

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

COMMITTEE MEMBERS

Anthony Eggert, Commissioner, Presiding Member
James D. Boyd, Presiding Member

HEARING OFFICER

Kourtney Vaccaro

ADVISORS

Sarah Michael
Lorraine White

STAFF

Christine Hammond, Counsel
Craig Hoffman, Project Manager
Mike Conway, CEC Staff
Christopher Dennis, CEC Staff
Jennifer Jennings, Public Advisor
Dr. Alvin Greenberg, Staff Scientist
Stanley Hoffman, Consultant

APPEARANCES (Continued)

APPLICANT

Ellison, Schneider & Harris, LLP
Christopher Ellison
Shane E. Conway

Abengoa Solar
Scott Frier, COO
Frederick H. Redell (via teleconference)
Eric Nickell, Consultant
Thomas Couch
Tandy McManis

LOCAL GOVERNMENT

Bart Brizzee, County of Sacramento
Peter Brierty, Asst. Fire Chief, County of San Bernardino
Chris Anderson, Air Quality Management District
Alan DeSalvio

INDEX

	<u>PAGE</u>
1	
2	
3	1
4	1
5	2
6	
7	
8	
9	9
10	
11	
12	33
13	46
14	66
15	74
16	
17	77
18	81
19	
20	
21	97
22	147
23	206
24	223
25	
	254
	255

1 topics. I have been reviewing materials; I'm looking
2 forward to a healthy discussion.

3 I think there's a couple of topics particularly
4 on worker safety that we're going to want to dig into in
5 some detail today. So I'm looking forward to that.

6 I do think that we've come a long way. I think
7 we've made tremendous progress in that, the most recent
8 hearing; and so I'm hoping that today's going to be as
9 effective and as efficient as that one.

10 I think with that I will introduce -- go ahead
11 and get introductions --

12 COMMISSIONER BOYD: I'll make one comment.

13 COMMISSIONER EGGERT: Go ahead.

14 COMMISSIONER BOYD: Just, you know, on a lighter
15 moment, the last time we gathered together, you may have
16 noticed I slipped out in the middle of the hearing. You
17 made me sick -- no, I got -- I wasn't feeling well, I left
18 to get a breath of air and ended up going home, and have
19 been fighting whatever it is ever since then. I went to
20 the doctor again today; so I can't get rid of it. So
21 hopefully this time you'll make me well and we can move
22 on. But in any event, I apologize for having to leave
23 last time.

24 What it meant to me is I have to read a lot of
25 transcript stuff and catch up with things; and I have done

1 that. So hopefully we'll make significant progress today.
2 And I have my hot tea so my voice will stay with me.

3 So now, excuse me, Mr. Chairman.

4 COMMISSIONER EGGERT: Thank you. Thank you,
5 Commissioner. I also want to introduce before I go to the
6 staff, Jennifer Jennings -- yeah, our public advisor is
7 here. So if there's members of the public who might want
8 to have comments during the hearing, definitely go ahead
9 and talk to her. She can provide you information about
10 how to engage in this -- in this hearing and in this case.

11 Go ahead and get introductions from the
12 commission staff.

13 MS. HAMMOND: Thank you, good afternoon.
14 Christine Hammond, staff counsel. To my right is
15 Craig Hoffman, the project manager. He's also sponsoring
16 the testimony on executive summary. To my left is
17 Dr. Alvin Greenberg for staff. And he is sponsoring the
18 testimony on worker safety and fire protection. Behind me
19 is Assistant Fire Chief of the San Bernardino County Fire
20 Department, Peter Brierty. Also with us is Stan Hoffman.
21 And he wrote the report that is submitted as Exhibit 329.

22 COMMISSIONER EGGERT: Thank you.

23 Welcome, Mr. Brierty, Mr. Hoffman. Thanks for
24 joining us.

25 The applicant.

1 MR. ELLISON: Christopher Ellison, Ellison,
2 Schneider and Harris on behalf of the applicant, Abengoa
3 Solar. To my right is Shane Conway, also Ellison,
4 Schneider and Harris, representing the applicant. Against
5 the wall to my left, I'll allow people to introduce
6 themselves, starting with --

7 MR. FRIER: Mr. Scott Frier, COO, Abengoa Solar.

8 MR. McMANIS: Tandy McManis, Abengoa Solar.

9 MR. COUCH: Tom Couch with Abengoa Solar.

10 MR. NICKELL: Eric Nickell, Wildan Financial.

11 COMMISSIONER EGGERT: Okay. Do we have CURE? Is
12 Elizabeth Klebaner either on the phone, perhaps?

13 HEARING OFFICER VACCARO: No. And actually I
14 don't anticipate that we'll have participation from CURE
15 in today's proceeding. After the last hearing, they gave
16 an indication, an apology for not telling us in advance,
17 but an indication that they were not likely to continue to
18 participate in these proceedings.

19 COMMISSIONER EGGERT: Gotcha. Okay.

20 County of San Bernardino?

21 MR. BRIZZEE: Yes. Bart Brizzee, deputy county
22 counsel with the County of San Bernardino.

23 COMMISSIONER EGGERT: Do we have anybody in the
24 room or on the phone from Luz Solar Partners? Okay.

25 Anybody from -- let's see, we had San Bernardino

1 County Fire Department. I said Mr. Brierty.

2 Anybody from the Lahontan Regional Water Quality
3 Control Board?

4 Mojave Water Agency?

5 Mojave Desert Air Quality Management District?

6 MR. DeSALVIO: Yes. Alan DeSalvio and
7 Chris Anderson.

8 HEARING OFFICER VACCARO: Great, thank you. Are
9 you still able to hear us fairly well?

10 MR. DeSALVIO: You sound great.

11 HEARING OFFICER VACCARO: Great, thank you.

12 Now, one thing that we'll ask of the parties
13 before we go any further is for the benefit of the folks
14 on the phone and also for people here in person, before
15 you speak, if you could remember to please introduce
16 yourself. If you don't, I'll try to find a nice, polite
17 way of making sure people know who you are. It's a habit
18 that we're not all accustomed to, but if we can at least
19 try to do it, I think it would facilitate the
20 conversations.

21 COMMISSIONER EGGERT: So actually, I think that
22 is -- is there any other public officials or government
23 agencies, either here in the room or on the phone?

24 No. Okay. I think we'll go ahead and get
25 started. As you'll notice, this isn't our normal hearing

1 room for these cases, but given our current caseload, I
2 think there's at least one other, maybe even two other
3 cases going concurrently today, which is why we're all
4 nice and cozy here on the second floor conference room.

5 I'm glad to see that the audio is working
6 properly. I don't know if we need to say anything about
7 in case of emergency; everybody should be going out, I
8 think, these stairs and out the door expeditiously.
9 Bathrooms are right outside the room here.

10 And I think we'll proceed to the case.

11 HEARING OFFICER VACCARO: Great. So again, at
12 the beginning of the proceeding I had indicated there were
13 some topics that we had not completed on June 28th, and we
14 noticed for today's proceeding that we would discuss air
15 quality, transmission system engineering, worker safety
16 and fire protection, continuation of biological resources,
17 which was not noticed, but we certainly discussed it
18 during June 28th, and it was also made apparent that
19 executive summary at that time was not ready to proceed
20 either.

21 The committee has read all of the papers that
22 have been submitted to date with respect to the hearing
23 held on the 28th and the prehearing documents that were
24 filed for today.

25 We have a lot to discuss this afternoon, but I

1 think there are some matters that are more easily disposed
2 of. And I think what we'll do is find out about readiness
3 and whether or not we can move into the record the
4 evidence so far on the continuation of biological
5 resources, the TSE information, and air quality.

6 Are those things that we can go ahead and move in
7 on the record, into the record today?

8 Mr. Ellison?

9 MR. ELLISON: Yes.

10 HEARING OFFICER VACCARO: Ms. Hammond?

11 MS. HAMMOND: Yes.

12 HEARING OFFICER VACCARO: Okay. So why don't we
13 go ahead and just for the purpose of clarification -- we
14 moved a tremendous number of documents into the record on
15 the 28th. I think we want to be sure though today that
16 we're clear on which documents we're moving in on these
17 particular topics.

18 Let's start with biological resources first,
19 because that was just a matter of confirming the
20 consultations that were taking place with United States
21 Fish and Wildlife Service, as I understand it.

22 MS. HAMMOND: That's correct. That's a document
23 that we have identified as Exhibit 312. And it was
24 circulated to the parties. Heather Blair, staff's witness
25 on biological resources, is sponsoring that document, and

1 staff would like to move that into the record to be
2 received as evidence.

3 HEARING OFFICER VACCARO: Is there any objection
4 to that from the applicant?

5 MR. ELLISON: No.

6 HEARING OFFICER VACCARO: Mr. Brizzee?

7 MR. BRIZZEE: No objection.

8 HEARING OFFICER VACCARO: Okay. I'll consider
9 that moved in.

10 (Staff's Exhibit 312 was received into evidence.)

11 HEARING OFFICER VACCARO: With respect to air
12 quality, we'll go ahead and we'll start with staff first,
13 although typically we start with applicant, but since it
14 seemed as though the supplementation was coming from
15 staff, we'll just start there.

16 MS. HAMMOND: That's right. Staff's testimony on
17 air quality consists of the air quality section of
18 Exhibit 302, that's the supplemental staff assessment part
19 B; and Exhibit 305, that's the errata and making some
20 changes to the testimony in Exhibit 302. The errata was
21 prompted by a revised final determination of compliance
22 from the Mojave Desert Air Quality Management District.

