

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
Application for Certification) Docket No. 09-AFC-5
For The Abengoa Mojave Solar)
Project)
-----)

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

MONDAY, JUNE 21, 2010

1:15 P.M.

JAMES F. PETERS CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

Contract No. 170-09-002

APPEARANCES

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INTERVENOR: CURE

Elizabeth Klebaner, Esq.
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INTERVENOR: COUNTY OF SAN BERNARDINO

Bart Brizee, Deputy County Counsel

APPEARANCES CONTINUED

ALSO PRESENT

James Brathovde
Lahontan Regional Water Quality Control Board

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1 MR. McMANNES: Tandy McMannes with Abengoa Solar.

2 MR. STUCKY: Matt Stucky with Abengoa Solar.

3 MR. REDELL: Fred Redell with Abengoa Solar.

4 PRESIDING MEMBER EGGERT: Next the CEC staff,
5 introduce yourself.

6 SENIOR STAFF COUNSEL HAMMOND: Good afternoon.
7 Christine Hammond for Commission staff.

8 MR. HOFFMAN: And Craig Hoffman for Commission
9 staff.

10 PRESIDING MEMBER EGGERT: Okay. Also the
11 intervenors I guess on the phone, Californian Unions for
12 Reliable Energy.

13 MS. KLEBANER: Yes, good afternoon. This is
14 Elizabeth Klebaner for CURE.

15 PRESIDING MEMBER EGGERT: Thank you.

16 MR. BRIZEE: Yeah, Bart Brizee for the County of
17 San Bernardino.

18 PRESIDING MEMBER EGGERT: Thank you.

19 Anybody from Luz Solar? Luz? I don't know if
20 I'm pronouncing that right. Are they -- L-u-z Solar
21 Partners?

22 No.

23 Okay. Are there any other federal, State, or
24 local public agencies or elected officials, or
25 representatives of such agencies, participating either

1 here in the room or by phone?

2 MR. BRATHOVDE: By phone, this is James Brathovde
3 with the Lahontan Regional Water Quality Control Board.

4 HEARING OFFICER VACCARO: Would you please spell
5 your last name.

6 B, as in boy, r-a-t-h-o-v-d-e.

7 THE REPORTER: Can you turn the volume up. I am
8 having a hard time hearing it.

9 HEARING OFFICER VACCARO: I think the volume's as
10 high as it can go.

11 PRESIDING MEMBER EGGERT: So for those on the
12 phone, you might have to speak clearly and directly into
13 the microphone for us to hear you. We have a fairly small
14 conference room here, so it shouldn't be too bad.

15 Also, just a note, if you are able to mute your
16 phones, for those of you on the phone, when you're not
17 participating in the discussion. And please don't put us
18 on hold. Sometimes we get the music, which can be
19 pleasant in an elevator, but not in the prehearing
20 conference.

21 I think that's it for the official participants
22 in the process.

23 I just want to say welcome to everybody. I'm
24 very much looking forward to an efficient, an expeditious
25 prehearing conference. I know we've got a lot of things

1 to talk about in preparation for the actual evidentiary
2 hearing. And we're going to be -- this is going to be
3 conducted today by our Hearing Officer, Kourtney Vaccaro.

4 And so take it away.

5 HEARING OFFICER VACCARO: Thank you.

6 Just a little bit of housekeeping before we get
7 started. We're in Hearing Room B, which poses some
8 challenges with the microphones. We can only I think
9 maybe four microphones on at a time. So once you're done
10 speaking, I'm going to ask that you go ahead and shut
11 yours off. I do have a dedicated microphone over the
12 telephone. That one stays on.

13 And if you wouldn't mind, Ms. Conway, pulling
14 that a little bit closer to you, that microphone. It'll
15 make it easier for all of us to hear.

16 MS. CONWAY: Sure.

17 HEARING OFFICER VACCARO: Great. Thanks.

18 One more housekeeping item. I sent an Email to
19 all of the parties yesterday with tentative topic and
20 witness list and tentative exhibit list. If you did not
21 print those out and bring your own, there are extra copies
22 at the table. If anybody who is here wants to grab a
23 copy, you can do that as well. But that's really going to
24 be I think what's going to guide this discussion and get
25 us out of here without having to be here for far too long.

1 So I think with that, you know, where we are
2 right now, we've listened to who's participating today.
3 And at this point, there has been no real participation
4 from the Luz intervenors - no opening testimony, no
5 prehearing conference statement. We have received
6 documentation though from everyone else.

7 I think, at this point, my understanding is that
8 staff and the applicant have submitted opening testimony
9 and you plan on at least - and we'll cover the areas -
10 plan on having direct testimony by live people on the 28th
11 and the 29th. The county, at this point, has indicated
12 no -- not by the opening testimony or by the prehearing
13 conference statement, no identification of any individuals
14 who will be sponsoring testimony or who will be providing
15 direct testimony during the June 28 and 29 hearing.

16 Mr. Brizee, is that still correct?

17 MR. BRIZEE: Actually, we're in the process of a
18 witness formulating testimony. I believe there has been
19 an ongoing dialogue between staff and our county fire
20 department relative to mitigation matters. And the
21 witness that we're trying to get some information from has
22 to -- I'm sorry. Can you hear that beep?

23 HEARING OFFICER VACCARO: No, I did not hear the
24 beep.

25 MR. BRIZEE: All right.

1 -- relative to the mitigation for county impacts
2 to provide emergency services to the site.

3 HEARING OFFICER VACCARO: Okay. So for worker
4 safety and fire - and we're going to discuss that topic in
5 a little bit more detail - you are suggesting that you
6 might actually have a witness and testimony from the
7 county as opposed to having staff ensure that someone from
8 the county fire department is available to answer
9 questions and submit some documents that support the
10 dollar figures that go to the proposed mitigation; is that
11 correct?

12 MR. BRIZEE: That is correct.

13 HEARING OFFICER VACCARO: Okay. We'll talk about
14 that in a little more detail.

15 Other than the worker safety and fire, you
16 indicated land use - and I put it under socioeconomics -
17 as two topics where the county might have an interest in
18 gaining further information. I take it that you mean
19 that's cross-examination that you're interested in, and
20 that because you did not submit opening testimony or
21 identify witnesses in your prehearing conference
22 statement, that you will not be presenting witnesses on
23 those topics; is that correct?

24 MR. BRIZEE: That is correct.

25 HEARING OFFICER VACCARO: Okay. Thank you.

1 Okay. Well, then with that, I think we'll do
2 this the easy way, which is looking at the areas that are
3 ready for hearing. And it seems as though everything is
4 ready with the exception of a few items.

5 Applicants stated in their prehearing conference
6 statement everything is ready to go. Staff takes a
7 different view and tells us that as to air quality; TSE,
8 transmission system engineering; and the worker safety and
9 fire, that those are not ready for hearing on June 28th
10 and 29th. Is that correct?

11 SENIOR STAFF COUNSEL HAMMOND: That is what we
12 put in our prehearing conference statement. Staff has
13 been speaking with the applicant. We have very nearly
14 reached agreement. And we think we are there on resolving
15 disagreements on the issues of -- in a number of areas.
16 But we think that the only area that would -- that is not
17 ready to go to hearing would be worker safety and fire
18 protection.

19 HEARING OFFICER VACCARO: Okay. So then you
20 received the revised FDOC?

21 SENIOR STAFF COUNSEL HAMMOND: No, we have not.
22 We don't anticipate the need for evidentiary hearing based
23 on discussions with the applicant.

24 HEARING OFFICER VACCARO: Okay. So --

25 SENIOR STAFF COUNSEL HAMMOND: Unless another

1 parties feels differently.

2 HEARING OFFICER VACCARO: Okay. For clarity's
3 sake, everything that's ready to go, not whether or not it
4 needs to be adjudicated or if testimony needs to be
5 submitted by a live person, but just basic ready to go to
6 hearing, not ready to go to hearing, here's the
7 Committee's understanding. Air, TSE, worker safety, and
8 fire are not ready to go to hearing based on staff's
9 prehearing conference statement and opening testimony. Is
10 that still the case, or are those ready to go to hearing
11 on June 28th or June 29th?

12 SENIOR STAFF COUNSEL HAMMOND: Those are not
13 ready to go to hearing.

14 HEARING OFFICER VACCARO: Okay. And thank you
15 for the clarification. I think that's really important,
16 because what the Committee has done -- and I'll get to you
17 in just one second -- what the Committee has done is we
18 have built in another day for hearing to the extent that
19 it's necessary, whether it's just to take information in
20 on declarations or if we need some direct or
21 cross-examinations, July 15th has been reserved on the
22 Committee calendars specifically for those topics.

23 So now, applicant, you know, we'd certainly like
24 to hear from you, because you did have a different point
25 of view. Although staff did explain in their documents

1 why exactly these topics are still, you know, not ready.

2 MR. WHEATLAND: Well, the applicant
3 understandably is anxious to have as many issues as
4 possible go to hearing and we're anxious to have the
5 conclusion of the evidentiary hearings as soon as possible
6 and a timely decision by the Commission.

7 With respect to the air quality issue, we do have
8 an FDOC that the staff and the applicant both agree to.
9 Oftentimes though in these proceedings, the district will
10 tweak the FDOC. They're making some final adjustments.
11 And when those final adjustments are made, the staff
12 understandably must make adjustments in the proposed
13 Conditions of Certification for air quality.

