
22 event that the technology isn't proven. And we don't  
23 intend to go into that today, but we will as part of  
24 our data responses to the staff questions on this  
25 issue.

1                   Biological resources. We have done a  
2 significant amount of survey work and we have been  
3 working with U.S. Fish and Wildlife Service, and  
4 Bureau of Land Management. We believe that our  
5 mitigation package will be adequate to handle the  
6 impacts to biological resources.

7                   Our water supply is an issue that staff  
8 is asking about. And I think Roger Garratt, the  
9 project manager, briefly touched on the fact that we  
10 are withdrawing what I call old water. This is water  
11 that the West Kern Water District has been for many  
12 years withdrawing from the California Aquaduct at  
13 another location and using to bank so that they have a  
14 large storage of water. They are now at a point where  
15 they believe they have enough storage capacity. They  
16 don't need any more water to bank. And so they have  
17 offered us this water.

18                   So the net result is that the California  
19 Aquaduct will not be receiving any new withdrawals of  
20 water because of our project. We will just be taking  
21 over the use of water that's been stored and pumped  
22 into the aquafer, Buena Vista Water Storage District,  
23 for many years.

24                   Land use. We've talked briefly about the  
25 circulation element and our efforts to take care of

1 that problem.

2                   And traffic and transportation. We're  
3 all aware that during construction there's going to be  
4 quite a few folks driving to the project. And we're  
5 committed to working with the people of Buttonwillow,  
6 with people in McKittrick, and with the school here to  
7 make sure that any conflicts are handled so that  
8 people are comfortable with the circulation and the  
9 transportation to the project site.

10                   That concludes my remarks.

11                   COMMISSIONER LAURIE: I thank you, sir.

12                   MR. THOMPSON: One or two words with regard to  
13 schedule. We believe that we are progressing very  
14 well with the local air district. And we believe --  
15 we have no reason to think that the 180-day DOC limit  
16 will be violated. Latest word we had is that we're  
17 sailing along. We'll be in on time.

18                   Consultation has started, I believe, with  
19 U.S. Fish and Wildlife Service and that will be  
20 progressing along the same timeline as the  
21 investigation by this Commission.

22                   The interconnection study has been  
23 complete and is in.

24                   And that's all I have.

25                   MR. TANTON: I have a question.

1                   Is that the PG&E interconnection study?

2           MR. THOMPSON: PG&E interconnection study.

3           MR. VALKOSKY: As most of you are aware, the  
4 Committee has to issue a schedule on certain items  
5 within the next 15 days. Therefore, you can  
6 appreciate if the Committee had a little more detail  
7 on some of the items. So bear with me.

8                   And, staff, you can answer if appropriate  
9 and, Mr. Thompson, or, Mr. Chilson, I'd appreciate you  
10 answering if it's appropriate.

11                   First of all, you indicated to --  
12 Mr. Chilson, you intended to have certificate numbers  
13 to staff by the middle of October. I take it that  
14 means you're just going to be using the bank  
15 offsets --

16           MR. CHILSON: That's correct. Our plan is to  
17 use the offsets that are in the air district bank.

18           MR. VALKOSKY: Okay. But they are presently  
19 existing in the bank?

20           MR. CHILSON: They are existing in the bank.

21           MR. VALKOSKY: Okay. Thank you.

22                   Mr. Pryor, you indicate, again focusing  
23 on the area of air quality, that staff would issue not  
24 only as a preliminary staff assessment but also as  
25 final staff assessment for the comparable documents

1 that are due from the air pollution control district.

2 Is staff comfortable with this procedure?

3 MR. PRYOR: Staff is comfortable. They do  
4 anticipate that PDOC and the DOCs being -- arriving  
5 before our PSA and FSA need to go out.

6 MR. VALKOSKY: Okay. How long before the PSA  
7 or FSA would these documents have to arrive in order  
8 to be included in the staff policies?

9 MR. PRYOR: I do not know.

10 Roger, could you answer?

11 MR. HAUSLER: What we know right now --

12 COMMISSIONER LAURIE: Mr. Hausler, state your  
13 name for the record.

14 MR. HAUSLER: I'm Bob Hausler with the Energy  
15 Commission.

16 What we know right now is our quality  
17 staff suggests the timing with the district and while  
18 it's not clear that we will get their PDOC and their  
19 DOC prior to the time staff plans to issue its PSA and  
20 FSA, we do expect to have in our hands drafts with the  
21 likelihood of very little change of both of those  
22 documents prior to the time we'll be issuing our  
23 documents, our analyses.