23 And at the appropriate time, I would like to have
24 Messrs. Anderson and DeSalvio certify that no emissions
25 reductions credits are needed for this project, and thus

1 fulfilling the requirements of Public Resources Code
2 Section -- let's see here -- a section of the Warren
3 Alquist Act that requires the district to certify that
4 ERCs have been identified, et cetera.

5 HEARING OFFICER VACCARO: I would say this is the
6 appropriate time. So if we could have the court reporter
7 swear in Mr. DeSalvio and Mr. Anderson, we are hopeful
8 that you're going to stand there or sit there with your
9 right hand up and the court reporter will now swear you in
10 so that we can get some testimony from you under oath.

11 They're on the phone.

12 (Mr. DeSalvio sworn.)

13 HEARING OFFICER VACCARO: Okay. Are we only
14 going to hear from one of you today, or are we going to
15 hear from both of you?

16 MR. DeSALVIO: Unless you want to hear from
17 Chris, I think I can handle it.

18 HEARING OFFICER VACCARO: Okay. Then I think
19 that will be good enough for us.

20 Ms. Hammond.

21 DIRECT EXAMINATION

22 MS. HAMMOND: Messrs. Anderson and DeSalvio,
23 would you please -- we have your names and your titles for
24 the record.

25 Did you prepare or oversee the preparation of the

1 Mojave Desert Air Quality Management District's final
2 determination of compliance for the Mojave Solar Project?

3 MR. DeSALVIO: Alan DeSalvio, supervising air
4 quality engineer. Yes, I did.

5 MS. HAMMOND: I'd like to note for the record
6 that this document was logged -- docketed and logged as
7 document number 56808.

8 Messrs. Anderson and DeSalvio, did you prepare
9 or oversee the preparation of the air district's revised
10 final determination of compliance dated July 1st, 2010?

11 MR. DeSALVIO: Same speaker. Yes, I did.

12 MS. HAMMOND: And I'd like to note for the record
13 this was docketed and marked as log number 57416.

14 Are emissions, reductions, credits, or offsets
15 required for the Mojave Solar Project?

16 MR. DeSALVIO: No, they are not. Same speaker.

17 MS. HAMMOND: Do you certify that the Mojave
18 Solar Project does not require ERCs under the Mojave Air
19 District rules?

20 MR. DeSALVIO: I so certify. Same speaker.

21 MS. HAMMOND: Those are all my questions.

22 HEARING OFFICER VACCARO: Okay. Thank you
23 Mr. DeSalvio.

24 Mr. Ellison, do you have any questions or
25 comments or objections to any of the testimony?

1 MR. ELLISON: No comments, no questions, no
2 objections.

3 HEARING OFFICER VACCARO: Okay. Thank you.
4 Mr. Brizzee?

5 MR. BRIZZEE: Likewise. Thank you.

6 HEARING OFFICER VACCARO: Okay. Any more
7 questions for Mr. DeSalvio?

8 MS. HAMMOND: No, thank you.

9 HEARING OFFICER VACCARO: Okay. Then you can
10 excuse your witness.

11 MS. HAMMOND: Mr. DeSalvio, Mr. Anderson, the
12 hearing officer has excused you.

13 MR. DeSALVIO: Thank you.

14 HEARING OFFICER VACCARO: Thank you.

15 So why don't you go ahead then and complete your
16 motion, or is it completed that you're looking to move in
17 to the record Exhibits 302, 305; is that correct?

18 MS. HAMMOND: That's correct, I would like to
19 move those documents into the record and have them
20 received as evidence.

21 HEARING OFFICER VACCARO: Any objection to that,
22 applicant?

23 MR. ELLISON: One second.

24 HEARING OFFICER VACCARO: I'm assuming you've
25 seen the FDOC and the revised FDOC and are aware of the

1 revised conditions in the air quality conditions of
2 certification presented by staff in response to the
3 revisions.

4 MR. ELLISON: No objection to those documents.

5 Are we also moving at this time the executive
6 summary under 303?

7 HEARING OFFICER VACCARO: No, we are not.

8 MR. ELLISON: Okay. No objection.

9 HEARING OFFICER VACCARO: Okay. Well, then your
10 evidence is admitted into the record.

11 (Staff's Exhibits 302 and 305 were
12 received into evidence.)

13 HEARING OFFICER VACCARO: So with that, let's go
14 to TSE, because I think that's the next one that we can
15 deal with fairly swiftly.

16 Again, since staff had some supplementation,
17 let's go ahead and start with staff on that.

18 MS. HAMMOND: Transmission system engineering is
19 testimony that is comprised of both the principle part of
20 that testimony and Appendix A, which considers downstream
21 impacts. Those two parts of staff's testimony are
22 contained in Exhibit 303, that's the supplemental staff
23 assessment part C, and that will supersede the TSE
24 sections in Exhibit 300 and 302. And staff would like to
25 move that TSE testimony be received into the record as

1 evidence.

2 HEARING OFFICER VACCARO: Does applicant have any
3 objection to that?

4 MR. ELLISON: No.

5 HEARING OFFICER VACCARO: Mr. Brizzee?

6 MR. BRIZZEE: No objection.

7 HEARING OFFICER VACCARO: Okay. Does the
8 applicant have any further evidence or exhibits to submit
9 on those topics?

10 MR. ELLISON: No.

11 HEARING OFFICER VACCARO: Okay. So we'll take
12 all of the evidence that was submitted on June 28th on
13 those topics as they are in the supplementation or
14 correction.

15 MR. ELLISON: Correct.

16 (Staff's Exhibit 303 was received into evidence.)

17 MS. HAMMOND: Your Honor, I'd like to note that
18 we did receive one comment relating to TSE from Southern
19 California Edison. It was docketed. It does not appear
20 to make a comment to which a response is warranted.

21 HEARING OFFICER VACCARO: Just as a point of
22 clarification, I think the comment was really a question,
23 and it was asking whether or not CEC staff had
24 appropriately identified the project and gave a correct
25 project description.

1 My understanding from the docketed materials is
2 that Mr. Hoffman submitted a written response on behalf of
3 staff stating that yes, in fact, the project description
4 is the current project description and that it's accurate.

5 MR. CRAIG HOFFMAN: Yes.

6 HEARING OFFICER VACCARO: And that is the only
7 comment we've received on the supplemental staff
8 assessment, part C. The deadline closed yesterday.

9 HEARING OFFICER VACCARO: Thank you. Okay. So I
10 think what we've done now is completed the record on the
11 topics of air quality, transmission system engineering,
12 biological resources.

13 Prior to today's hearing I got the impression
14 that executive summary might not be ready, at least at
15 this very moment for submission into the record.

16 So, staff, since that was held over at your
17 request previously, if you could please address that
18 topic, and then we'll hear from the applicant.

19 MS. HAMMOND: Committee members, the executive
20 summary concludes that the -- with the staff's analysis
21 and the conditions and certification, the requirements of
22 CEQA and the commission's requirements to evaluate LORS
23 conformity are complete and satisfied, however, should
24 staff's testimony on workers safety and fire protection be
25 stricken from the record, there's no basis to make a

1 finding on staff's report for conformity with LORS and to
2 satisfy the requirements of CEQA. So, I think it's a
3 timing issue. Should staff's testimony on workers safety
4 and fire protection be admitted into the record, then the
5 executive summary would be complete.

6 HEARING OFFICER VACCARO: Mr. Ellison, did you
7 have a comment with respect to executive summary? A few
8 moments ago you were suggesting that you might have
9 something to say, so let's hear from you.

10 MR. ELLISON: Well, we have sort of a reciprocal
11 issue with the executive summary that staff has, which is
12 the concerns that we've expressed and the motion to strike
13 that we've filed with respect to the workers safety
14 testimony of staff. And that testimony is referenced in
15 the executive summary.

16 But I found, with the understanding that either
17 the executive summary will be conformed to whatever the
18 decisions the committee makes or alternatively that it
19 would be received only as a summary of the staff's other
20 testimony and not as independent testimony supporting any
21 finding of fact or conclusion of law, we would accept the
22 filing, not object to the filing of the executive summary.
23 But we do want to make clear that to the extent the
24 executive summary is intended to constitute independent
25 evidence in support of staff's workers safety position,

1 then we would object.

2 HEARING OFFICER VACCARO: Okay. How about this
3 for a possible resolution: It's just a matter of order
4 then it sounds like to me, that if we address executive
5 summary right now, it might be premature; if we go ahead
6 and do all that we need to do still on worker safety and
7 fire protection, we handled executive summary at the
8 close?

9 MR. ELLISON: That's fine.

10 HEARING OFFICER VACCARO: Okay. Is that
11 acceptable to staff?

12 MS. HAMMOND: That is, thank you.

13 HEARING OFFICER VACCARO: All right. With that,
14 I think we get to the issue of workers safety and fire
15 protection. And as I indicated previously, the committee
16 is aware of and has read the filing submitted by the
17 parties on the topic of worker safety and fire protection,
18 namely applicant's motion to strike.