14 That's a pretty typical occurrence in Commission
15 siting proceedings. And what the Commission often does is
16 to accept the FDOC and the applicant's and staff's
17 testimony on that issue into evidence. And then when the
18 district makes its final FDOC and the staff makes the
19 conforming changes, those are received into evidence by
20 stipulation. We do not believe that an evidentiary
21 hearing is necessarily required for the purposes of
22 accepting those final FDOC changes. And we would suggest
23 an offer that we would stipulate to the admission of those
24 once they're received.

25 I can address also, if you would like, the

1 transmission issue.

2 HEARING OFFICER VACCARO: Yes.

3 MR. WHEATLAND: My understanding is -- from the
4 staff is that issue is not ready to go to hearing because
5 they have one additional report that they are working on
6 and intend to complete on June 30th. Our suggestion with
7 respect to that report is that the Committee would ask the
8 staff to file that report this Friday. So that if the
9 report is satisfactory, and if the applicant has no
10 objections, it could be received into the evidentiary
11 hearings on June 28th or June 29th and thereby avoid the
12 need for a supplemental hearing on that report.

13 If it's absolutely impossible for the staff to
14 complete it by this Friday, then we would consider the
15 admission of that document by stipulation.

16 At this time, we don't anticipate the need to
17 adjudicate that issue and don't think that another hearing
18 would be necessary.

19 HEARING OFFICER VACCARO: What about worker
20 safety and fire?

21 MR. WHEATLAND: Well, that issue requires a lot
22 more discussion.

23 And the reason that that requires discussion is
24 that we understand that the county has additional input
25 into this issue that they would like to present, either

1 directly or through the staff. But it's our understanding
2 that the deadline for submitting direct testimony by the
3 parties was June 9th. And that was the Committee's order
4 with respect to the staff and all parties. And the county
5 is indeed a party to this proceeding.

6 The county did not request leave for an extension
7 of time to file direct testimony. We feel very strongly
8 that under the scheduling order that the Committee set,
9 and under the Committee's rules, the deadline for filing
10 direct testimony has passed. And absent a showing of good
11 cause, it would be inappropriate to delay these
12 proceedings for the untimely submission of additional
13 testimony on this issue.

14 HEARING OFFICER VACCARO: Let's go back to the
15 TSE topic, because I think that's one where staff can let
16 us know whether or not it's possible to get something in
17 before that June 30 date. But before we hear from staff,
18 here's -- we're going to get to this topic a little
19 further down the road but we'll get there now. I mean the
20 Committee's plan, at this point, is for the PMPD to issue
21 by the last week of July. Even adding another hearing
22 day, even if it's not for the purposes of hearing
23 testimony, only to accept into the record that testimony
24 and to clean up whatever might need to be brought in
25 because sometimes there are just those loose ends that

1 need to be handled, we've got an extra day. But that 7/15
2 date does not affect the current plan to have that PMPD
3 issued as of the end of July.

4 So having said that, I understand everything
5 you're saying. We understand as well the importance of
6 continuing to move along without delay, and we don't
7 anticipate allowing any delay. So I think we'll consider
8 whether or not we're going to move forward with the July
9 15 date on these topics, because I think there just might
10 be agreement to disagree on what's ready and whether or
11 not we at least need to open up or continue to get all of
12 this into the record even if we don't take testimony.

13 But I think I still do want to hear from staff on
14 TSE. Can you get it in any sooner?

15 MR. HOFFMAN: No.

16 (Laughter.)

17 HEARING OFFICER VACCARO: That is short and to
18 the point. And, you know, I'm not going to push you on
19 it, because you've given us some advanced notice -- well
20 in advance that there would be a supplemental Part C
21 coming out, when we can expect it, that it is the
22 appendix. And I think that's what we've all been working
23 towards.

24 But if you wanted to give any kind of
25 explanation, we'd be happy to hear it.

1 (Laughter.)

2 MR. HOFFMAN: Sure. You know, in regard to this
3 process, staff has gone as fast as it can to provide
4 complete and thorough analysis. I could tell you why it
5 won't come in on Friday, is because I'm working on it
6 right now.

7 (Laughter.)

8 MR. HOFFMAN: So I'll do everything I can to get
9 it in before June 30th, which is on I believe Wednesday.
10 But to say it's going to be on Friday, when I'm in a
11 meeting right now, I don't see it. But I'll do everything
12 I can to get it in before June 30th.

13 HEARING OFFICER VACCARO: Fair enough. On or
14 before June 30th.

15 MR. HOFFMAN: Sure.

16 HEARING OFFICER VACCARO: Fair enough, because
17 that's what the expectation is. And again, even if we
18 have the placeholder of the 15th, we also don't expect
19 eight hours of testimony. The hope would be that what
20 we're going to do is have the parties just confirm that
21 they are going to accept everyone's testimony and exhibits
22 as presented, and then we open and close and begin the
23 process of getting the PMPD prepared.

24 I would like to hold off on your county -- your
25 comment regarding the county wanting to introduce

1 testimony. I think what we'll do is wait till we get to
2 worker safety. And we'll cover it there, because I think
3 it is going to require a little bit of conversation. And
4 certainly want Mr. Brizee to weigh in. And I have my own
5 comment that I need to make about that, because I did
6 speak with Mr. Brizee after the opening testimony was
7 filed explaining that our process here is intended to not
8 allow anybody to do 11th hour submissions, and there's a
9 reason for that. But let's talk about that and hear what
10 he has to say.

11 Staff also indicated the desire to have an
12 individual from the fire department available during the
13 hearings to answer questions. So let's see when we get to
14 that topic if we can't sort that out, where we all can
15 agree that we need to hear some more and there does need
16 to be some more information. Whether it comes in through
17 Mr. Brizee's witness or otherwise, we'll leave that for a
18 little bit later in this proceeding.

19 SENIOR STAFF COUNSEL HAMMOND: Hearing Officer
20 Vaccaro. This is Christine Hammond.

21 Before we leave this subject, I just wanted to
22 give the Committee a heads-up that staff has yet to submit
23 its rebuttal on worker safety, Condition of Certification
24 No. 6, which does address mitigating impacts to fire
25 protection.

1 HEARING OFFICER VACCARO: Yes, we're aware.

2 SENIOR STAFF COUNSEL HAMMOND: Thank you.

3 HEARING OFFICER VACCARO: Okay. So now we know
4 what's not ready.

5 Let's take a look at everything that appears to
6 be ready and not disputed. And the hope is that we can go
7 around and hear from each party whether or not we're in
8 agreement that the items that I'm about to list, that
9 those are things that we could submit on the papers and
10 that we will not need to make individuals appear for
11 direct or for cross.

12 The chart helps you know who that is, but I'm
13 just going to run it down. Because, if you'll notice, the
14 chart is color coded for ease of reference, tells you
15 what's not ready and what's disputed.

16 But here we go. I think the parties should
17 probably have their own sense of what's ready to go and
18 not disputed as well.

19 I'd say project description, alternatives, power
20 plant efficiency, cultural resources, geology and
21 paleontology, noise and vibration, public health, power
22 plant reliability, transmission line safety and nuisance,
23 visual resources, and waste management. And I call this
24 list based on the submissions of all of the parties.

25 I'd say one caveat might be project description.

1 But I don't see that that's an issue where there is
2 dispute. I just see it's an issue where it appears that
3 the applicant would like to ensure that they have included
4 information on the record that goes to any potential
5 overrides.

6 So if you need a moment to look at the chart
7 again and think about the topics that I've just given you
8 or want me repeat anything, I'm happy to do so.

9 Yes, Mr. Wheatland.

10 MR. WHEATLAND: One of the topics you did not
11 mention is facility design. And I think on your chart it
12 would be indicated as an issue that's not in dispute.

13 HEARING OFFICER VACCARO: Okay. Thank you.

14 And all errors on the chart are mine. So I take
15 all credit for everything that's not quite right.

16 So I think I've got 12 topics that have been
17 identified with the inclusion of facility design.

18 And of course I think you all understand the
19 reason that we go through this exercise now is to make it
20 far more efficient when we all get together next Monday.
21 Get these matters handled quickly and then move forward to
22 the items that we're going to need to hear testimony on.

23 Ms. Klebaner and Mr. Brizee, you do have these
24 documents before you, don't you?

25 MS. KLEBANER: I do. Thank you.

1 MR. BRIZEE: Yes, I do too. Thank you.

2 HEARING OFFICER VACCARO: It sounds as though
3 from the murmurings and the rumblings and everybody
4 looking, that this isn't something that everybody had
5 given a lot of thought to before coming today. But this
6 is really one of the more important items of coming to the
7 conference. And in fact it was one of topics that we
8 asked all of you to address.

9 So, again, if there's a correction, if there's
10 something we need to discuss, if we can go through this
11 list and see -- because we've got a few more topics to get
12 through today that are going to take I think a little more
13 time.

14 MR. WHEATLAND: We agree with your list of
15 undisputed topics. And we hope as we go through the list
16 of disputed topics we can add more to the undisputed
17 column today.

18 HEARING OFFICER VACCARO: That would be great if
19 possible.

20 Okay. Thank you.

21 So we've heard from the applicant.

22 Staff, is there anything that I've included that
23 I shouldn't have or something that I have omitted on the
24 topics that are ready to go that are not disputed and that
25 we're going to be able to take into evidence on the

1 papers?

2 SENIOR STAFF COUNSEL HAMMOND: It looks correct
3 to me.

4 HEARING OFFICER VACCARO: Thank you.

5 Ms. Klebaner, on behalf of CURE, any comments?

6 MS. KLEBANER: No, this looks fine to us as well.
7 Thank you.

8 HEARING OFFICER VACCARO: Mr. Brizee?

9 MR. BRIZEE: This looks fine. And actually we
10 may be able to add one more, and that is land use. From
11 your chart it looks like you've highlight that because of
12 potential cross-examination from the county.