24 As a result, on similar other cases, we  
25 expect to have and include those provisions and

1 conditions within our FSA. And whatever information  
2 we have by the time that our PDOC is out, we will  
3 include that as well. And so we don't expect to have  
4 to delay our documents. They will be inclusive of  
5 when we receive them from the air district and should  
6 be able to reflect the final analysis of the district  
7 once we issue ours.

8 MR. VALKOSKY: So does this represent a  
9 different staff procedure from other cases where staff  
10 has asked for somewhere between 30 and 45 days  
11 submission of these documents in order to include them  
12 with respect to staff polices?

13 MR. HAUSLER: In some cases that's been the  
14 case and then it tends to be district by district as  
15 to what seems to work well with Kern. And another  
16 comparison is that we work well with the Bay Area  
17 District to coordinate policy with our staff. And  
18 McKittrick's districts aren't quite as well setup to  
19 do that, but Kern and the San Joaquin Valley PCD is  
20 set up to coordinate with us on this. And that's why  
21 staff feels -- to work satisfactory.

22 MR. VALKOSKY: So you would be representing  
23 that there is not much of a likelihood that you would,  
24 in some future date, be requesting the Committee to  
25 delay issuance of the PSA because of the

1 unavailability of the DOC?

2 MR. HAUSLER: Based on what we know right now,  
3 that's the case.

4 MR. VALKOSKY: Thank you.

5 Mr. Thompson, you mentioned that the  
6 initial study has been submitted?

7 MR. GARRATT: That's correct.

8 MR. VALKOSKY: Is there a projected date for  
9 the CAL ISO determination?

10 MR. GARRATT: I'd have to get back. I don't  
11 know the answer to that offhand.

12 MR. VALKOSKY: Okay. I would appreciate you  
13 letting the Committee know, the parties know within a  
14 week, say by next -- 23rd, if that's possible.

15 MR. GARRATT: Okay. 23rd.

16 MR. VALKOSKY: That would give you plenty of  
17 time to include that in their schedule.

18 Next again, on air quality. Mr. Chilson,  
19 you indicated that you may be asking for some, I  
20 believe you used the word dispensations because of  
21 your use of the SCONOX technology on one of the units.

22 Would you expand on that a little bit?

23 MR. CHILSON: Sure.

24 What we're asking is that we're going to  
25 commit to put SCONOX onto a unit. This will be the

1 first scale-up of this technology. There could be  
2 what we think are some time period for that -- there  
3 could be some minor problems with the scale-up. And  
4 we may not be able to achieve two-and-a-half parts per  
5 million right away. It may take some time. And by  
6 that, I mean months or a year, somewhere in that  
7 range.

8                   So we think that because this is the  
9 first time this has been tried on a unit that we would  
10 need to have some arrangement, not only with the  
11 vendor, but also with the air district and the  
12 California Energy Commission whereas if the project,  
13 say, was putting out 3.0 parts per million, that we  
14 could maybe buy offsets to take care of the amount  
15 that's above our permit limit until such time as we  
16 can correct the problem. Or if it turns out that we  
17 can't achieve that amount, that level, then we may  
18 have to retrofit the unit with SCR.

19                   And so we would just ask for the  
20 Commission's and the air district's full bearance in  
21 our bringing this into commercial operation at the  
22 level, the scale-up of our particular project.

23                   MR. VALKOSKY: Mr. Pryor, does staff see any  
24 difficulty with proceeding along with what Mr. Chilson  
25 just described?

1 MR. PRYOR: No, they do not. Air quality does  
2 not mention it.

3 MR. VALKOSKY: Also, before we leave SCONOX,  
4 your issues report indicates that there's a potential  
5 reliability concern because of the newness of the  
6 technology. And I'm just -- I guess I'm just  
7 wondering if that can't be kind of a catch 22, where  
8 you've got a technology which hasn't been demonstrated  
9 to scale, and naturally, you have a reliability  
10 concern of it. But, of course, it can't be shown to  
11 be as reliable until someone puts it in and tries it.