19 I have something written and I'm deviating from
20 it, which is why there's this pause.

21 You know, the committee recognizes the dilemma
22 that's faced by the applicant in looking at materials that
23 are submitted, arguably, on the 11th hour, that it puts
24 the applicant in a difficult position of moving forward
25 with the case that applicant had intended to put forward

1 on workers safety and fire protection. But one of the
2 hallmarks of these proceedings is a full and fair
3 opportunity to present information and evidence, both the
4 parties and members of the public. That includes
5 correction of errors, supplementation where necessary, and
6 revision, and the committee balances that with prejudice
7 that may result to any of the other parties.

8 Based on all that we've read today, it appears
9 that the motion itself, and specifically the requests for
10 order shortening time, because staff and the county have
11 responded, is moot. And it's moot in the sense that the
12 applicant has been able to submit some testimony, the
13 applicant does have witnesses prepared to at least respond
14 to as much of staff's evidence and new testimony as is
15 possible.

16 The committee rejects and denies the motion as
17 moot but understands that there may be reason to hold this
18 topic open for applicant to supplement what they're going
19 to present today, and so I think that's the way that we
20 avoid prejudice. But recognize that this is very late
21 filed, significant, new information, and applicant was
22 able to swiftly mobilize and address it. And I think
23 we're ready to move forward today, but with the
24 recognition that the applicant may need to in its view
25 supplement the record further based on whatever it is

1 that's presented today. So although that's the ruling of
2 the committee, we're certainly willing to hear from the
3 parties with respect to the motion.

4 Mr. Ellison?

5 MR. ELLISON: We understand your ruling, we
6 accept your ruling, I'm not going to re-argue the motion
7 to strike.

8 I do want to make crystal clear that although we
9 have prepared testimony as best we can, that this is not,
10 in our view, even close to the kind of response that a
11 full and fair opportunity to respond to this new
12 information would provide. And there are specific things
13 that we have not been able to present testimony on; for
14 example, the staff's new matrix that's included in their
15 testimony, and the method that's used there and all of the
16 assumptions that go into that are issues that we are not
17 prepared to address today.

18 So as we set forth in our hearing statement, I
19 hope there is no confusion that the fact that we are doing
20 as much as we humanly can do to use this time as
21 effectively and efficiently as possible, the fact that we
22 come here today with witnesses and are prepared to present
23 as much testimony and do as much cross as we are capable
24 of should not be read as an indication of any waiver of
25 our objection or any sense that we are prepared, fully

1 prepared to respond to staff's really very dramatic change
2 in position on this issue.

3 I think the committee understands that, from what
4 you said, and the recognition that we may need to have a
5 supplemental hearing in order to have this issue dealt
6 with fairly. And with that understanding, we can move
7 forward.

8 HEARING OFFICER VACCARO: Okay. Thank you.

9 Ms. Hammond, was there anything you felt you
10 wanted to say?

11 MS. HAMMOND: Well, as staff indicated in its
12 response, there -- we have no opposition to a 30-day
13 continuance of this issue while the applicant either
14 continues to negotiate -- and we certainly hope they do.
15 We have been encouraging that right from the March 2010
16 staff assessment. So whether the applicant continues to
17 try to negotiate or conduct its own fire needs assessment,
18 in fact, we would encourage a 30-day continuance to give
19 the applicant that opportunity.

20 Thank you.

21 HEARING OFFICER VACCARO: Okay. Mr. Brizzee, I
22 notice that the county did file a joinder with staff's
23 opposition to the motion.

24 MR. BRIZZEE: Yes, and thank you. And we
25 continue to concur in the staff's position on that. And I

1 would say also with regard to what Ms. Hammond said, the
2 county is always amenable to discussing a resolution of
3 this issue if possible, and perhaps a 30-day continuance
4 following as much as can be done today might be
5 beneficial.

6 HEARING OFFICER VACCARO: Okay. Mr. Ellison, was
7 there one more thing that you wanted to say?

8 MR. ELLISON: There is. I do want to make very
9 clear to all the parties and the committee that although
10 we have requested a 30-day continuance in order to have a
11 fair hearing on this issue, that the schedule of this
12 proceeding remains of paramount importance to the success
13 of this project, and meeting the ARRA deadlines has been
14 an extremely important, high-priority item for this
15 project.

16 I think this committee and staff and everybody
17 understands from our past addressing of various issues how
18 important that schedule is. We have made many compromises
19 in this proceeding to remove issues, to move this case
20 along. And I trust that everybody in this room
21 understands that and I don't have to go through chapter
22 and verse of all of those agreements with intervenors,
23 compromises with staff, and all of that that have occurred
24 to achieve that end.

25 So it is a measure of just how surprised we were

1 and just how important this worker safety is to the
2 success of the project and just what a debilitating, in
3 fact, I would say fatal effect the staff's position has
4 that we felt we had no choice but to ask for a continuance
5 to address this issue.

6 Having said that, the committee has put on the
7 table an alternative that we find acceptable, namely the
8 Colusa style conditions that would allow this project to
9 be fairly heard and to stay on schedule. And I want to --
10 the most important thing I want to say is that we ask for
11 a continuance if and only if the staff's \$24.6 million
12 mitigation number is still under consideration.

13 To the extent that either the staff agrees to the
14 Colusa style conditions or the committee decides that
15 that's the direction it wants to go, then we would
16 withdraw our request for a continuance and proceed on this
17 basis.

18 COMMISSIONER BOYD: Mr. Ellison, I add a third
19 chapter to your scenario there, that is that the applicant
20 and the local fire representatives work out themselves a
21 solution to the issue that's agreeable by all.

22 MR. ELLISON: And that's what those conditions
23 would allow, but it would allow it in the context of there
24 not being an adopted fall-back number that would
25 fundamentally prejudice those negotiations. If you adopt

1 a number that is the fall-back number, there is no reason
2 for the county to agree to any less than that, and there
3 is no reason for us to agree to any more than that. So
4 there is no real negotiation if you do that.

5 But the Colusa conditions don't do that. The
6 Colusa conditions make clear that the negotiations are not
7 biased in any direction, and we can continue to seek a
8 reasonable resolution with the county, which we would like
9 to do.

10 But I cannot emphasize enough, I really cannot
11 say this too strongly, for all the parties, the issue is
12 not whether the county will get \$24.6 million, the issue
13 is whether the county will get something or nothing,
14 because \$24.6 million kills this project. It does not
15 happen. I cannot say that -- I've been authorized by the
16 highest levels of Abengoa to say that unequivocally. This
17 project does not happen if that condition is adopted.

18 HEARING OFFICER VACCARO: Okay. Mr. Ellison,
19 thank you. And since you've woven the Colusa type
20 condition into the discussion, I want to give Ms. Hammond
21 an opportunity to just provide a response. But you did
22 ask two questions, and they deserve answers.

23 I think the latter, which is is the committee as
24 it sits here today willing to say we're going to adopt
25 that condition, I think that would be highly

1 inappropriate. What the committee needs to do is take in
2 all of the evidence and do its job, which is to evaluate
3 and weigh that evidence; however, something has been put
4 on the table that would further, potentially, negotiations
5 between the applicant and the county and something for
6 staff to consider as well, and that's why those were put
7 forward.

8 And as to the first question, which is whether or
9 not staff would be amenable to that condition, there were
10 pleadings submitted by staff in that respect that suggest
11 no; however, we are here today on July 15th at this
12 hearing, and I think we would like to ask staff whether or
13 not that position has changed at all, because if so, that
14 does change what we're going to do today.

15 MS. HAMMOND: Well, my -- this is Christine
16 Hammond speaking.

17 My reading of the condition and my conclusion
18 about its applicability or validity here remains the same
19 as I've communicated to all parties by e-mail. Whatever
20 the commission might have decided before in circumstances
21 that were entirely different from the circumstances in
22 this case, doesn't change my legal opinion, which is that
23 the commission doesn't meet the requirements of CEQA. We
24 do admit a lot of this information is coming in late, but
25 the record is open, and staff cannot ignore good

1 information that's coming in that addresses environmental
2 impacts.

3 Thank you.

4 HEARING OFFICER VACCARO: Mr. Brizzee, did you
5 have anything in particular you might want to say with
6 respect to Mr. Ellison's final comments with respect to
7 continued negotiations with the county and the possibility
8 of using a Colusa like model, which is fully compliant
9 with case law on CEQA; so those would be the caveats, of
10 course. Is there anything else you'd like to say before
11 we proceed?

12 MR. BRIZZEE: Other than to reiterate that the
13 county remains committed to resolving this issue if
14 possible and sitting down with the applicant and their
15 representatives.

16 But as of today, I still concur on the
17 position -- or the county concurs in the position that's
18 been stated by staff.

19 HEARING OFFICER VACCARO: Okay.

20 MR. ELLISON: If I could ask Ms. Hammond a
21 question.

22 The concerns you've raised about the condition
23 are issues of law?

24 HEARING OFFICER VACCARO: This is Mr. Ellison for
25 those of you on the phone. Mr. Ellison is posing a

1 question to Ms. Hammond and also sort of raising the point
2 to the committee as well.

3 So if you would just restate that, please.

4 MR. ELLISON: Well, my understanding is that the
5 staff's concerns about a Colusa style resolution are
6 concerns about the legality of those conditions as applied
7 in this case, as opposed to some other concern.

8 That's an issue that we can brief. And we're
9 prepared to discuss it orally today, we're prepared to
10 file a brief on it any time the committee wants one. We,
11 frankly, think it's an open and shut case. I don't think
12 there's -- I could not disagree with Ms. Hammond more on
13 this issue.