13 HEARING OFFICER VACCARO: Yes.

14 MR. BRIZEE: Yeah, I think that topic's ready to
15 go.

16 HEARING OFFICER VACCARO: Okay. So that means
17 that you will no longer be interested in cross-examination
18 on that topic?

19 MR. BRIZEE: That's correct.

20 HEARING OFFICER VACCARO: Thank you.

21 Okay. So that we're all clear, I'm going to go
22 through the list one more time. I'll do it a bit more
23 slowly.

24 Project description, alternatives, power plant
25 efficiency, cultural resources, geology and paleontology,

1 noise and vibration, public health, power plant
2 reliability, transmission line safety and nuisance, visual
3 resources, waste management, facility design, and now land
4 use.

5 Great. Thank you.

6 Now, we've got another category ready to go. But
7 they're either topics where there's some direct or
8 cross-examination that's been requested or a topic where
9 either staff or applicant has indicated that they'd like
10 to ensure that the record is fully supplemented with all
11 of the appropriate information.

12 So if you look at the chart. And it will be
13 easier to work with the chart. Those would be the topics
14 that are identified in blue. So we'll start with Topic
15 No. 1, first page on this chart here.

16 My understanding of the applicant's prehearing
17 conference statement is that -- you framed it I think
18 quite nicely -- if there are any concerns or disputes over
19 the overrides topic, that you'd be prepared to present
20 testimony.

21 MR. WHEATLAND: Yes.

22 HEARING OFFICER VACCARO: I would submit that the
23 more conservative approach is to assume that there would
24 be a dispute, and to go ahead and build the record that
25 you think you need to have since of course it's going to

1 be the applicant's burden. So I would invite you at this
2 point on behalf of the Committee to go ahead and submit
3 whatever testimony you were thinking you were going to on
4 the topic of overrides.

5 MR. WHEATLAND: Very good.

6 HEARING OFFICER VACCARO: But what I didn't
7 notice in the applicant's statement is whether or not
8 there is a particular topic you had in mind or if you were
9 going to do it in a more general sense, maybe under the
10 heading of "Project Description," which is why I flagged
11 Project Description. And if so, that's fine. I know
12 we'll get to it.

13 But there are some concerns with respect to soil
14 and water, as identified by both applicant and staff,
15 specifically dealing with issues of policy.

16 So I don't know if you had topics in mind or if
17 you wanted to do sort of a more generalized approach. I
18 don't know what you had in mind.

19 MR. WHEATLAND: We had in mind an overview of the
20 project focusing specifically on the override conditions.
21 It would be a brief additional direct testimony
22 summarizing the points that are already set forth in our
23 testimony.

24 HEARING OFFICER VACCARO: Okay. And is it
25 correct then that that would be by Mr. Redell?

1 MR. WHEATLAND: That's correct.

2 HEARING OFFICER VACCARO: And we're talking
3 probably -- you say 15 minutes. But, you know, I'll
4 guesstimate that it will be somewhere between 15 and 30
5 probably. But does that seem about accurate at this
6 point?

7 MR. WHEATLAND: That's correct.

8 HEARING OFFICER VACCARO: Okay. And because that
9 was new information in the sense that you specifically
10 called out the overrides topic, I did want to make
11 available to staff and the other parties the opportunity,
12 if you had specific override questions of individuals or
13 an individual in particular that you wanted to ask
14 questions of, that you have the opportunity to do that. I
15 need to get a sense though of if you're planning on doing
16 that and if you have topic-specific concerns or if you
17 think you might want to cross-examine Mr. Redell.

18 SENIOR STAFF COUNSEL HAMMOND: I'm afraid I can't
19 speak -- I can't commit to an answer at this point. When
20 we get to worker safety and fire protection, then that
21 may -- the topic of overrides may be appropriate there.
22 But we would like to reserve that opportunity to respond
23 to new additional testimony.

24 HEARING OFFICER VACCARO: Okay. So we'll cross
25 that bridge when we get to it. I mean I understand your

1 reservation of rights. And whether or not you really are
2 reserving a right, I think will remain to be seen by the
3 time we get to hearing and when an actual topic comes up.

4 But speaking on the topic of overrides, I think
5 some of you have heard this in other status conferences,
6 prehearing conferences, and at the evidentiary hearings.
7 Your time to raise evidence with respect to overrides is
8 during the evidentiary hearing. We're not going to take
9 separate briefing on that. We're not going to open up a
10 secondary hearing on the topic of overrides. And there
11 are a few topics that have been raised, as I mentioned, by
12 both staff and the applicant particularly with respect to
13 water resources that might require an articulation of the
14 evidence on the topic of policy and overrides through
15 direct testimony or eliciting information through cross.
16 So as you're preparing, I would submit to all of the
17 parties that is a topical area where you might want to
18 give some attention.

19 Okay. I think the next in terms of where we're
20 moving forward something that's going to be adjudicated,
21 biological resources. I think, staff, you indicated that
22 you were interested in either doing a panel approach or at
23 least presenting some information; is that correct?

24 SENIOR STAFF COUNSEL HAMMOND: That's correct.
25 There are no disputes that can't be resolved before

1 hearing. But staff is interested in presenting a panel
2 that would be comprised of staff witnesses, speakers from
3 the Department of Fish and Game, and the U.S. Fish &
4 Wildlife Service to speak to their concurrence with
5 staff's analysis, and the expectations that they have at
6 this point for the Section 7 U.S. Endangered Species Act
7 requirements and mitigation there.

8 HEARING OFFICER VACCARO: Okay. Applicant or
9 anyone else, do you anticipate that you're going to have
10 any questions for anyone? Because even though it's
11 submitted under the sort of topic of supplemental
12 information to clarify or to ensure that we're all
13 understanding the same thing, it's quite possible that you
14 might hear something that you want to at least carve out
15 some rebuttal time -- or cross time. I'm sorry.

16 MR. WHEATLAND: It is possible that we might hear
17 something that would bring a question to mind. So I would
18 like to reserve a few minutes for questioning. But at
19 this point I don't anticipate any extensive
20 cross-examination.

21 HEARING OFFICER VACCARO: Okay. Ms. Klebaner.

22 MS. KLEBANER: Yes, we would like to reserve just
23 five minutes for cross-examination. But I don't
24 anticipate to proceed with questioning.

25 HEARING OFFICER VACCARO: And your five minutes

1 would be directed towards either Ms. Blair or the panel;
2 is that correct?

3 MS. KLEBANER: Yes. It actually would be
4 directed to the panel in its entirety.

5 HEARING OFFICER VACCARO: Okay. Mr. Brizee,
6 you'd indicated in your prehearing conference statement
7 that there might be something on the topic of biological
8 resources where the county would like to explore. Is that
9 still the case?

10 MR. BRIZEE: Yes, but I don't think it's going to
11 take 30 minutes.

12 HEARING OFFICER VACCARO: Okay. And again, we
13 have several witnesses identified. Were your questions of
14 applicant witnesses or of staff's?

15 MR. BRIZEE: Are they both going to make
16 presentations?

17 HEARING OFFICER VACCARO: No. I think only staff
18 was intending on making a presentation. Yet when someone
19 says they want to cross-examine on a given topic, I think
20 it's important that we understand who someone is looking
21 to cross-examine, so that we can ensure that someone is
22 available either by telephone or in person.

23 MR. BRIZEE: Yeah, it would be staff.

24 HEARING OFFICER VACCARO: Okay. I think we're at
25 Topic No. 9, Hazardous Materials Management.

1 It looks like both staff and the applicant are
2 interested in presenting direct as well as cross.

3 Yes, Mr. Wheatland.

4 MR. WHEATLAND: As I indicated, we'd like to help
5 in taking some issues off the table today and move them
6 into the undisputed category. And after reviewing the
7 staff's prehearing conference statement, we are prepared
8 to accept the staff's proposed conditions.

9 We had concern previously -- concerns previously
10 regarding portions of Condition Haz 6 because it seemed to
11 impose additional costs and additional obligations on the
12 applicant that exceed current law.

13 But in order to help have a timely resolution of
14 this matter, we are prepared to accept Haz 6. And
15 therefore there are no disputed issues from the
16 applicant's perspective regarding this category.

17 HEARING OFFICER VACCARO: Thank you.

18 Ms. Hammond.

19 SENIOR STAFF COUNSEL HAMMOND: That's correct.
20 Staff has agreed and does appreciate applicant's
21 cooperation in this process.

22 HEARING OFFICER VACCARO: So then --

23 SENIOR STAFF COUNSEL HAMMOND: We don't believe
24 this is an area necessary for adjudication.

25 HEARING OFFICER VACCARO: Okay.

1 SENIOR STAFF COUNSEL HAMMOND: There are no
2 disputes.

3 HEARING OFFICER VACCARO: Okay. Thank you.

4 And in the prehearing conference statements filed
5 by county and CURE, they didn't raise any issues on these
6 points either.

7 So just to be clear, we've now moved this over to
8 the topic area of ready to go, not disputed, will submit
9 on the papers; is that correct?

10 MR. WHEATLAND: That's correct.

11 HEARING OFFICER VACCARO: Thank you.

12 Land use. I had previously identified land use.
13 But Mr. Brizee has informed us that he's no longer going
14 to be engaging in cross-examination.

15 So I think we're now at the topic of
16 Socioeconomic Resources.

17 Again, this is identified as a possible topic for
18 witness testimony.

19 Mr. Brizee, could you please give us a sense of
20 what your concerns are. I put this under Socioeconomic
21 Resources because I think that's where your concerns were
22 most closely aligned. But if I'm incorrect, please let me
23 know. And if you could give us a sense of what your
24 concern is here.