12 So how are you going to analyze that?  
13 Are you going to apply the same type of reliability  
14 criteria that you would with proven technology, such  
15 as SCR, or are you going to make allowances for the  
16 scale-up of SCONOX?

17 MR. PRYOR: I'm not versed on what Mr. Golden  
18 has in mind. We don't know what he has in mind.

19 MR. VALKOSKY: Okay. Could you perhaps find  
20 out --

21 MR. PRYOR: Yes.

22 MR. VALKOSKY: -- briefly and if you have any  
23 news by the 23rd as the filing date to report back.  
24 And again, I don't need anything in great depth.

25 MR. GARRATT: I might address one issue on

1 reliability, if I may.

2 MR. VALKOSKY: Certainly.

3 Mr. GARRATT: Is that Mr. Chilson mentioned  
4 that if over some period of time the SCONOX system was  
5 not able to meet the emissions level, then one of the  
6 guarantees we would have from the vendor would be to  
7 retrofit the SCR. An additional guarantee that we  
8 would be looking for from the vendor would be that if  
9 it doesn't meet a certain reliability standard over a  
10 designated period of time, we would retrofit.

11 MR. VALKOSKY: Okay. So --

12 MR. GARRATT: So we would address that --

13 MR. VALKOSKY: -- basically --

14 COMMISSIONER LAURIE: Don't talk over each  
15 other.

16 MR. GARRATT: So we would try and address that  
17 with the guarantees that we achieve -- that we -- the  
18 guarantees that we'd get from the SCONOX supplier.

19 MR. VALKOSKY: I understand. Thank you.

20 And, Mr. Pryor, under the subheading of  
21 Cumulative Impacts, you indicate that because of the  
22 potential other projects in this area, that it may  
23 become a factor. Is there a cutoff date or a  
24 drop-dead date by which in practical sense it is no  
25 longer feasible to analyze the cumulative impacts of

1 other projects in the context of this project?

2                   For example, if -- I assume if another  
3 project is filed within a week or two, it would  
4 obviously be part of the cumulative impact analysis  
5 for the La Paloma Project, correct?

6           MR. PRYOR: Uh-huh.

7           MR. VALKOSKY: If another project is filed  
8 after the FSA comes out -- and this is just an  
9 arbitrary date -- would you view that as too late to  
10 include that other project as part of this project's  
11 cumulative impact?

12           MR. PRYOR: I am not aware of any established  
13 time frame.

14           MR. VALKOSKY: I'm not either and I'm just  
15 looking for --

16           MR. PRYOR: I'll look to Mr. Ogata.

17           MR. OGATA: For the record, my name is  
18 Jeff Ogata. I'm the staff attorney for the Energy  
19 Commission.

20                   Mr. Valkosky, I think cumulative analysis  
21 certainly a drop-dead date is an important  
22 consideration. I would think that after the final  
23 staff analysis has been put out, any projects that  
24 come to the attention of Commission at that point, I  
25 think, would be beyond the analysis of staff, because,

1 as you know, once what they have to say is out, that  
2 completes that testimony and you have engineers and  
3 everything else ready to go.

4                   So I think for staff's purposes, the  
5 cutoff date would be prior to issuance of the FSA.  
6 And I can't tell you exactly when that date is,  
7 because obviously it would depend upon the facts that  
8 we get in about a project. If we have a detailed  
9 project that comes in, we can probably analyze that  
10 and put that in fairly quickly because we have the  
11 facts.

12                   If we only have a concept that comes in,  
13 it would be much more difficult to incorporate a  
14 cumulative impact analysis about that because we  
15 wouldn't have enough information. We might be able to  
16 mention it, but in terms of incorporating the  
17 analysis, it probably would be very difficult to do  
18 that.

19                   So we probably can't give you a real good  
20 timeline when that cutoff date is, but certainly once  
21 the FSA is issued, I don't think staff would be in a  
22 position to do that.

23                   MR. VALKOSKY: Okay. And, Mr. Ogata, you  
24 qualified your answer by saying for staff's purpose.  
25 In your legal view, does that also comport with

1 sufficiency under CEQA?