14 I would even go so far as to say the commission
15 has decided this issue. It's decided this issue in
16 several cases, not just Colusa, it has adopted conditions
17 like this. It did something similar in Metcalfe, for
18 example. Okay? Those decisions are matters of law,
19 they're interpretations by this agency of its authority to
20 adopt that condition.

21 So I would submit to you that, notwithstanding
22 Ms. Hammond's opinion, but this issue has been decided;
23 but if the committee wants to decide it again, we can
24 brief it.

25 You know, we're happy to present cases to you

1 under CEQA that show that this is not deferred mitigation
2 under CEQA nor is it some unlawful delegation as the
3 commission has previously decided. And I'll go one step
4 further than that and tell you that this is not even a
5 CEQA issue; this is a financial issue that we're talking
6 about. CEQA is about physical and environmental impacts,
7 impacts to the physical environment. There is a whole
8 body of law that we can brief you on as well that says
9 that purely fiscal impacts are not impacts under CEQA. So
10 not only is this not deferred mitigation under CEQA, it's
11 not even a CEQA issue in the first place.

12 So with that sort of offer of proof, I have to
13 say from the applicant's perspective that on the one hand
14 we'd feel absolutely compelled by the circumstance to
15 demand a fair hearing if the committee's going to go ahead
16 and consider this evidence; but at the same time, we are
17 very concerned about the schedule, and we see a clearly
18 legal, already decided by the commission legal, very fair
19 solution to this problem that would allow us to keep on
20 the schedule, discuss with the county what their concerns
21 are, what our concerns are, and proceed. And to have that
22 solution not available to us in an expeditious way and
23 have the schedule slip over legal concerns that we find,
24 to put it charitably, without merit, that have already
25 been decided is frustrating.

1 HEARING OFFICER VACCARO: Okay. Thank you. I
2 think with that, what I'd like to do is just --

3 MS. HAMMOND: Hearing Officer Vaccaro, may I
4 respond or have an opportunity to respond to that?

5 HEARING OFFICER VACCARO: Actually, what I'd like
6 to do right now is continue with what I was saying, which
7 is what I would like is to go off the record for just a
8 few moments. Let's come back at 1:45, that's two minutes.
9 We can go off the record.

10 (Recess.)

11 HEARING OFFICER VACCARO: Thank you, everyone,
12 for your indulgence there.

13 Ms. Hammond, there was something just before we
14 went off the record that you wanted to say. I think you
15 wanted to respond to what Mr. Ellison said. You're
16 certainly welcome to do that. I'd like you to do it
17 briefly.

18 The reason that we've even accepted this level of
19 argument is because we do have before us a very difficult
20 situation. I've said it before, and I will underscore
21 this really is an 11th hour submission of significant new
22 information which then I think allows everyone, applicant
23 in particular, a little bit more latitude in explaining
24 really where they're coming from and what some of the
25 implications are to the applicant in moving forward and

1 putting on a case today and what it means in general for
2 the next steps.

3 But I do ask of you, because we've read the
4 papers and we have heard what you've said, and what
5 Mr. Ellison did was basically reiterate things that he has
6 already put forward in the papers, if you could keep it
7 brief, I'd greatly appreciate that.

8 MS. HAMMOND: Certainly. Thank you.

9 I would just like to address a couple of points
10 Mr. Ellison has made. He mentioned that staff's putting
11 forward a number, a dollar figure, is prejudicial to
12 negotiations, and I would just like to point out that
13 dollar figures were forwarded in the AFCs of other solar
14 thermal applications, at least in the case of the Blythe
15 Project and the Genesis Project, those numbers were there;
16 but nevertheless the applicants were able to reach
17 agreements with the counties resulting in dollar figure.
18 And Beacon, I'd like to add, resulting in dollar figure
19 agreements that differed from what was forwarded in the
20 staff assessments.

21 Mr. Ellison mentions that fire protection is not
22 a CEQA issue. And I would just like to point to the CEQA
23 guidelines, Appendix G does identify hazardous materials
24 and hazards in Roman Section IV and impacts to public
25 services in section Roman XIII. So this is a CEQA issue;

1 but not only that, there are other applicable laws here
2 that we are looking at.

3 To our knowledge applicant has made one contact
4 with the county. And so if there's a continuance done and
5 additional time for negotiations, we can have meetings, we
6 could even have a workshop in this proceeding and
7 facilitate settlement negotiations.

8 And Mr. Ellison makes some legal arguments about
9 a Colusa type condition, and I'd like to reiterate the
10 circumstances were entirely different in Colusa. That
11 concerned a project in an area with no fire department,
12 there were no cumulative impacts, the circumstances were
13 entirely different. Those with memory that we can draw
14 from inform me that that was a very difficult case. A
15 number of pressures were applying on the commission. So I
16 urge the committee to consider the unique circumstances in
17 that case as well as the legal faults and shortcomings of
18 that condition.

19 HEARING OFFICER VACCARO: Okay. Thank you,
20 Ms. Hammond.

21 I'm certain Mr. Ellison has thoughts in his head
22 in response, but what I would ask is that should the
23 committee require any briefing on that point, that will be
24 the opportunity for further argument and discussion on all
25 of the issues that have been raised by staff and the

1 applicant with respect to the application, if at all, of a
2 Colusa type condition of certification.

3 So I think what we'd like to do, again,
4 understanding --

5 COMMISSIONER BOYD: I think I ought to make a
6 statement here that in the spirit of full disclosure to
7 everybody, the Colusa case was my case; so talk about --
8 you want to talk about historical memory, there's a little
9 bit left here.

10 MR. ELLISON: Well, and let me just state for the
11 record that that type of condition has been adopted by the
12 commission in other cases too, it's not just Colusa. But
13 that's fine, we'll reserve our further opinions on these
14 issues to any request, if any, from the committee for a
15 briefing.

16 HEARING OFFICER VACCARO: Thank you.

17 So what we would like to do, and again, subject
18 to all of the caveats and reservations of rights that have
19 already been made by the applicant in its moving papers as
20 well as this afternoon, we'd like to take as much evidence
21 into the record as we can on this topic and we'd like to
22 start doing that today. Instead of doing it through the
23 papers first, I think we've got a number of folks who've
24 made their way here to provide oral testimony, and I think
25 that's what we'd like to take first.

1 What I'm going to do, which might be
2 slightly like a change is to ask the applicant what your
3 preference is.

4 Is it to move forward with your own testimony of
5 your witnesses, or would you prefer to have the -- to
6 start with cross? And the only reason that, of course,
7 I'd put it to you and ask that way is because you have
8 better knowledge than we do about your level of
9 preparation for today and what order would be most
10 expedient and efficient.

11 MR. ELLISON: We really have no preference.
12 We're happy to -- you know, we're not prepared to complete
13 our cross of staff today, nor do we have all of the
14 witnesses we would offer here today, but we do have two
15 witnesses and testimony that's been prefiled, and they're
16 here today and prepared to present that testimony. And we
17 are prepared to conduct some limited cross of the staff
18 panel that was identified.

19 HEARING OFFICER VACCARO: Okay. Well, if you
20 have no preference, then I think the committee preference
21 would be to hear from the applicant witnesses first.

22 We didn't really have much in the papers in terms
23 of suggestions of panel approach or doing each witness
24 serially; I think a panel approach might be expedient, but
25 we haven't had any discussion of that in the papers. So

1 were you planning on putting them up as a panel or just
2 having individuals?

3 MR. ELLISON: We can do it either way, whatever
4 the committee's preference is. Our two witnesses'
5 testimony is distinct. It could certainly be presented
6 sequentially, but we can present them as a panel if that's
7 more efficient.

8 HEARING OFFICER VACCARO: Okay. We'll go ahead
9 with the panel approach, and you'll go ahead and do your
10 direct as you feel you need to.

11 Do we have -- we have a sense right now, you
12 submitted statement of qualifications.

13 Staff, Mr. Brizzee, is there any objection that
14 you're going to make with respect to the qualifications of
15 these witnesses?

16 MS. HAMMOND: I have questions about the
17 qualifications of the witnesses, but no objection to those
18 statements coming in.

19 HEARING OFFICER VACCARO: So you mean when you do
20 your cross you have some questions for them that go to
21 their knowledge, experience, and the like?

22 MS. HAMMOND: That's right.

23 HEARING OFFICER VACCARO: Okay. So why don't we
24 then have you bring your witnesses up, and we will have
25 them sworn in.

1 Are they here physically present?

2 MR. ELLISON: They are here.

3 HEARING OFFICER VACCARO: Except for Mr. Redell,
4 who --

5 MR. ELLISON: Mr. Redell is on the phone.

6 Today we propose to offer Mr. Eric Nickell and
7 Mr. Tom Couch. And if I could ask the two of you to take
8 these two seats.

9 HEARING OFFICER VACCARO: And we'll have the
10 court reporter swear you in.

11 (Mr. Nickell and Mr. Couch were sworn.)

12 DIRECT EXAMINATION

13 MR. ELLISON: Okay. Let me begin with some
14 questions that go to both of you as a panel.

15 Did you together prepare, or I should say
16 separately prepare parts of what constitutes proposed
17 Exhibit 52, applicant's supplemental opening testimony on
18 worker safety and fire protection?