25 MR. BRIZEE: Yeah. I guess as I view it, there's

1 some swap-over between this and worker safety issue. And
2 I think that's the topic that our potential witness may be
3 dealing with.

4 HEARING OFFICER VACCARO: Okay. So are we
5 talking specifically about the issue related to the fire
6 department and the determination of whatever the project's
7 pro rata costs might be based on what the impacts analysis
8 is?

9 MR. BRIZEE: Correct. And in the FSA there's
10 discussion about emergency medical services under the
11 socioeconomic resources. So that's how I saw the
12 connection.

13 HEARING OFFICER VACCARO: Okay. I think that's
14 fair enough.

15 I think my recollection - staff, you can correct
16 me if I'm wrong - is that the way that this issue,
17 socioeconomic analysis, was presented in the Staff
18 Assessment is that it covers a number of services as well
19 as the Environmental Justice aspects, but made a reference
20 to worker safety and fire specifically in terms of
21 cumulative impacts on fire. So that that's really
22 discussed in the worker safety and fire section of the
23 supplemental assessment, and I think that also is aligned
24 with the way the AFC reads. So if that is correct, I
25 think what I'd like to do then is take "socio" off the

1 table as a topic and ensure that all concerns in that
2 regard are addressed under the topic of "worker safety and
3 fire."

4 Is that agreeable to you, Mr. Brizee, or do you
5 have some concerns about that?

6 MR. BRIZEE: No, that's fine, as long as we have
7 an opportunity under one of those two topics.

8 HEARING OFFICER VACCARO: Okay. Applicant?

9 MR. WHEATLAND: We're fine with taking
10 socioeconomics off the table. We'd still like to discuss
11 with the Committee the question of the extent of
12 additional testimony for worker safety.

13 HEARING OFFICER VACCARO: Of course. We're
14 coming to that topic, yes.

15 Staff.

16 SENIOR STAFF COUNSEL HAMMOND: Staff agrees that
17 we could move this subject to worker safety/fire
18 protection.

19 HEARING OFFICER VACCARO: Okay. And Ms.
20 Klebaner, did you have any comments on that?

21 MS. KLEBANER: No, I do not. Thank you.

22 HEARING OFFICER VACCARO: Okay. So it seems as
23 though what we've now moved is one other topic to our
24 ready to go, undisputed, will be submitted on the
25 declarations. The one caveat will be, however, that if it

1 looks like there is enough of an overlap, that we'll make
2 sure that if there's something that needs to be adjusted
3 or addressed in socio will be certainly by the time of the
4 PMPD.

5 Traffic and Transportation.

6 This is, I find, an interesting one because this
7 is one where --

8 MR. WHEATLAND: Excuse me. Did you intend to
9 skip Soil and Water at this time?

10 HEARING OFFICER VACCARO: No, I did not intend
11 to.

12 (Laughter.)

13 HEARING OFFICER VACCARO: I managed to. But that
14 was completely by accident. I apologize. Or maybe I was
15 just sort of saving the best for last.

16 (Laughter.)

17 HEARING OFFICER VACCARO: I think it's fair to
18 say that soil and water -- not so much the soil resources
19 portion, but certainly water resources is a topic on which
20 we're going to hear significant testimony.

21 Certainly looking at the times that have been
22 allocated by applicant and staff, and given all of the
23 submissions to date on those topics, I think we can expect
24 to hear testimony.

25 Now here's --

1 MR. WHEATLAND: Your Honor, could I just
2 interject -- excuse me. Could I interject at this point?

3 I'd like to provide some additional information
4 before you get into a detailed discussion on this topic.

5 HEARING OFFICER VACCARO: Sure.

6 MR. WHEATLAND: Because I would like to suggest
7 that this is a topic we can move to the "undisputed"
8 category.

9 Water has certainly been a very important issue
10 to this applicant and it has certainly been an issue
11 that's been vigorously contested to this point. But the
12 staff and the applicant have both met and discussed this.
13 And the applicant is prepared at this time to accept the
14 two conditions that were in contention, which are soil and
15 water, 11 and 12.

16 It's our understanding that the staff's position
17 is that with the adoption of staff's proposed mitigation,
18 this project would be in compliance with all applicable
19 LORS. And if the Commission is prepared to make a finding
20 that the project as mitigated in the staff's conditions is
21 consistent with all applicable LORS and satisfies CEQA,
22 then we would be prepared to accept those conditions.

23 We would agree to disagree on the question of
24 whether or not the project without this mitigation would
25 meet LORS. But we don't believe the Committee or the

1 Commission would need to reach that question as long as
2 the project as mitigated would satisfy LORS and satisfy
3 CEQA.

4 So in the interests again of moving this
5 proceeding forward and ensuring that we can have a
6 decision that will allow us to move forward with the
7 project and qualify for ARRA funding, we would be prepared
8 to accept the staff's proposed conditions for soil and
9 water. And we believe this would be an undisputed issue.

10 HEARING OFFICER VACCARO: I'm going to hear from
11 staff. And then I have a few comments. I do need to
12 continue on what was going to be a sort of short version
13 of a long-winded statement on the topic.

14 If in fact the applicant, as stated, agrees to
15 conditions 11 and 12 of Soil and Water Resources, does
16 that then address the concerns that staff has raised in
17 not only the Supplemental Staff Assessment, Part B, but
18 also the heads-up that you'd given the Committee on an
19 intent to either move to strike or file objections to
20 portions of the testimony that was submitted by the
21 applicant?

22 SENIOR STAFF COUNSEL HAMMOND: Yes, it does to
23 both questions.

24 As staff indicated in the Supplemental Staff
25 Assessment, Part B, with the incorporation and the

1 Commission adoption of these two Conditions of
2 Certification, the project would be in conformity with
3 LORS.

4 If this agreement is accepted by the Committee,
5 then there would be no need for a motion to strike.

6 HEARING OFFICER VACCARO: Okay. Well, that's
7 certainly progress. And I think on behalf of the
8 Committee, we appreciate that. And it's important to
9 acknowledge that that is I think a very -- it was a topic
10 that was a big topic. And that you could move to some
11 middle ground I think is very significant.

12 That said, this is the time when I have to remind
13 everybody that even if the applicant and staff or all of
14 the parties agree on a topic, at the end of the day it's
15 the Committee that decides whether or not it agrees with
16 the data and how the conclusions that are reached from the
17 data and how that applies to the law. Not just CEQA. But
18 we're also looking at the LORS. And of course we're
19 looking at what State policy is. And all of the documents
20 on water resources have touched on those issues. The
21 Committee has looked at those issues and takes it pretty
22 seriously.

23 And, indeed, we have some questions that we would
24 like to have answered. So we didn't expect that that was
25 going to be taken off the table, so that our questions

1 could seamlessly find their way into the process. But
2 what I am going to submit to you is that come Monday, June
3 28, we would like to discuss the topic of water resources;
4 and that the individuals who'd previously been identified
5 as individuals to give direct testimony and individuals
6 from whom cross was going to be made, that we need those
7 people there.

8 Not only that. We're curious about who was going
9 to and who will ensure that a representative of the
10 watermaster is available for questions as well. It seems
11 as though staff had had some communications and had based
12 some of its analysis on information from the watermaster.

13 SENIOR STAFF COUNSEL HAMMOND: That's correct,
14 your Honor. We have been speaking with a consultant who
15 reports to the watermaster. He is local.

16 He begins his vacation on Monday, the 28th. We
17 will, however, be available to participate in the morning,
18 and must leave the building or must leave the phone by
19 about 11:30.

20 HEARING OFFICER VACCARO: Okay. Thank you.

21 So we start at 10, if I recall, on Monday.

22 SENIOR STAFF COUNSEL HAMMOND: That's right.

23 HEARING OFFICER VACCARO: You're saying he's
24 available for about an hour and a half by phone or in
25 person.

1 And then when could he be available thereafter by
2 telephone? Is that possible, if all of our questions are
3 answered in that short amount of time? They might be.
4 But there's some other things that need to be done in the
5 morning. We're not going to just jump immediately into
6 soil and water resources.

7 So do you have any sense of that?

8 SENIOR STAFF COUNSEL HAMMOND: I don't have a
9 sense of how long his vacation is. But I do anticipate
10 him being back by July 15th. But I can't -- I don't know
11 how long his vacation is. And I can get that information
12 to you and forward that along.

13 HEARING OFFICER VACCARO: Okay. Well, for now
14 let's just plan on his availability the morning of the
15 28th, keeping in mind that he does have a currently
16 scheduled vacation for that time period.

17 MR. McMANNES: Would it be okay if I asked a
18 question?

19 You know, we worked pretty hard with staff to
20 resolve this issue and come to a compromise on something
21 that all parties we thought would agree to. And now
22 you're that that's not the case, at least from the
23 Committee's standpoint.

24 So could we have just an idea of what the nature
25 of the issues, the concerns, just so we can, you know,

1 prepare and have some idea what you're going to -- what
2 you're going to talk about or ask?

3 HEARING OFFICER VACCARO: Certainly.

4 You know, what's interesting is you've reached
5 agreement on conditions 11 and 12. And Condition 11 in
6 particular is one where I think the efficacy of that
7 condition, how it would really work, the sequestering of
8 the water, the process, that it ties in to what the
9 perception of the rights are as well. But I think
10 understanding the mechanics of that.

11 And I think what I want to underscore is that the
12 fact that the Committee might have questions doesn't mean
13 that the Committee is in disagreement or in agreement.
14 What it means is that the Committee needs to be confident
15 when a PMPD is issued that they've issued the right PMPD,
16 based on a full complement of information. And there are
17 some questions that we all have with respect to how
18 Condition 11 works.