2 MR. THOMPSON: Better you than me, Jeff.

3 MR. OGATA: I believe it would, Mr. Valkosky,  
4 just because I don't think CEQA requires that we get  
5 caught in an iteration of analysis. I think obviously  
6 there's a common sense that's to be applied here. And  
7 that would mean that at some point in time we have to  
8 have a date by which the environmental document would  
9 have to be complete.

10 And again, I think it depends on how much  
11 information we have about some additional projects.  
12 If it turns out that 20 projects are filed after the  
13 FSA, obviously I think common sense would dictate that  
14 there's going to be a cumulative impact and we  
15 probably have to take a look at that. But again,  
16 speaking about it in a vacuum, I think it's very  
17 difficult to give you some kind of a legal opinion  
18 about whether it's appropriate or not.

19 MR. VALKOSKY: But as a general rule, you'd  
20 stick with the FSA issuance as being the cutoff date,  
21 as a general rule?

22 MR. OGATA: That's been our general practice.

23 MR. VALKOSKY: Thank you.

24 Mr. Thompson, do you have anything to add  
25 to that point?

1 MR. THOMPSON: I don't. I think Jeff  
2 summarized it quite well.

3 MR. VALKOSKY: At the top of biological  
4 resources -- and I understand your meeting with U.S.  
5 Fish and Wildlife tomorrow -- is there any indication  
6 right now whether Fish and Wildlife or BLM will be the  
7 lead agency for federal purposes?

8 MR. CHILSON: Currently we have filed with the  
9 Bureau of Land Management for a permit. And we  
10 believe that they have an interest in being the lead  
11 agency under NEPA. And also, for Section 7  
12 Consultation under the Endangered Species Act and for  
13 106 compliance under the Natural Historic Preservation  
14 Act.

15 MR. VALKOSKY: Okay. So at this point BLM is  
16 the lead agency for NEPA review?

17 MR. CHILSON: Yes.

18 MR. VALKOSKY: Mr. Pryor, has there been any  
19 indication whether or not you will be doing a joint  
20 federal/state review with BLM or is that something  
21 that's going to be discussed?

22 MR. PRYOR: That is what we will be discussing,  
23 among other things, tomorrow.

24 MR. VALKOSKY: Okay. Could you add the results  
25 of that discussion to your September 23rd report?

1 MR. PRYOR: Yes, sir.

2 MR. VALKOSKY: Mr. Chilson, when do you believe  
3 you'll conclude contractual negotiations for the water  
4 supply of the project?

5 MR. CHILSON: I'm going to defer that to  
6 Roger Garratt who is negotiating with the water  
7 district.

8 MR. VALKOSKY: Mr. Garratt.

9 MR. GARRATT: I would estimate that those would  
10 be complete within a couple of weeks. We're probably  
11 98, 99 percent there.

12 MR. VALKOSKY: So certainly by a month from  
13 today?

14 MR. GARRATT: Uh-huh.

15 MR. VALKOSKY: Thank you.

16 And it's similar; not the same bank?

17 When will -- do you know which agency  
18 will issue the permit for the waste water discharge  
19 disposal? You indicated it could be the regional  
20 agency or it could be the federal EPA?

21 MR. CHILSON: I can respond to that.

22 We have finished our well. In fact,  
23 we'll be seeing it in a few minutes out there. And we  
24 have received back the water test. And they indicate  
25 that the TDS is less than 10,000. It's between 7- and

1 9-, depending on the sample.

2                   And so therefore, we would be going for a  
3 Class 5 injection well, which would be permitted by  
4 the regional water quality control district, the  
5 board. And I think their offices are in Fresno.

6           MR. VALKOSKY: Do you have any indication  
7 when -- well, two things -- when you will submit  
8 information to them and when they would issue them?

9           MR. CHILSON: We plan to have the application  
10 submitted in four to six weeks. And the processing  
11 time is, we believe, about four to six months.

12           MR. VALKOSKY: Thank you.

13                   Mr. Pryor, you indicated that as a result  
14 of the tying of the transmission line, there would be  
15 some sort of cumulative land use in the midway  
16 substation. Could you just --

17           MR. PRYOR: I had indicated there may be --

18           MR. VALKOSKY: There may be, I'm sorry. Can  
19 you just give me an idea of the nature of these  
20 impacts?