19 MR. NICKELL: Yes.

20 MR. COUCH: Yes.

21 MR. ELLISON: And contained within that is
22 separate testimony of each of you, correct?

23 MR. NICKELL: Yes.

24 MR. COUCH: Yes.

25 MR. ELLISON: Okay. Mr. Nickell, with respect to

1 the testimony identified as yours, are the facts contained
2 therein true and correct to the best of your knowledge?

3 MR. NICKELL: Yes.

4 MR. ELLISON: And are the opinions contained
5 therein your own?

6 MR. NICKELL: Yes.

7 MR. ELLISON: And do you adopt that testimony as
8 your testimony in this proceeding?

9 MR. NICKELL: Yes.

10 MR. ELLISON: Okay. Could you briefly summarize
11 your qualifications?

12 MR. NICKELL: I'm a principle consultant in the
13 Sacramento and Oakland offices of Wildan Financial
14 Services. This is a company founded in 1964. We've
15 worked for about 800 public agencies since then. I do a
16 number of studies as well as my team, a count of about 40,
17 for fire departments and fire districts through the years
18 in which we examine capital and operating cost matters.
19 And we work across the state. And have worked most
20 recently in the central valley and also in Riverside
21 County.

22 MR. ELLISON: And Mr. Nickell, could you briefly
23 summarize for the committee that portion of the testimony
24 that you are presenting?

25 MR. NICKELL: My testimony was designed to

1 calculate the fair share of fire services costs that the
2 project would need to be served by the San Bernardino
3 County Fire District. The fair share is estimated three
4 different ways. It's important to do the calculations
5 according to standard accepted public finance practices.
6 There's about 23 years' worth of experience since the
7 mitigation fiat was adopted in 1987. There's been
8 litigation, a lot of case law that informs how it gets
9 done when you apportion a public facility's cost to new
10 development.

11 So I calculated that the project's burden on the
12 department is anywhere between 200 and \$300,000 in total,
13 lifetime costs. The applicant disagrees with the
14 risk-rating approach contained, that it was advanced by
15 the county; but should you use that method, we believe the
16 upper number is no greater than about \$650,000, and those
17 are the main results of my work.

18 MR. ELLISON: Mr. Nickell, could you describe --
19 you said "the upper number." Could you describe the
20 results that you obtained from the other two scenarios
21 or --

22 MR. NICKELL: That's correct.

23 MR. ELLISON: -- provided?

24 MR. NICKELL: A commonly understood method called
25 "Existing Standard of Fire Service" estimates that the

1 cost to this project would be \$200,000. And the system
2 plan method which takes into account the entire territory
3 served by the fire district in this particular area, the
4 entire sum total of fire stations and equipment and
5 staffing costs would be as much as \$300,000.

6 MR. ELLISON: And the numbers that you're
7 presenting are the entire costs over the life of the
8 project; in other words, comparable to the \$24.6 million
9 that staff has proposed, correct?

10 MR. NICKELL: That is correct. We have a capital
11 component which covers land, buildings, apparatus, you
12 know, items that last longer than five years, and the rest
13 of it is operating cost. The majority of it is operating
14 cost because it's an annual cost times 25 years. We could
15 also do it in terms of 30 years, but the numbers are
16 roughly the same.

17 MR. ELLISON: Okay. So your numbers are quite
18 dramatically different than those presented by staff,
19 correct?

20 MR. NICKELL: That is correct.

21 MR. ELLISON: Could you briefly summarize for the
22 committee why the difference; what did you do differently
23 than staff's testimony that led you to such a different
24 conclusion?

25 MR. NICKELL: Staff -- the county's consultant

1 added up the total cost of three stations, three
2 additional fire stations, about 12 and a half million
3 dollars, added up six additional engine companies at a
4 total price of about \$11.6 million a year and put the
5 entire burden of that cost, all but ten percent of that
6 cost, 90 percent of this cost on new development.

7 So they basically said that it's new
8 development's responsible to pay for this additional fire
9 service and the standard of service that the county will
10 provide.

11 And I have a problem with that given what we
12 normally provide to our clients. Typically you need to
13 make sure that the amount assessed to new development is
14 proportional to its impact. And so you can't have a near
15 hundred percent total of improvements to a system be put
16 entirely on the backs of new development because in that
17 case new development would be paying for existing
18 developments' benefit, which is faster response time,
19 better trained personnel, ability to respond to haz mat,
20 other types of, you know, capabilities.

21 And the second item that they did is that they
22 took 29 percent of the call totals and said that these
23 call totals from the non-residential side of development.
24 So when you hear that, you think that's new shopping
25 centers and the people that work in new shopping centers,

1 it's new office buildings, because there are some
2 organized areas in San Bernardino County that will build
3 offices in the next ten years, and it's new mining and
4 manufacturing operations that will add people. And that
5 total is going to generate about 29 percent of the calls.

6 Well, guess who's paying for 29 percent of the
7 costs? It's solar, the solar -- the 14 solar projects.
8 So unless the 14 solar projects are entirely, you know,
9 nearly 100 percent of non-residential development, you
10 can't put all of the costs on one industry and not the
11 entire non-residential sector, which includes a lot of
12 different types of development.

13 So it's those two points in which new development
14 is paying for existing developments' benefit that I would
15 not offer to my clients because I would be afraid that
16 their -- the facility share would be indefensible and not
17 withstand legal challenge by it, say, the building
18 industry.

19 MR. ELLISON: Thank you.

20 Mr. Couch, let me ask you first, can you briefly
21 summarize your qualifications with respect to this
22 testimony, the portion that you prepared?

23 MR. COUCH: I worked for San Bernardino County
24 Fire Department for 17 years as a time checker, a
25 firefighter, an inspector. I conditioned and plan checked

1 and inspected the SEGS III through IX projects. And at
2 the end of -- well, in 2000, end of my career with the
3 fire department, I went to work for the SEGS facility and
4 was their industrial fire chief for their state-certified
5 fire department until 2005 when the facility was purchased
6 by Florida Power and Light and the fire department was
7 terminated at that time.

8 MR. ELLISON: So is it fair to say that you are
9 personally familiar, both from the owner's side as well as
10 the county's side of the worker safety and fire protection
11 issues at the existing solar facilities in San Bernardino
12 County?

13 MR. COUCH: Yes.

14 MR. ELLISON: Could you briefly summarize your
15 testimony?

16 MR. COUCH: I want to clarify some things in the
17 report that I do not feel are correct, having witnessed
18 firsthand 17 years' worth of involvement in the solar
19 power projects.

20 MR. ELLISON: Let me ask you some specific
21 questions about your testimony.

22 First, is it correct that the Mojave Solar
23 Project proposes to have on site worker safety and fire
24 protection staff and equipment -- well, let me just ask
25 that.

1 MR. COUCH: The Mojave Solar Project wants to
2 follow the footsteps of the Kramer SEGS I through III that
3 had an on-site fire department, took care of the
4 incidences that happened on site almost entirely, with the
5 exception of having to have an ambulance respond for
6 medical transportation. We kind of want to -- we want to
7 follow that same guidelines that we did at Kramer SEGS.

8 MR. ELLISON: So am I correct that at Kramer
9 there was an existing fire station owned and operated by
10 the owner, the project owner, but that which had a
11 mutual-aid agreement with the county; is that correct?

12 MR. COUCH: Yes. Mutual-aid agreement was signed
13 in 1995 and continued through February of 2005.

14 MR. ELLISON: Okay. And Abengoa proposed to do
15 the same thing for this project, correct?

16 MR. COUCH: Yes.

17 MR. ELLISON: Could you describe for that period
18 of time how many incidents were there in which the county
19 was called upon to physically respond to the Kramer site;
20 in other words, how many times was the county called upon
21 to augment the on-site capabilities of the owner?

22 MR. COUCH: From 1995 until 2005, the county
23 was -- Kramer SEGS requested one standby fire engine when
24 we had a fire at one of the units. We had it under
25 control, but we asked for one standby unit in case

1 something went wrong.

2 We've made several notifications of incidences
3 that were happening on the Kramer site with no response
4 from the county.

5 MR. ELLISON: So during that approximately
6 ten-year period, the county was called upon to send a fire
7 engine one time; is that correct?

8 MR. COUCH: That is correct.

9 MR. ELLISON: And during that same period, how
10 many times did the county call upon the Kramer fire
11 station to provide off-site assistance to it? In other
12 words, how many times did Kramer assist the county fire
13 department in fighting fires off the solar site?

14 MR. COUCH: Fight fires, responding to traffic
15 accidents, medical aid off site, approximately 120 times.

16 MR. ELLISON: So during that ten-year period when
17 Kramer was operating in the fashion that this project will
18 operate, it provided a net benefit to the county in terms
19 of fire protection and worker safety, did it not?

20 MR. COUCH: I believe it did.

21 MR. ELLISON: Now, Mr. Couch, if I could direct
22 your attention to the staff's testimony; do you have a
23 copy of that?

24 MR. COUCH: Yes, I do.

25 HEARING OFFICER VACCARO: Mr. Ellison, which

1 exhibit are you referring to?

2 MR. ELLISON: I'm referring to -- I apologize, I
3 don't have the exhibit number. It's Energy Commission
4 Staff Supplemental Opening Testimony regarding worker
5 safety dated July 2nd, and it's the -- well, the testimony
6 itself a dated June 29th, and it's the testimony of
7 Mr. Greenberg.