19 And I think in part the watermaster or an agent
20 of the watermaster will be able to answer some of those
21 questions. And we're still formulating them. We don't
22 have a list today of exactly what we want to know. But we
23 do know what we aren't sure of or what's unclear to us.
24 So that would be one of the topic areas, is understanding
25 the conservation measures that are proposed.

1 I think also -- I mentioned the topic of
2 overrides. And we do have a disagreement between staff
3 and applicant that you say is resolved because applicant
4 will just go ahead and comply with the conditions. But
5 the topic of compliance with State policy with respect to
6 water use is something that is on the table in this
7 matter. And that's something that the Committee has to
8 wrestle with. And being able to ask questions that get to
9 that, questions that have to do with the use of the
10 slightly brackish groundwater for wet cooling, in addition
11 to -- because the conservation measures are put in place
12 for a specific reason, as we understand it. We understand
13 that staff's position is this isn't compliant with the
14 State policy. But one way to make it compliant or to
15 harmonize is to impose conservation measures. Perhaps
16 we've misunderstood that.

17 Is that what staff has stated, Ms. Hammond?

18 SENIOR STAFF COUNSEL HAMMOND: That is what staff
19 has stated.

20 HEARING OFFICER VACCARO: Okay. Then that's our
21 understanding. And I think that's something that the
22 Committee is very interested in. Staff and the applicant
23 have attempted to harmonize those issues. Committee needs
24 to look at that and make those determinations for itself.

25 SENIOR STAFF COUNSEL HAMMOND: I did speak with

1 the representative from the watermaster last Friday. And
2 I feel it important to let you know that he is able to
3 answer questions about the adjudication and about how the
4 watermaster reports to the court under the adjudication.
5 He does not plan to and does not feel empowered to
6 speak -- to offer an opinion about staff's Condition of
7 Certification, staff's analysis.

8 Staff, however, will be able to speak to that if
9 the Committee has questions.

10 HEARING OFFICER VACCARO: Fair enough. And the
11 Committee understand that. The Committee understands that
12 the role of the watermaster in part is -- the watermaster
13 has to understand what its job is and its role in
14 implementing the adjudication. And it has the sense of
15 what the applicant's rights are under the adjudication.

16 It understands I think far more than the
17 Committee does with respect to the watermaster's own rule.
18 And I think we have some questions specific to the
19 adjudication, specific to the watermaster's role, and what
20 the watermaster might have to say with respect to the
21 issue of sequestering the water as proposed by Condition
22 11. And if in fact the individual or individuals with
23 whom we speak can't answer our questions, I assume that
24 they'll tell us that.

25 SENIOR STAFF COUNSEL HAMMOND: I assume so too.

1 PRESIDING MEMBER EGGERT: I was just going to
2 maybe add that I think, you know, the reason that this is
3 a topic of interest is it's a topic that's come up again
4 and again in a number of cases. And the Committee wants
5 to make sure that we have all the available information,
6 including -- you know, we're very grateful of the sort of
7 the position of the applicant to go along with the
8 proposed conditions. But I think in terms of formulating
9 the final proposed decision, we just want to make sure
10 that we have all that information available to us for that
11 decision.

12 MR. WHEATLAND: I would just add that, you know,
13 certainly we want to help you to have whatever information
14 you need to make a decision. And you will note when I
15 first introduce my statement that we would accept staff's
16 additions, it was with the specific caveat that the
17 Committee would concur. And I recognize the important
18 role that you play in making these decisions.

19 I would point out though too though that we're
20 talking about one of the first renewable energy projects
21 in the State of California to receive a license. And we
22 think while State water policy is very important,
23 renewable energy policy is also very important. And we
24 would urge you not to burden a renewable project with an
25 in-depth examination of water policy. That kind of

1 discussion might better take place in the Energy
2 Commission's annual review of energy policy, or in other
3 proceedings that are not quite so developed as this one.

4 We're at the very end of this case. And we urge
5 you not to make this the test case for water policy in
6 California. We think that's best done in a different
7 forum.

8 HEARING OFFICER VACCARO: Okay. Thank you for
9 your comments.

10 And, again, I think it's important to underscore,
11 the Committee's not signaling to you -- to anyone one way
12 or another a position. What the Committee is doing is
13 letting the parties know that it takes seriously its role
14 in issuing a PMPD and certainly takes seriously
15 conformance with the policies that the Energy Commission
16 itself has set forth or of what it's charged to comply
17 with or ensure compliance of. That's all that it is. We
18 need supplemental information and would like to insure
19 that the record is complete. And I think it's in
20 everyone's interests to ensure that we have a complete
21 record.

22 And to the extent the Committee can Email to the
23 parties a list of questions maybe with a little more
24 specificity, we would certainly do our best to do that. I
25 think, just as you all are working very hard to get things

1 done, I think you can appreciate that the Committee's
2 schedule is pretty tight. But we understand the
3 importance to all of you in this process to give you a
4 sense of where we're headed. That's in part why we have
5 prehearing conferences. That's why, you know, we're going
6 through these discussions right now.

7 So whatever we can do to eliminate surprise,
8 because that's certainly not our goal. We want a full and
9 fair process.

10 So with that, I think we'll move over to Traffic
11 and Transportation.

12 Now, if you are able to make movement -- such
13 great progress on water resources, I'm wondering have you
14 been able to do the same with respect to the condition in
15 the turn lane under Traffic and Transportation?

16 MR. WHEATLAND: We have, your Honor.

17 (Laughter.)

18 MR. WHEATLAND: But I say that with some
19 trepidation.

20 (Laughter.)

21 MR. WHEATLAND: No, seriously, we have reviewed
22 this condition further, had a discussion with the staff.
23 We understand that the staff has proposed as an
24 alternative to the extension of the turn lane a condition
25 that would require us to sequence the arrival of traffic

1 under a certain sequence that would avoid the impact on
2 that intersection.

3 We are proposed to set that sequencing
4 recommendation. And therefore we can agree to the staff's
5 proposed Conditions of Certification for traffic and
6 transportation.

7 And I think you can safely move this into the
8 undisputed category.

9 HEARING OFFICER VACCARO: Thank you.
10 Staff.

11 SENIOR STAFF COUNSEL HAMMOND: Thank you.

12 We have reached an agreement. And I would like
13 to clarify that based on -- as stated in the rebuttal,
14 it's not just the sequencing that's part of the Condition
15 of Certification. It's the additional conditions that
16 applicant would be restricted from any construction
17 deliveries from the west during the morning peak periods
18 so as not to compromise the available queuing space in the
19 left-turn pocket.

20 MR. WHEATLAND: We understand and agree.

21 HEARING OFFICER VACCARO: Okay.

22 Worker Safety and Fire Protection. I think we
23 all agree that we'll be hearing some testimony on this
24 topic. Or maybe not.

25 MR. WHEATLAND: Well, no, we -- we agree that

1 there will be testimony. I think the question is whether
2 the committee will allow additional direct testimony on
3 this.

4 HEARING OFFICER VACCARO: Yes, exactly. I know
5 that's the secondary question. The threshold issue is
6 that it's been identified by the parties as the topic for
7 the hearings, that it's not going to be submitted on the
8 papers.

9 MR. WHEATLAND: Yes.

10 HEARING OFFICER VACCARO: And I think what I'd
11 like to hear on behalf of the Committee before we hear
12 from Mr. Brizee, I'd like to hear from the applicant and
13 staff. Tell us your perception of the nature of the
14 dispute with respect to the language of the Condition of
15 Certification. We've certainly seen it. We understand I
16 think what we're reading. But sometimes the abridged
17 version orally really helps to give clarity.

18 And then we'll address Mr. Brizee's proposal to
19 submit oral testimony direct on that topic.

20 MR. WHEATLAND: Well, as we understand the
21 staff's testimony, the staff did not find any direct
22 environmental impacts on the resources of the fire
23 district as a result of this project, but the staff did
24 find a potential cumulative adverse impact when you
25 consider the impacts of this project with other projects

1 that might occur within the region on the districts of
2 the -- the resources of the fire district and the county.
3 And based upon that conclusion by the staff, they
4 recommended that the applicant would pay a certain fee up
5 front toward certain capital improvements that were not
6 identified, and would pay an additional payment I believe
7 it was \$100,000 a year annually for the ongoing operation
8 of the county's fire facilities.

9 The applicant's position in a nutshell is that
10 there are no direct, indirect, or cumulative impacts on
11 fire department resources, and we do not believe that any
12 fee would be appropriate.

13 If there's to be any condition at all with regard
14 to the payment of these fees, we believe the condition
15 should provide for the voluntary negotiation between the
16 fire district and the applicant. But we do not believe
17 that any set fee should be specified in the Condition of
18 Certification. That in a nutshell is the nature of the
19 dispute.

20 HEARING OFFICER VACCARO: And then just to make
21 sure that I'm fully understanding. In the applicant's
22 proposed revision to the condition, is it correct that
23 you're looking to the Commissioner or the Committee to
24 have continuing jurisdiction over that dispute if in fact
25 it's not resolved? Or are you saying that should be a

1 different third party altogether

2 MR. WHEATLAND: Well, our first preference would
3 be a finding by the Committee that no fee is required if
4 there is no impact. But if there is a finding that there
5 is an impact that requires a payment, and if there's a
6 finding that those payments are not offset by other fees
7 and payments that the applicant will be making to the
8 county, then we believe we would be looking to the
9 jurisdiction of the Commission for the ultimate resolution
10 of this dispute

11 HEARING OFFICER VACCARO: Okay. Thank you.

12 I think we'd like to hear from staff on this.
13 But before we do, it looks as though Ms. Hammond has
14 someone to her left now. So if you could do introductions
15 for the record, I'd appreciate that.