21           MR. PRYOR: Just adding more lines into the  
22 same.

23           MR. VALKOSKY: But I mean, is there -- is it  
24 just a physical congestion?

25           MR. PRYOR: There may be physical congestion.

1 There may be visual problems. There may be -- but  
2 from the land use, how does that affect the  
3 characteristics of the land? Does it deteriorate,  
4 whatever?

5 MR. VALKOSKY: So you're looking at it more of  
6 a -- in more of an aesthetic sense, than a potential  
7 problem due to physical limitations?

8 MR. PRYOR: There may be physical limitations.  
9 The land use sector will be just getting started on  
10 that.

11 MR. VALKOSKY: Okay.

12 And lastly, I have a question for  
13 Mr. Ogata or Mr. Pryor and Mr. Johnson.

14 Is there any objection should the  
15 Committee select to issue its schedule only through  
16 the release of the preliminary status and not the  
17 conclusion of the project?

18 Staff?

19 MR. OGATA: Mr. Valkosky, I think maybe  
20 Mr. Hausler might want to respond to that, but I don't  
21 think we would be necessarily opposed to have a  
22 schedule at this time, but I think one of the  
23 considerations is a resource issue. As you know,  
24 there may be lots of projects coming in the door. We  
25 have several already. And so to the extent that we

1 have kind of a floating schedule, it may impact the  
2 use of the staff in the division.

3 I don't know if Mr. Hausler has a  
4 stronger feeling about that or not.

5 MR. VALKOSKY: Mr. Hausler?

6 MR. HAUSLER: Well, I guess all I can say is  
7 that we as staff have a projected schedule that  
8 represents either a standard or expedited AFC for each  
9 project that comes in, depending upon how it unfolds,  
10 what we show people, what we show other agencies and  
11 what we base. For instance, if we did an MOU with the  
12 federal agencies, there could be a concern on their  
13 part through a joint state arrangement for review and  
14 in processing its application, including for us on  
15 this side of the AFC.

16 We would show them what we think will  
17 occur. And I think we can do that with or without the  
18 Committee's provision for identifying specific dates  
19 for things that we can project ourselves, assuming  
20 that that would be satisfactory for the Committee as  
21 well to presume how it will go based on what we know  
22 at any given point in time. I have no problem with  
23 that concept. It's just that we do work with others  
24 that have schedules and time frames as well and we can  
25 coordinate with them. And so we would need to protect

1 our own --

2 MR. VALKOSKY: I understand that.

3 Thank you.

4 Mr. Thompson.

5 MR. THOMPSON: I have only two comments.

6 Number one, La Paloma Generating Company  
7 and U.S. Generating Company have done a lot of work  
8 before submitting this application, as I think you  
9 probably have an appreciation for.

10 The other permits that are in process,  
11 the interconnection study that's been obtained, the  
12 early date for the offsets, I could go on. We believe  
13 that we may come to a point where outstanding issues  
14 between ourselves and staff may be resolved early.  
15 And we would not want to foreclose an opportunity to  
16 get an early PSA and an expedited schedule.

17 We have not asked for an expedited  
18 schedule because, frankly, we thought it was too early  
19 and didn't have an appreciation for what issues would  
20 be outstanding. That may be something that we raise  
21 in the future, mindful of the requirements on everyone  
22 at the Commission and the new cases that we think or  
23 believe may be coming in.

24 Second of all, I think that going  
25 through -- the PSA is fine. We would like to have the

1 opportunity to work on schedule as we progress with  
2 both the Committee and staff, so that when issues  
3 arise, such as the coordination with the air district  
4 or with the federal agencies, that we remain flexible  
5 enough to handle that.

6 MR. VALKOSKY: Mr. Thompson, I don't mean to --  
7 you say the Committee wouldn't remain flexible. It  
8 just means that under the regulations by October 1  
9 based on what it knows by that date, the Committee is  
10 required to issue a schedule.

11 And I guess my question goes into -- my  
12 view at least, the farther in time we get, the harder  
13 it is to predict what's going to happen. I'm just  
14 asking the parties whether there may be some benefit  
15 to just shortening to the time of the PSA the distance  
16 to which the schedule looks in the future. This  
17 wouldn't foreclose, for example, if everybody  
18 discovered that everyone in the world has stipulated  
19 certain issues and the air district has done its  
20 analysis and everything from coming back in.