8 HEARING OFFICER VACCARO: Okay. Thank you.

9 MR. ELLISON: 313, I am informed.

10 HEARING OFFICER VACCARO: Thank you.

11 MR. ELLISON: Do you have a copy of that,
12 Mr. Couch?

13 MR. COUCH: Yes, I do.

14 MR. ELLISON: Now, the pages aren't numbered, but
15 if you refer to the third and fourth substantive pages, at
16 the bottom of the third page it begins with -- the
17 paragraph beginning there says, "The proposed AMS solar
18 power plant 250 megawatts is very different from the
19 industrial, commercial, and residential development in the
20 San Bernardino County region," and it goes on to say, "It
21 is also different from the existing solar plants located
22 at Harper Lake and Kramer Junction in San Bernardino
23 County. The AMS solar power plant would be larger in
24 scale than the existing solar power plants and will have a
25 huge amount of highly-flammable oxygenated heat transfer

1 fluid in use at elevated temperatures and stored on site,
2 approximately 200 to 300,000 gallons. The amount of
3 highly-flammable oxygenated flammable material stored and
4 used on site combined with the rather remote location and
5 the potential for escalation of a small fire into a large
6 conflagration presents an emergency response challenge to
7 the SBCFD."

8 Do you see that paragraph?

9 MR. COUCH: Yes, I do.

10 MR. ELLISON: Do you agree with that?

11 MR. COUCH: No.

12 MR. ELLISON: Could you -- in your opinion is the
13 proposed Mojave Solar Project less safe than the existing
14 facilities that you personally operated?

15 MR. COUCH: No, it is more safe.

16 MR. ELLISON: Could you describe why?

17 MR. COUCH: Natural-gas heaters are not used to
18 heat the oil, supplement heat to the oil. More modern
19 technology and automation and alarms capabilities exist.
20 We don't have storage tanks at the facility. All the oil
21 is used in the process and none of it is stored.

22 Therminol is, according to the MSDS, a
23 combustible liquid and not a flammable liquid. And with
24 the fire protection at the Mojave site similar to that
25 that was at the Kramer site, any incident could be

1 responded to in an incipient stage and most likely
2 controlled rather quickly.

3 MR. ELLISON: Okay. Now, over the life of the
4 existing SEGS I through IX projects, how many fires are
5 you aware of that you would describe as at all serious?

6 MR. COUCH: Three.

7 MR. ELLISON: Could you any of those fires happen
8 at this project?

9 MR. COUCH: No.

10 MR. ELLISON: Could you explain why?

11 MR. COUCH: The January 10th, 1990, fire at SEGS
12 VIII was a heater fire, and the Mojave facility does not
13 use gas-fired heaters.

14 The January -- I was at the February 13th fire at
15 SEGS VIII at Harper Lake, was an afterthought of the
16 January 10th fire where the oil froze and through trying
17 to thaw it, it ignited.

18 The Daggett fire on February 26th, 1999, involved
19 storage tanks. Storage tanks are not on site at the
20 Mojave project.

21 MR. ELLISON: Okay. Mr. Couch, one other
22 question.

23 When fires have occurred at these solar
24 facilities, could you describe how they are fought?

25 MR. COUCH: The fires that we have had at the

1 solar facilities in the past really are not fought. Fire
2 department may come in, we would put water protection on
3 adjacent properties, the oil would be allowed to burn
4 itself out. That is the safest way as to not cause any
5 harm to any individual. And none of the fires were
6 fought, per se; they were -- had water stand by, and most
7 everybody kind of stood back and watched them burn
8 themselves out.

9 MR. ELLISON: So the fires essentially are
10 isolated, valves closed, that kind of thing, and fire
11 protection is there to make sure it doesn't spread, and
12 then it's simply allowed to burn itself out; is that
13 correct?

14 MR. COUCH: That is correct.

15 MR. ELLISON: Okay. That's all I have.

16 I would move admission of Exhibit 52.

17 HEARING OFFICER VACCARO: Staff?

18 MS. HAMMOND: No objection.

19 HEARING OFFICER VACCARO: Mr. Brizzee?

20 MR. BRIZZEE: No objection.

21 MR. ELLISON: The witnesses are available.

22 HEARING OFFICER VACCARO: Thank you. So

23 Exhibit 52 is deemed admitted into the record.

24 (Applicant's Exhibit 52 was received
25 into evidence.)

1 Ms. Hammond, do you have any cross-examination
2 for either witness?

3 MS. HAMMOND: I do.

4 CROSS-EXAMINATION

5 MS. HAMMOND: Mr. Couch, you seem to express a
6 belief in staff's language that its testimony serves more
7 to scare rather than inform the reader. Do you recall
8 making that statement?

9 MR. COUCH: Yes, I do.

10 MS. HAMMOND: Isn't it true that you also claim
11 that staff's description of the project is, quote, "not at
12 all accurate and that staff exaggerates or is mistaken on
13 every key point"? Do you recall making that statement?

14 MR. COUCH: Yes.

15 MS. HAMMOND: I'd like to go through your
16 testimony.

17 First you state that the flash point of
18 Therminol, the heat transfer fluid, is 255 degrees
19 Fahrenheit; is that correct?

20 MR. COUCH: Let me look at the MSDS here.

21 HEARING OFFICER VACCARO: And for the record --

22 MR. ELLISON: Would you make a reference to the
23 testimony?

24 HEARING OFFICER VACCARO: Sure.

25 MS. HAMMOND: That is Exhibit number 52, page 5,

1 line 5.

2 MR. COUCH: The MSDS says that the fire point,
3 flash point is 127 degrees centigrade -- no, correction,
4 110 degrees centigrade by the Pensky Martin Closed Cup
5 Test, or 124 degrees centigrade by the Cleveland Open Cup
6 Test.

7 MR. ELLISON: And for the record, Mr. Couch's
8 answer was just given in centigrade whereas his testimony
9 is in Fahrenheit.

10 MS. HAMMOND: Right. And in your testimony you
11 state that the flash point of Therminol is 255 degrees
12 Fahrenheit; is that correct?

13 MR. COUCH: The MSDS I was reading from at that
14 time was in Fahrenheit, yes. The one I have now in front
15 of me is in centigrade.

16 MS. HAMMOND: Okay. And in centigrade that flash
17 point is 124 degrees centigrade?

18 MR. COUCH: There's two methods it was tested.
19 The Pensky Martin Method says it's 110 degrees centigrade;
20 and the Cleveland Open Cup, which is used more commonly,
21 it says 124 degrees centigrade.

22 MS. HAMMOND: Are you aware of the Cal/OSHA
23 regulations, that's California Code of Regulations
24 Title 8, Section 5191, that requires a flash point is the
25 minimum temperature at which a liquid gives off vapor in

1 sufficient concentration to ignite when tested by one of
2 three acceptable methods?

3 MR. COUCH: No.

4 MR. ELLISON: Ms. Hammond, if I could just ask
5 for a clarification.

6 Your question, as I understood it, the last
7 question was simply asking is that what that statute or
8 regulation states?

9 MS. HAMMOND: No. I'm asking him if he's aware
10 that that regulation identifies a flash point as the
11 minimum temperature at which the liquid starts to give off
12 vapor rather than a higher temperature.

13 MR. ELLISON: You are asserting that that's what
14 it says and asking him if he agrees if that's what it
15 says?

16 MS. HAMMOND: Is he aware that that's what it
17 says.

18 MR. ELLISON: Okay. Well, just to clarify,
19 Mr. Couch, was your answer that you're not aware or
20 unaware of what that provision says?

21 MR. COUCH: I am not aware of what that provision
22 is.

23 MR. ELLISON: You're not expressing an opinion
24 one way or the other.

25 MR. COUCH: No, I am aware of what that provision

1 states.

2 MS. HAMMOND: Is it true that the flash point
3 test is conducted at standard pressure?

4 MR. COUCH: I believe it is, yes.

5 MS. HAMMOND: So at this site, at the Abengoa
6 site, the Therminol will be operated at about 400 degrees
7 Celsius; is that right?

8 MR. COUCH: Convert that to Fahrenheit, please.

9 MS. HAMMOND: About 750 degrees Fahrenheit.

10 MR. COUCH: Approximately, yes.

11 MS. HAMMOND: And at -- would it be operated at
12 an elevated pressure?

13 MR. COUCH: Yes, it would be.

14 MS. HAMMOND: Thank you. Isn't it true that
15 benzene is flammable?

16 MR. COUCH: Yes, it is.

17 MS. HAMMOND: Does benzene exist in the heat
18 transfer fluid?

19 MR. COUCH: Benzene exists in the byproduct of
20 the heat transfer fluid, yes.

21 MS. HAMMOND: Do you know if heat transfer fluid
22 may decompose under elevated temperatures into diphenyl
23 ether -- ether, excuse me?

24 MR. COUCH: State that question again, please.

25 MS. HAMMOND: I'm sorry, would you please excuse

1 me for a second?

2 Mr. Couch, I'm going to go to Exhibit 3, which is
3 the applicant's data request response submitted on
4 November 23rd, 2009.

5 HEARING OFFICER VACCARO: Do you have a --

6 MR. COUCH: Don't have a copy of --

7 HEARING OFFICER VACCARO: Excuse me. I'll handle
8 that. Thank you.

9 Thank you for referencing the exhibit that you'd
10 like him to speak to. I think at this point though you
11 might be the only one in the room who has that language --

12 MS. HAMMOND: Okay, I'm sorry.

13 HEARING OFFICER VACCARO: -- that document. So
14 if you're going to ask him to speak to whatever the
15 language is, we certainly need to make it available to
16 him.