16 SENIOR STAFF COUNSEL HAMMOND: Thank you.

17 We have Alvin Greenberg, who is sponsoring the
18 worker safety and fire protection testimony.

19 HEARING OFFICER VACCARO: Okay. Thank you.

20 So let's hear what your perception of the dispute
21 is.

22 DR. GREENBERG: Hearing officer Vaccaro,
23 Commissioner Eggert. I'm Alvin Greenberg. I authored the
24 Worker Safety/Fire Protection section. I also authored
25 the Hazardous Materials section. I want to thank you, Mr.

1 Wheatland, for taking that one off the table.

2 But now we'll go to the issue at hand.

3 There is substantial disagreement as to whether
4 there are indeed direct incremental impacts on the fire
5 department, as well as cumulative. I have written in my
6 Staff Assessment that there are direct and cumulative
7 impacts on the fire department.

8 If there is any fire department in the State of
9 California who has done a better job of documenting and
10 providing supporting analysis for the impacts than San
11 Bernardino County Fire Department, I am unaware of it.
12 They have done the best job. So that's the difference.

13 HEARING OFFICER VACCARO: Okay. Let me ask you a
14 question there. You may not have this exhibit list before
15 you, but Ms. Hammond received it yesterday and the other
16 parties did as well.

17 Where in terms of the exhibits that have been
18 submitted to date is the documentation that shows us the
19 direct relationship between this project and I guess the
20 analyses for capital costs and impacts and how pro rata
21 costs would be allocated? Which document is that?

22 SENIOR STAFF COUNSEL HAMMOND: Hearing Officer
23 Vaccaro, we did solicit comments from the county early in
24 the process according to our usual schedule. More
25 recently, probably within the last few weeks, we have

1 received some detailed documents and documentation from
2 the county. Upon looking at it, I don't believe it's
3 rebuttal testimony, because this new sort of documentation
4 is not rebutting testimony. I think it's more
5 appropriately characterized as revised or supplemental
6 opening testimony.

7 HEARING OFFICER VACCARO: So the document --
8 first of all, when I asked which document is it in the
9 exhibit list, at this point it's not in the exhibits; is
10 that correct?

11 SENIOR STAFF COUNSEL HAMMOND: There is an
12 analysis in the Staff Assessment.

13 HEARING OFFICER VACCARO: Okay. Is it part of an
14 appendix or are you just saying just within the Staff
15 Assessment itself --

16 SENIOR STAFF COUNSEL HAMMOND: In the Worker
17 Safety and Fire Protection section.

18 HEARING OFFICER VACCARO: There's an analysis
19 that ties the potential cumulative impacts as identified
20 by staff, takes those and is able to put a dollar figure
21 to those to support the initial 300 and some odd thousand
22 dollar payment and then the hundred thousand thereafter
23 annually? I guess I'm saying, is there something that
24 ties it together? And you're saying there is something
25 within the Staff Assessment that does that? Or is that

1 something that you've recently received from the county?
2 And if so, I'm wondering is that docketed material or is
3 that just information that the staff possesses?

4 SENIOR STAFF COUNSEL HAMMOND: There is not
5 information and there's not a showing in the Staff
6 Assessment to support the \$350,000 figure.

7 The information that we are now in possession of
8 came to us very recently. And we will docket it and
9 request leave to submit revised opening testimony.

10 HEARING OFFICER VACCARO: I have an initial
11 leaning. And, quite frankly, I had it before we even
12 convened today. I'd like to hear from Mr. Brizee, and
13 then I'll go ahead I think and let you know what the
14 Committee is planning to do. But before we hear from him,
15 I just remind everybody -- I mean it's important that we
16 have a complete record for whatever decision that the
17 Committee is going to make and that there is evidence to
18 support the proposed conditions. And I think this is a
19 topic that still requires some development. And we don't
20 want anyone to be surprised or disadvantaged in addressing
21 evidence or responding to comments that are received,
22 especially those that might not yet be docketed.

23 So, Mr. Brizee, if you could give us a sense of
24 what your expectation would be in terms of presenting
25 testimony on this topic, who your witness might be, and

1 what it is that you think you're going to present to give
2 the Committee a better sense of how it wants to proceed.

3 MR. BRIZEE: Yes, thank you.

4 Yeah, as I understand - and I have not seen it -
5 others within the county have been in contact with a
6 gentleman who is developing the backup information for the
7 economic mitigation figures. I suspect that that would be
8 what he would testify to. And his testimony would relate
9 to the actual costs incurred by the county, emergency
10 services and so forth. I've not seen that information
11 that was alluded to earlier, but I suspect it's going to
12 be supportive of that information also.

13 Also, I have one question. And, that is, on the
14 schedule, it does say that worker safety and fire
15 protection would be heard on July 15th; is that correct?

16 HEARING OFFICER VACCARO: Well, it's what I was
17 proposing based on staff's prehearing conference statement
18 that suggested that that topic was not ready to proceed on
19 June 28th and 29th. So I haven't heard anything today
20 that changes that. I don't think that topic is ready for
21 the 28th or 29th. And I think right now, the leaning is
22 that that's the topic that will -- a topic to be heard on
23 the 15th.

24 MR. BRIZEE: Okay. And I'm certainly sensitive
25 to kind of the conflicting objectives of having a full and

1 complete hearing versus an absence of surprise. And I
2 know that that was the subject of our discussion earlier
3 after you had the opportunity to look at our opening
4 testimony where we indicated that we are not going to
5 submit direct testimony but we reserved the right to. And
6 when we had that discussion, I did not think that there
7 was anything in the works that -- but there is.

8 I might suggest something to allow a full and
9 complete resolution on this. And, that is, that we be
10 given a date certain to submit that information; and that
11 other parties, particularly the applicant, who wishes to
12 oppose it can do so. And then the Commission can make a
13 decision.

14 HEARING OFFICER VACCARO: Okay. Thank you, Mr.
15 Brizee.

16 Mr. Wheatland, you have a look on your face that
17 tells me that there's something else that you might want
18 to say.

19 MR. WHEATLAND: Thank you, your Honor.

20 Throughout today, as you can see, the applicant
21 has been making a very sincere and good-faith effort to
22 try to reach resolution on as many issues as we possibly
23 can. And, frankly, we've shown considerable movement on a
24 wide range of issues that are important to us today.

25 This issue though we believe, frankly, should not

1 go to hearing in terms of additional direct testimony.

2 There's a couple very important points to
3 remember. The first is that the county itself has had
4 notice of this proceeding from the outset. The Commission
5 issued a formal request of the county's -- for its
6 participation and analysis back on November 10th of 2009.
7 And the Commission then extended personal notice to county
8 officials at that same time.

9 So the county has had a great deal of time to
10 participate in this proceeding, and has been fully advised
11 at each step of the proceeding and has received copies of
12 each of the documents that are relevant to your decision.

13 A second really important point is that the
14 county was granted intervenor status on May 27th of this
15 year. And one of the important points that the Committee
16 and the Commission always emphasizes to intervenors is
17 that you come into the proceeding at the time of that
18 proceeding and you're intervention cannot be a reason for
19 delay of the case. You accept the case as of the time
20 that that intervention is granted.

21 That's been a very important point. And the
22 Commission in the past has denied intervenor's attempts to
23 come in and say, "Well, let's have the hearings later
24 because we're not prepared yet." The Commission says,
25 "You take the case as it is." And we think that's what

1 you really should do in this instance.

2 The county is a sophisticated party in this
3 proceeding. It is represented by counsel. And it was
4 thoroughly advised of the deadlines that it faced for
5 filing direct testimony on June 1st or -- sorry, on --
6 yeah, June 1st was the date for the applicant -- June
7 9th -- I'm sorry -- for staff and the intervenors to file
8 their opening testimony.

9 And if on June 9th the county was unsatisfied
10 with the staff's recommendations, the county even as of
11 that date could have filed rebuttal testimony by June 18th
12 of 2010. They did not do so.

13 And the final recourse that the county had is
14 they could come in and make a motion for leave for
15 additional time. Your rules provide that once the
16 Committee sets the schedule, a party may make a motion for
17 additional time by showing good cause for an extension.
18 But the county did not make such a motion. The staff did
19 not make such a motion. And there's been no showing of
20 good cause for an extension of the time to file direct
21 testimony.

22 So I would implore you to tell the county, "You
23 had notice of this and you have had an opportunity to
24 participate. You have waived that notice with full
25 knowledge." And I would urge you to proceed with the

1 evidence on this topic based on the staff's original
2 direct testimony.

3 HEARING OFFICER VACCARO: Some of what you say I
4 think really does resonate. And, in fact, as Mr. Brizee
5 pointed out in his comments, I called him and spoke with
6 him directly after he submitted opening testimony,
7 indicating that certainly before the prehearing conference
8 we wanted to know who would be giving testimony in these
9 proceedings, and that the same rule is equally applicable
10 to all of the parties in the proceeding, because in order
11 to have a full and fair hearing that continues to move
12 along, nobody gets 11th houred, nobody gets disadvantaged,
13 and there shouldn't be surprise.