21 MR. THOMPSON: Right. No, I understand that.

22 MR. VALKOSKY: Then I don't think we need an  
23 abbreviated schedule. I'm just trying to, in a sense,  
24 limit the -- or explore limiting the Committee's  
25 exposure in predicting the future of that.

1           MR. THOMPSON: No, I understand that and  
2 appreciate that. I think it's fine with us.

3           MR. VALKOSKY: Last item. The committees in  
4 the past have instituted various devices to keep the  
5 commissioners apprised of the developments in the  
6 case. In some cases these have been conferences.  
7 Others have been written status reports.

8                   Are there any preferences in this case?

9           MR. PRYOR: Status reports have been used most  
10 recently.

11          MR. VALKOSKY: Practice has varied from case to  
12 case. I'm just asking what the parties would prefer  
13 in this case.

14          MR. PRYOR: We don't have a preference.

15          MR. VALKOSKY: Okay.

16          MR. THOMPSON: I guess we have a preference for  
17 status reports periodically to update the Commission.  
18 We do not see this to date as an adversarial type of  
19 arrangement and there's possibility that the staff and  
20 applicant can agree on how to present the issues to  
21 the Committee to keep them informed.

22          MR. VALKOSKY: Status reports on monthly  
23 intervals seem reasonable. Starting a week from  
24 today?

25          MR. PRYOR: Yes, sir.

1 MR. THOMPSON: Yes. And we'll come out with  
2 that with a schedule.

3 MR. VALKOSKY: Right. That will follow the  
4 submission that's on the 23rd.

5 MR. THOMPSON: Got it.

6 MR. VALKOSKY: And Committee's decision as to  
7 conferences and the timing status reports would be  
8 included in its schedule.

9 Thank you.

10 COMMISSIONER LAURIE: Mr. Tanton, do you have  
11 any further questions at this point?

12 MR. TANTON: No, Mr. Laurie.

13 COMMISSIONER LAURIE: Ladies and gentlemen, let  
14 me again open this to the public and you have now  
15 heard some additional discussion on the project. We  
16 wish to provide you additional opportunity at this  
17 point to offer comment or ask questions as you may  
18 desire.

19 Seeing none, I thank you. I'd like to  
20 offer an opportunity for closing comments. Staff, do  
21 you have any closing comments to make at this point?

22 MR. PRYOR: Thank you very much for coming  
23 tonight. If you have any questions, feel free to give  
24 me a call or send me an e-mail. Of course,  
25 Roberta Mendonca is a very good person to contact

1 regarding any questions you may have about the process  
2 or anything else.

3 Thank you for coming this afternoon.

4 COMMISSIONER LAURIE: Mr. Thompson, what's the  
5 scheduling for the site tour?

6 MR. THOMPSON: There's a school bus waiting out  
7 in the parking lot for anyone who would like to go  
8 along.

9 COMMISSIONER LAURIE: With a show of hands, how  
10 many folks from the audience intend to go on the site  
11 visit? Raise your hands.

12 Do we have adequate room, gentlemen?

13 MR. THOMPSON: Yes.

14 COMMISSIONER LAURIE: Closing comments,  
15 Mr. Thompson, Mr. Garratt?

16 MR. GARRATT: Well, on behalf of La Paloma  
17 Generating, I'd like to thank everyone for coming out  
18 this afternoon. We're looking forward to continuing  
19 to develop the project. We're looking forward to  
20 being on-line in a good two or three years from now.  
21 And as I mentioned before, we're committed to working  
22 with the local community on this project. And I hope  
23 that if you have questions or concerns, you'll call  
24 the local number or you'll make sure you come back to  
25 us because we want to make sure that the communication

1 is both ways.

2 Thank you.

3 COMMISSIONER LAURIE: Let the parties be  
4 advised that as we may hold further hearings  
5 especially during the summertime, the Committee will  
6 not be offended should you choose not to wear ropes  
7 around your neck. It just makes us look like  
8 bureaucratic images when we do so. We will not be  
9 offended. No tie will not be inappropriate attire.

10 If there's no further comments, ladies  
11 and gentlemen, thank you very much. The meeting  
12 stands adjourned and the site visit will follow.

13 (Thereupon the hearing concluded at 5:15 p.m.)

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In the Matter of:

Application for Certification ) Docket No. 98-AFC-2  
for the La Paloma Generating )  
Project )  
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