17 So I think if there's any way that you can get
18 that done quickly, maybe you could continue with the line
19 of questioning, come back to that, and in the meantime
20 perhaps someone could assist you in making a copy or two
21 so that the witness and the witness's attorney have the
22 opportunity to review that document. So if we could just
23 handle it that way, I think that's the most efficient and
24 appropriate way of addressing that.

25 MS. HAMMOND: Thank you.

1 Mr. Couch, at page 5, line 2 of Exhibit 52 you
2 state that staff was in error in claiming that the heat
3 transfer fluid is an oxygenated fluid; is that correct?

4 MR. COUCH: I made that statement, yes.

5 MS. HAMMOND: How would you define "oxygenate"?

6 MR. COUCH: I believe the HTF does not have any
7 free-flowing oxygen element in it. It has a single oxygen
8 molecule. But when it's in the system, it's blanketed by
9 nitrogen. And from talking with a couple of engineers
10 that I -- chemists that I discussed with, that they didn't
11 feel that this qualified as oxygenated just because it had
12 a single oxygen molecule.

13 MS. HAMMOND: So your understanding of the
14 definition of "oxygenate" depends on your understanding as
15 communicated to you by other persons; is that correct?

16 MR. COUCH: That is correct.

17 MS. HAMMOND: Do you agree that Therminol is a
18 mixture of diphenyl ether?

19 MR. ELLISON: Sorry. A mixture, and then you
20 only identified one thing. Do you mean -- I'm sorry,
21 maybe the witness understood the question, but I did not.
22 Could you repeat it?

23 MS. HAMMOND: Therminol is a mixture of 73 and a
24 half percent diphenyl ether?

25 MR. ELLISON: Okay. So you're saying it includes

1 that substance; is that correct?

2 MS. HAMMOND: Yes.

3 MR. ELLISON: Okay. I'm sorry.

4 HEARING OFFICER VACCARO: Was that question asked
5 and answered or was -- it sounded as though the question
6 was rephrased.

7 So if you might, please, answer the rephrased
8 question, that would be helpful.

9 MR. COUCH: Okay. The MSDS here lists two
10 chemicals, biphenyl and diphenyl ether. Diphenyl ether is
11 73.5 percent of the product, yes.

12 MS. HAMMOND: Thank you. Doesn't the word
13 "ether" mean it contains oxygen as part of its chemical
14 structure?

15 MR. COUCH: I am not a chemist, I was a
16 firefighter. So my answer to that would be I don't know.

17 HEARING OFFICER VACCARO: Okay. Ms. Hammond, it
18 appears that someone on your behalf was kind enough to
19 make some copies of Exhibit 3 that you had previously
20 referenced. If this is an appropriate time, why don't we
21 go ahead and turn our attention to that.

22 Mr. Ellison, do you have a copy of the document
23 identified as Exhibit 3? It says "Public Health" at the
24 top. First line item would be item 83.

25 MR. ELLISON: I do.

1 HEARING OFFICER VACCARO: Okay. Mr. Couch, do
2 you have this document in front of you as well?

3 MR. COUCH: I do.

4 HEARING OFFICER VACCARO: Okay. Ms. Hammond, go
5 ahead.

6 MS. HAMMOND: Thank you.

7 Exhibit 3 is applicant's data request response to
8 staff's data request. The page we are looking at is
9 page 60, and it is applicant's response to a question in
10 the topic area of public health, question 83.

11 HEARING OFFICER VACCARO: Do we have a question?

12 MS. HAMMOND: I do.

13 Mr. Couch, do you see under item 83 in
14 applicant's response, just after the middle of the page,
15 the paragraph reading, "According to data provided by the
16 HTF manufacturer as analyzed by the project engineering
17 staff, the amounts of benzene, toluene, and phenol in the
18 decomposition off gas would be as follows"? And it lists
19 benzene there.

20 MR. COUCH: Yes, I see that.

21 MS. HAMMOND: Do you agree that the applicant has
22 admitted that benzene and other VOCs are present in trace
23 amounts?

24 MR. COUCH: In the decomposition of the fluid,
25 yes.

1 MS. HAMMOND: In the circulating heat transfer
2 fluid?

3 MR. COUCH: In the decomposition of the
4 circulating heat transfer fluid, yes.

5 MS. HAMMOND: Given the large volume of the heat
6 transfer fluid at the power plant, 2,300,000 gallons at
7 the power plant, would even a trace amount be equivalent
8 to a very large amount of benzene and other VOCs in
9 circulating heat transfer fluid?

10 MR. ELLISON: Objection. It's vague, "very large
11 amount."

12 MS. HAMMOND: Well, I identified 2.3 million
13 gallons.

14 MR. ELLISON: But your asking "a very large
15 amount" was with reference to the amount of off gassing,
16 not the total volume of the product.

17 HEARING OFFICER VACCARO: So perhaps,
18 Ms. Hammond, you know where you're going with your
19 question, if you could perhaps simplify the question.
20 That would make it easier, perhaps, for everyone to
21 understand, to get a meaningful response.

22 MS. HAMMOND: Would even a trace amount of
23 benzene as off gas, as -- I'm sorry.

24 I withdraw that question.

25 HEARING OFFICER VACCARO: Okay. Thank you.

1 MS. HAMMOND: Mr. Couch, you stated that the
2 oxygen molecule in the heat transfer fluid is blanketed in
3 nitrogen; is that correct?

4 MR. COUCH: No. Say that again, please.

5 MR. ELLISON: Objection. That is not what -- his
6 testimony.

7 MS. HAMMOND: You stated that the Therminol is
8 blanketed in nitrogen --

9 MR. COUCH: Yes, it is.

10 MS. HAMMOND: -- is that correct?

11 Can you explain why it's blanketed in nitrogen?

12 MR. COUCH: To prevent decomposition, to keep
13 oxygen away from the fluid.

14 MS. HAMMOND: And why do we need to keep oxygen
15 away from the fluid?

16 MR. COUCH: To prevent decomposition.

17 MS. HAMMOND: Would you disagree that it's also
18 to prevent it catching fire?

19 MR. COUCH: I've got to think about that one.

20 No. Here -- no, nitrogen is there in the system
21 to prevent oxygen from getting to the Therminol.

22 MS. HAMMOND: Is that your answer?

23 MR. COUCH: That's my answer, yes, it's just to
24 prevent it from getting to the Therminol.

25 MS. HAMMOND: Do you know why it's necessary to

1 prevent oxygen from reaching the Therminol?

2 MR. COUCH: Decomposition, to prevent the --

3 MS. HAMMOND: And that is the only reason why?

4 MR. COUCH: Yes.

5 MS. HAMMOND: Okay. Mr. Couch, do you know if
6 nitrogen is circulating among the parabolic troughs?

7 MR. COUCH: It is not.

8 MS. HAMMOND: So where is the nitrogen
9 circulating?

10 MR. COUCH: In any of the process vessels that --
11 the expansion vessels that the oil may be circulating
12 through.

13 MS. HAMMOND: And how many miles of piping are
14 there?

15 MR. COUCH: I have no idea.

16 MR. ELLISON: If I could offer, the questions of
17 this nature that go to the specific design of the Mojave
18 Solar Project as opposed to the history of the other
19 projects, which Mr. Couch is principally being offered to
20 testify about, are better directed to Mr. Redell. He's on
21 the phone. He's previously sworn. If staff wishes to
22 pose those kinds of questions to Mr. Redell, we can add
23 him to the panel.

24 MS. HAMMOND: Thank you. I will direct my
25 questions about project design to Mr. Redell.

1 My questions to Mr. Couch do go to the testimony
2 that he's presented, and it has to do with the chemistry
3 and whether or not the heat transfer fluid is flammable or
4 combustible.

5 HEARING OFFICER VACCARO: Okay. Fair enough.

6 And I'm not sure that project design is truly on
7 the table for today's discussion, but in asking these
8 questions, I think you do understand that you may be going
9 outside of the scope of the testimony that's presented and
10 you may very well be getting significant answers where the
11 answer is "I don't know, that's beyond the scope of my
12 knowledge and beyond the scope of my testimony."

13 So if we're going to continue down that train of
14 questioning, please understand that, and that at a certain
15 point we may very well need to cut it off if it appears
16 that we're going too far beyond the scope of the
17 testimony.

18 MS. HAMMOND: Mr. Couch, on page 6 you state that
19 the project does not have a natural gas interface and does
20 not use heaters; is that correct

21 MR. COUCH: That does not use natural gas-fired
22 heaters, that is correct.

23 MS. HAMMOND: Did you know that the project has
24 two heaters?

25 MR. COUCH: Has what?

1 MS. HAMMOND: Two heaters.

2 MR. COUCH: Yes.

3 MS. HAMMOND: And do you know what the purpose of
4 those heaters are?

5 MR. COUCH: Freeze protection.

6 MS. HAMMOND: So is there an interface between
7 the gas-fired heaters and heat transfer fluid?

8 MR. ELLISON: Objection. He did not testify that
9 there are gas-fired heaters.

10 HEARING OFFICER VACCARO: Sustained. Rephrase.

11 MS. HAMMOND: I'll withdraw the question.

12 Mr. Couch, you testified today that the project
13 has on-site worker safety and fire protection staff and
14 equipment.