14 That said, this statement is staff's that this is
15 a topic that's not ready to move forward. Notwithstanding
16 whatever the county is saying, staff is indicating that
17 that topic is not ready to move forward. And I
18 understand, as do the other members of the Committee, what
19 the applicant has submitted in terms of its papers. We
20 understand your position that there really shouldn't be
21 anything in the first place; but if there is, then you
22 should be doing it on a voluntary basis and you should be
23 able to negotiate the fee. I mean that's a very -- an
24 oversimplification. But we understand that

25 At the end of the day, we're being asked by staff

1 and by applicant to make a decision with respect to the
2 imposition of fees. And we're being asked to do so on
3 information that we have reviewed and that to date does
4 not appear to be as complete as it should be for the
5 Committee's comfort level in issuing a PMPD that it can be
6 comfortable with.

7 So our concern is not so much Mr. Brizee now
8 asking to submit direct testimony. It's the threshold
9 issue of addressing staff's prehearing conference
10 statement.

11 The secondary issue is whether or not the county
12 should be able at this point in time to submit its own
13 witness on that topic. I would submit at this point that
14 that should be coming in through staff testimony, through
15 the work of staff. Staff has already been working with
16 the county, it appears, in getting information. That's
17 where I believe that information should come in, not
18 through another party now bringing in new testimony
19 through a new witness.

20 And so I think that's sort of my sense. Looks
21 like Commissioner Eggert has a comment on that.

22 PRESIDING MEMBER EGGERT: I guess I would just
23 agree. I mean I think it's different from a situation in
24 which you have an intervenor coming in for the purposes of
25 delay. It seems like in this case it's to provide

1 information that might be valuable for the final decision.

2 And I guess -- I mean because of that, it seems
3 like we might give a little bit more leniency to the time
4 issue. I'm very -- you know, your comment about the need
5 to move forward expeditiously on this I think is also very
6 well taken, and I think, you know, we have seen oftentimes
7 attempts to delay through process. And I think this seems
8 like it's not really that type of a situation.

9 So, I think if I understand your suggestion, it's
10 that any testimony would come in through staff on this
11 topic that would be obtained from the county; is that
12 correct?

13 Okay. Which seems like a reasonable compromise.

14 HEARING OFFICER VACCARO: And I think what we
15 need to do is -- again, you don't hear about it on the eve
16 of what happens on the 15th. That's something that you're
17 going to need to be submitting, opening full and complete
18 opening testimony, with docketed information as well to
19 the applicant so the applicant has the ability, if you
20 need to refine or change your analysis -- I don't see at
21 this point how the applicant can be prejudiced by allowing
22 this to occur on the 15th and getting full and fair
23 opportunity to respond to whatever staff says.

24 And we do appreciate the desire to prevent delay.
25 And as I mentioned to you, that PMPD will be issued by the

1 last week of July. That process continues, and it
2 continues even building in a day that is going to increase
3 the workload of the Committee and me in getting that PMPD
4 issued.

5 So I completely understand what you're saying.
6 We don't want anything delayed. And we're not going to
7 allow delay in that PMPD issuing, so that we can move
8 forward with, you know, a decision by the full Commission
9 in a timely fashion.

10 MR. WHEATLAND: May I.

11 I appreciate what you're saying about the
12 issuance of the PMPD. We appreciate that very much.

13 I would like to ask for a question of
14 clarification. I do understand what you're saying about
15 allowing staff to come in with additional information to
16 support their recommendation.

17 But is the Committee also allowing the staff to
18 change their recommendation to -- that is, they have come
19 in with a specific recommendation as to the amount that
20 should be paid. Is the Committee allowing them to revise
21 that recommendation, to have a do-over, potentially to
22 increase it three, four, or five times more than what was
23 stated in their original direct testimony? Or is the
24 issue limited to support of the recommendation they
25 previously made?

1 SENIOR STAFF COUNSEL HAMMOND: Commissioner --

2 DR. GREENBERG: Alvin Greenberg.

3 Mr. Wheatland, I appreciate your position. But
4 the figure that was put in there was put in there by me
5 based upon some past and not quite analogous situation on
6 fire protection in a different county under different
7 circumstances.

8 I now have a better figure from San Bernardino
9 County Fire Department. And, yes, the number will change.
10 And it will be supported by the fire department.

11 And the fire department is not here to defend
12 itself. But in staff's opinion, they have done due
13 diligence. They hired a consultant to come up with their
14 numbers. I've never seen a fire department do that
15 before. Usually it's off the top of their head. It takes
16 time for these fire departments. The county budgets are
17 stretched nowadays, as everybody knows. And it did take
18 them time to get a contract out and get these people up to
19 speed. But they're working hard and they do have a well
20 documented position. And that's the only position that I
21 have seen. I've not seen anything else from the applicant
22 in which to base my opinion on.

23 HEARING OFFICER VACCARO: Okay. So I think what
24 we've done is -- I think we've heard pretty much from
25 everyone on this topic. And where the Committee is is

1 we're going to hear this topic on July 15th. If there's
2 some way that applicant and staff are able to work this
3 out and come up with a condition that you can both agree
4 to, and which is supported by the evidence in the record,
5 then that is something of course that the Committee
6 encourages. The operative language being, it needs to be
7 supported by evidence in the record. And if, in fact,
8 what staff does is come up with a revised Condition of
9 Certification, that's something that the Committee will
10 consider.

11 But of course, Mr. Wheatland, we understand your
12 initial threshold position, which is that there are not
13 any indirect, direct, or cumulative impacts. We hear you.
14 We understand that. And that's something for the
15 Committee to address as it reviews the evidence.

16 MR. WHEATLAND: Certainly.

17 HEARING OFFICER VACCARO: So we'll go ahead and
18 issue what we would like as a schedule for opening
19 testimony and any rebuttal on that particular topic.

20 MR. WHEATLAND: Could we discuss the schedule
21 now?

22 HEARING OFFICER VACCARO: Well, I'm certainly
23 willing to hear what you have to say. But I'm not
24 prepared, and I'm not sure that the Committee is, to agree
25 to any dates as we sit here. But we always invite the

1 parties to tell us what dates are desirable and would help
2 facilitate their efforts.

3 I think since we're about to talk about the
4 briefing schedule, if one is necessary, that that's an
5 appropriate time for us to go ahead and get some dates on
6 the table. And then the Committee will go ahead and send
7 some sort of confirming communication.

8 MR. WHEATLAND: Well, what I'd like to suggest is
9 that if the Committee isn't trying to allow additional
10 testimony from the staff on this issue, that we would be
11 allowed -- it's going to be in the nature of additional
12 direct testimony, from what I understand -- that we would
13 be allowed to leave to file additional rebuttal testimony
14 on this subject for the June 15th hearing.

15 HEARING OFFICER VACCARO: Of course.

16 MR. WHEATLAND: Also, I would request that we
17 would be granted leave to make a discovery -- or data
18 requests to the staff regarding the additional information
19 which the staff says it has received from the fire
20 department and which has not been provided to the
21 applicant. So we'd like leave to make additional data
22 requests.

23 HEARING OFFICER VACCARO: I'm not sure if you
24 need to do that, because they've just been directed by the
25 Committee to get that docketed. I mean they need to get

1 that docketed and made available. Everything that they
2 have at this point should already have been docketed. And
3 Ms. Hammond I think heard the Committee instruct them to
4 get that docketed. So I think at this point I don't see a
5 need for a data request for the information.

6 MR. WHEATLAND: And may we make a data request of
7 the county regarding the information that they've provided
8 to the staff? This would be a right we would have if this
9 had come out in the initial Staff Assessment. So I'd
10 like -- since it wasn't in there and is now emerging, I'd
11 like to be able to have that opportunity.

12 HEARING OFFICER VACCARO: I'll tell you right now
13 as we sit here, unless there's something that happens
14 between now and the time that you try to obtain the
15 information from staff, which they should submit to you I
16 think separate and apart from docketing as well, I think
17 Mr. Brizee or someone within the county is in a position
18 to either put in a declaration or some other form that
19 what they've provided to staff, you know, are all of these
20 documents and identify them. But I just don't see the
21 reason to have data requests at this time unless there is
22 an actual dispute.

23 PRESIDING MEMBER EGGERT: I think the request, if
24 I understand it, is relating -- that you want to have all
25 of the information that's been made available for the

1 staff's assessment of the cost that --

2 MR. WHEATLAND: Yes, that's correct. Yes, that's
3 correct. But also if the county is representing to the
4 staff that a cost of a fire station is \$5 million, I'd
5 like to be able to ask the county for some justification
6 and support for such an assertion if that information is
7 not provided in the analysis that -- and information that
8 the staff will provide us.

9 DR. GREENBERG: It will be. Everything that I
10 will base my assessment on will be documented. And that
11 specific piece of information that you're concerned about
12 will be provided.

13 HEARING OFFICER VACCARO: Moreover, we will
14 ensure -- staff will ensure that appropriate
15 representatives of the county are available at the hearing
16 for cross-examination.

17 The one thing I do caution everyone, remember,
18 that the folks you need to be talking to right now are the
19 people up here. So I prefer not to have this type of
20 conversation. Submit it to us. If in fact it appears
21 that there is a reason for a data request to issue, the
22 Committee will take it seriously and will act quickly. I
23 think at this point, let's work on the assumption that
24 everyone is going to submit to the applicant and to the
25 other parties all of the pertinent information that is

1 underlying staff's assessment in coming up with the dollar
2 figure.

3 MR. WHEATLAND: Thank you.

4 HEARING OFFICER VACCARO: So did you have some
5 specific dates, Mr. Wheatland, on briefing? Or did you
6 just want to cover that topic more generally as you just
7 did?

8 MR. WHEATLAND: On brief --

9 HEARING OFFICER VACCARO: For 7/15 for opening
10 testimony and rebuttal with respect to worker safety and
11 fire. Not only that. We've got the air quality issue
12 potentially as well as TSE. We don't expect any issues.
13 But then again it's better to go ahead and ensure that
14 we've covered everything than to leave something out.

15 MR. WHEATLAND: Yes, I would like to recommend
16 for the Committee's consideration -- I'd like to -- on
17 this topic of worker safety.

18 HEARING OFFICER VACCARO: I think, yes, we'll
19 make it all of the topics that are still the holdovers for
20 7/15. Everything should probably be by the same date.

21 MR. WHEATLAND: Well, I would recommend that
22 anything further that would be filed by the staff or
23 intervenors would be by June 25th, and that the applicant
24 would reserve rebuttal for July 6th.

25 HEARING OFFICER VACCARO: Okay. Right now that

1 sounds reasonable.

2 I think one thing I would submit, the
3 applicant -- in light of these changes and the differences
4 in opinion on what was ready and what wasn't ready, the
5 applicant is certainly welcome to present opening
6 testimony -- further opening testimony on those points as
7 well. You're not just limited to rebuttal.

8 MR. WHEATLAND: Thank you.

9 HEARING OFFICER VACCARO: Okay. So let's just --
10 we need to make sure it's full and fair. And I think
11 that's the way that we do that.

12 And as far as briefs, at this point in time I
13 don't anticipate that we're even going to need
14 post-hearing briefs. But I think that remains to be seen.
15 But in light of all that's been said today, if there was a
16 topic where we might need it, I think it would be the
17 worker safety. So why don't we wait to see what happens
18 at the conclusion of June 29 as to whether or not we're
19 going to need briefs. I mean the transcripts are going to
20 be expedited. But, again, we are working under a very
21 tight timeframe to meet the schedule that we've set for
22 the PMPD.

23 Ms. Hammond, do you have something to say?

24 SENIOR STAFF COUNSEL HAMMOND: No.

25 HEARING OFFICER VACCARO: You had a look on your

1 face that suggested you were waiting patiently.

2 So is your schedule, Mr. Wheatland -- Ms. White
3 brings up a good point, which is with a 6/25 date for
4 opening testimony, that certainly isn't going to be
5 applicable to TSE, because it's our understanding that
6 nothing -- Part C isn't even coming out till June 30th.
7 So were you meaning this only as to worker safety? And if
8 it was going to be to all three topics, just to make sure
9 that everything was wrapped up, then I think we need to
10 push the dates back.

11 MR. WHEATLAND: Ms. White has a very good point.
12 I wasn't thinking of transmission. So I think June 30th
13 might be an appropriate date.

14 HEARING OFFICER VACCARO: Okay. Well, we'll take
15 a look at the dates in light of -- you've just given us a
16 few. We haven't heard from staff. The other parties
17 might have something to say certainly with respect to Part
18 C and the other things that aren't ready. So we'll send
19 an Email to all of the parties letting you know what our
20 expectations are.

21 MR. WHEATLAND: Thank you.

22 HEARING OFFICER VACCARO: You have a tentative
23 exhibit list. I don't want to discuss it today, unless
24 someone has a particular comment, question or concern. If
25 you have updates, things to change, things that might be

1 different, please take a look at it and submit those
2 changes to us. It would be ideal if we had that before
3 the hearing on Monday, so that we can -- we do need to
4 move along swiftly and efficiently.

5 A few more items of business, and then I think we
6 might be ready to call it a day.

7 One of them has to do with Supplemental Staff
8 Assessment Part C. Staff, it's my understanding that what
9 you've been doing with the initial Staff Assessment Part A
10 and Part B, you've been inviting public comment and you've
11 been giving a 30-day comment period.

12 If in fact this issue's on June 30th and you give
13 a 30-day comment period, arguably comments will be coming
14 in about the time that we're publishing the PMPD.

15 Do you have any suggestions for how you were
16 planning on handling those comments? Were you going to
17 reduce the comment period? Were you going to invite
18 people to submit comments directly to the Committee? Had
19 you given that some thought?

20 SENIOR STAFF COUNSEL HAMMOND: Honestly, not much
21 thought. I had expected there to be an additional
22 hearing, which there is. But I had expected that hearing
23 to be pushed further out. And that comments that were
24 submitted, if they were submitted, would be incorporated
25 into the record and responded to by staff by the witness

1 on the stand.

2 HEARING OFFICER VACCARO: I'm not sure that's
3 entirely workable in light of what we're trying to
4 accomplish.

5 My suggestion would be that you reduce that
6 30-day comment period to something along the lines of
7 maybe 14 days, and that the comments get submitted to
8 staff and the Committee, and that your notice would also
9 advise the public that the PMPD comment period is yet
10 another opportunity to submit further comment with respect
11 to the topical areas that are within the PMPD. I think
12 that ensures that there will still be at least 30 days for
13 comment. It just isn't going to happen in the traditional
14 fashion. If we follow what staff has been doing, those
15 comments will come in after the PMPD issues. And I think
16 it's fair for those people who want to submit comments
17 that the PMPD address them to the extent possible before
18 the draft PMPD issues.

19 Does that make sense?

20 SENIOR STAFF COUNSEL HAMMOND: Yes. We will do
21 that. Thank you.

22 HEARING OFFICER VACCARO: Okay. There's been a
23 request also, since we're having these hearings up in
24 Sacramento as opposed to in the jurisdiction, that we
25 ensure that the members of the public who might want to

1 participate by telephone, that they have a time certain by
2 which they can call in and make comments. So a notice
3 will issue from the Committee that specifies a time
4 certain during the proceedings when that can happen.

5 So I don't want people to be alarmed or
6 surprised. And if it means that we have to put the pause
7 button on something that we're already discussing, then
8 that seems to be one of the better ways of accommodating
9 all of the different interests that people might have.

10 So I think with that, we'll go ahead and move
11 towards the public comments here in this proceeding.

12 We have I think one individual who's sitting in
13 the back of the room, who is not a public commenter.

14 Okay.

15 And I don't know if anyone else has joined us on
16 the telephone. Are there any members of the public who
17 might want to speak?

18 And then, you know, I don't want to be remiss.
19 If there are any other comments that CURE or the county or
20 the water board would like to make, we're certainly
21 willing to listen to that at this time as well.

22 Ms. Klebaner.

23 MS. KLEBANER: No other comments. Thank you.

24 MR. BRIZEE: Nothing else from the county. Thank
25 you.

1 But one question. Do you anticipate that there
2 will be a revised order prepared before the hearing begins
3 on the 28th?

4 HEARING OFFICER VACCARO: A revised order
5 addressing --

6 MR. BRIZEE: -- what's happened today.

7 HEARING OFFICER VACCARO: I will do my best to
8 work with the Committee perhaps to submit some
9 documentation that clarifies some of the things that we've
10 discussed, because I think written clarification would be
11 important.

12 MR. BRIZEE: Thank you.

13 MR. BRATHOVDE: No comment from Lahontan Water
14 Board.

15 HEARING OFFICER VACCARO: Okay. Thank you.

16 Is there anyone else on the line who would like
17 to make a comment?

18 Okay. It doesn't sound like it.

19 Are there any other final issues that we need to
20 address?

21 SENIOR STAFF COUNSEL HAMMOND: I'm sorry. Was
22 there a final decision on the due date for opening
23 testimony on the subject of the worker safety/fire
24 protection?

25 HEARING OFFICER VACCARO: The final decision is

1 that the Committee is going to let the parties know when
2 we expect that.

3 SENIOR STAFF COUNSEL HAMMOND: Thank you.

4 HEARING OFFICER VACCARO: Okay. Well, with that,
5 I turn it over to Commissioner Eggert to adjourn this
6 conference.

7 PRESIDING MEMBER EGGERT: Thank you, Ms. Vaccaro.
8 Again, I just want to thank you for running an
9 excellent pre-conference hearing.

10 I also want to thank the applicants, especially
11 for their work to try to resolve a lot of these issues
12 before we go to the final -- before we go to the
13 evidentiary hearing. I think you had mentioned previously
14 not wanting to become a test case. I think, you know, you
15 are at the forefront of renewables development here in the
16 State for solar, particularly in solar thermal, falling
17 into the jurisdiction of the Commission.

18 And I think, you know, what you're doing is very
19 important to this State, for us to be able to meet our
20 energy and environmental goals as it relates to renewables
21 development in the State, with respect to meeting our
22 greenhouse gas goals. So I want to thank you for your
23 efforts in that respect.

24 I think we are finding in a lot of ways that the
25 policies of the State, especially where they overlap, do

1 present some significant challenges for us to be able to
2 determine how to address them appropriately.

3 I want to -- also I think your choice of
4 previously developed land, my personal opinion was that it
5 was a good one. I think to the extent that we can use
6 land that was previously put to other purposes, is it's
7 not pristine habitat, that's a benefit in terms of, you
8 know, preserving natural habitat.

9 So, I'm very much looking forward to the hearing
10 next week. And, again, I think we've made a tremendous
11 amount of progress today in getting to a lot of the
12 stickier issues.

13 Also, I want to thank the staff, because I think
14 maintaining the schedule has required a tremendous effort,
15 you know, by the staff, to be able to adequately address
16 all of these issues in a timely fashion. And I know
17 that's in addition to all the other caseload that
18 currently exists within the Siting Committee. So I wanted
19 to thank you for all your efforts on this case as well.

20 So I think with that, I guess I would adjourn
21 this hearing. And look forward to seeing you all again
22 next week.

23 HEARING OFFICER VACCARO: Monday.

24 PRESIDING MEMBER EGGERT: Next week Monday.

25 All right. Thank you.

(Thereupon the prehearing conference
adjourned at 2:44 p.m.)

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