15 MR. COUCH: It is the intent of the management of
16 Mojave Solar to meet the criteria of the NFPA 850,
17 industrial fire safety.

18 MS. HAMMOND: Okay. Thank you. Will you
19 identify the equipment that the applicant will have on
20 site?

21 MR. COUCH: The minimum equipment as outlined in
22 industrial fire protection NFPA 850. I cannot identify
23 that as per vehicle or a specific type of equipment. I
24 don't have that NFPA section in front of me.

25 MS. HAMMOND: And you would have worker safety

1 and fire protection staff. Precisely how would that staff
2 be trained?

3 MR. COUCH: The same way as we trained the staff
4 at Kramer Junction. We would bring in certified trainers.
5 At Kramer Junction we had 25 certified firefighter ones,
6 state certified firefighter ones. We had 25 certified
7 EMTs. And we had 25 individuals, the same 25 individuals
8 that were haz mat certified, also.

9 MS. HAMMOND: You said you had 25 trained
10 individuals.

11 MR. COUCH: At the Kramer facility, yes, when I
12 was there.

13 MS. HAMMOND: Do you know if those same 25
14 individuals are still there?

15 MR. COUCH: I do not --

16 MR. ELLISON: Objection --

17 MR. COUCH: Oh.

18 MR. ELLISON: -- irrelevant.

19 MS. HAMMOND: Applicant is making the case that
20 they would like to support a fire brigade on site, and we
21 would like to establish, you know, make clear that the --
22 to the committee, that that brigade, you know, whether or
23 not it has been able to sustain itself.

24 HEARING OFFICER VACCARO: I'm not sure how that's
25 relevant to the issue at hand. The issue at hand is

1 whether or not -- or the issue in part is whether or not
2 the fire protection measures that the project intends to
3 implement have efficacy, and if so, what is it. And they
4 were saying that it would modeled off what has been done
5 at another site. I'm not sure whether or not 25
6 individuals are still there and it's the same 25
7 individuals lends itself to the issues that the committee
8 is being asked to address.

9 MS. HAMMOND: Well, I think it does go to whether
10 or not a privately-supported fire brigade can sustain
11 itself, whether or not it's still in existence. And in
12 the case that we're aware of, it is not in existence.

13 HEARING OFFICER VACCARO: Okay. I think your
14 point is made. But what you have before you is a witness
15 whose opinion you're soliciting, you're asking for fact
16 and you're asking for opinion, and it needs to be directly
17 germane to the testimony that was given by this
18 individual. I think you are starting to exceed the scope
19 and go into argument as opposed to solicitation of
20 information.

21 MS. HAMMOND: Mr. Couch, you mention that there
22 was a mutual-aid agreement signed and it was in existence
23 from 1995 to 2005 --

24 MR. COUCH: That is correct.

25 MS. HAMMOND: -- at Kramer Junction; is that

1 right?

2 MR. COUCH: That is correct.

3 MS. HAMMOND: Mr. Couch, you stated that the
4 Abengoa Project would be safer than the Harper -- the
5 other Harper Lake Project and the Kramer Project --

6 MR. COUCH: Yes, I did.

7 MS. HAMMOND: -- is that right?

8 You mentioned that one of the reasons why it's
9 safer -- it would be safer is because it would have more
10 modern technology and capabilities; is that right?

11 MR. COUCH: That is correct.

12 MS. HAMMOND: Can you explain the differences
13 between the technologies and capabilities at Abengoa as
14 compared with, say, Harper Lake?

15 MR. COUCH: Harper Lake is a lot of manual --
16 float controls manual operations, where Abengoa would be a
17 lot more automation, and therefore, threshold limits would
18 be closely -- closer monitored and activities. That's
19 all.

20 MS. HAMMOND: Mr. Couch, in your testimony on
21 page 6, line 20 you state that the project has, quote,
22 "advanced seals, valves, hoses and joints that will serve
23 to ensure minimal loss of heat transfer fluid." Do you
24 see that?

25 MR. COUCH: Yes, I do. The -- yes, I see it.

1 MS. HAMMOND: My next question is have you
2 examined the failure rate of these advanced systems?

3 MR. ELLISON: Objection. Failure rate where?

4 MS. HAMMOND: At the seals.

5 MR. ELLISON: I mean --

6 HEARING OFFICER VACCARO: The question -- I
7 understood your objection. I'm going to overrule it.
8 It's -- I think the question is one that he can answer
9 based on however he's understanding the question. And if
10 Ms. Hammond feels she needs to rephrase it based on the
11 answer, she can do that. I think he can answer the
12 question as posed.

13 MR. ELLISON: Can I suggest a rewording that I
14 would be comfortable with at least?

15 MS. HAMMOND: Let me try.

16 MR. ELLISON: You don't have to accept it, but
17 are you asking is he familiar with the reputation for
18 reliability of this equipment?

19 Is that a fair rewording?

20 MS. HAMMOND: I'm sorry, I didn't hear that.

21 MR. ELLISON: The reputation for reliability of
22 this equipment; is that what you're asking?

23 MS. HAMMOND: No, not the reputation, the failure
24 rate.

25 HEARING OFFICER VACCARO: I think here's what

1 we'll do: We're going to let Ms. Hammond go ahead and --
2 the question was asked, the witness may answer. If there
3 is further development of that question, Ms. Hammond can
4 do it. And you will certainly have the opportunity to do
5 redirect if you feel that it's necessary in any way.

6 MR. ELLISON: That's fine.

7 MR. COUCH: The question again, please?

8 MS. HAMMOND: Let me rephrase it, and I'll try to
9 break it down.

10 You identify a number of design features in the
11 project that are intended to ensure minimal loss of heat
12 transfer fluid; is that right?

13 MR. COUCH: Yes.

14 MS. HAMMOND: And one of those design features is
15 advanced seals; is that right?

16 MR. COUCH: Yes.

17 MS. HAMMOND: And have you examined the failure
18 rate for the advanced seals of the type that are going to
19 be used at the project?

20 MR. COUCH: Yes.

21 MS. HAMMOND: And what is that failure rate?

22 MR. COUCH: At NSO, the Nevada Solar One Project
23 in Boulder City, the new seals have been installed
24 September of -- I need some help when they went online.

25 HEARING OFFICER VACCARO: Let the record reflect

1 that Mr. Couch was getting a specific date from Mr. Frier,
2 who is the COO of Abengoa Solar.

3 MR. COUCH: Nevada Solar One went online sometime
4 in 2007, beginning of 2007, and as of today has not had a
5 seal failure.

6 MS. HAMMOND: Did you say November of 2007?

7 MR. ELLISON: I believe he said sometime.

8 MR. COUCH: Sometime in 2007.

9 MS. HAMMOND: So you have looked at the failure
10 rate of one project for --

11 MR. COUCH: Five, five seals. Ten seals.

12 MS. HAMMOND: Ten seals on one project --

13 MR. COUCH: Yes.

14 MS. HAMMOND: -- since late 2007; is that right?

15 MR. COUCH: Yes.

16 MS. HAMMOND: Have you looked at the failure rate
17 for the valves that are proposed at the Abengoa Project?

18 MR. COUCH: Yes. New packing materials have been
19 developed over the last 20 years that these SEGS plants
20 have been in operation, and the new packing materials are
21 significantly better than they were even six years ago,
22 with synthetics, et cetera.

23 Valve stem failures and valve leaks are something
24 that's not even -- not even really -- does not even happen
25 today. I believe over -- during my time at Nevada Solar

1 One, I don't believe that we had a single valve stem
2 failure or packing failure on a valve.

3 MS. HAMMOND: So again, your examination of the
4 failure rates is based on one project in operation since
5 late 2007.

6 MR. COUCH: The only solar project of trough-type
7 design that has been built in the last 15 years, yes.

8 MS. HAMMOND: I have no further questions.

9 HEARING OFFICER VACCARO: Okay. Then for
10 Mr. Couch, it appears that you didn't have any at all for
11 the witnesses; is that correct, so can we move forward?

12 MS. HAMMOND: Oh, I'm sorry, I have questions for
13 Mr. Nickell. Those were all my questions for Mr. Couch at
14 this point.

15 HEARING OFFICER VACCARO: Okay. We have a choice
16 here. We can go ahead and, because Mr. Brizzee did
17 preserve his right on behalf of the county to also engage
18 in cross-examination on this point, we can either move
19 forward with that if Mr. Brizzee has questions, or we can
20 go ahead and find out if you want to do redirect based on
21 Ms. Hammond's, then make the witness available to
22 Mr. Brizzee.

23 Mr. Ellison, what's your pleasure?

24 MR. ELLISON: I think I'd prefer to do the
25 redirect after all the cross has been completed.

1 HEARING OFFICER VACCARO: Okay. Thank you.

2 Mr. Brizzee, do you have any cross-examination
3 for either of these witnesses?

4 MR. BRIZZEE: Are you talking just Mr. Couch?

5 HEARING OFFICER VACCARO: Mr. Couch in
6 particular.

7 MR. BRIZZEE: Yes, I do. I wasn't sure if
8 Ms. Hammond was going to complete her examination,
9 cross-examination of the panel, or do you want to go
10 witness by witness?

11 HEARING OFFICER VACCARO: What we're going to do
12 is go witness by witness. She indicated that has
13 completed her examination of Mr. Couch.

14 Mr. Ellison would like to handle any redirect as
15 necessary after all of the cross is done of a given
16 witness.

17 So why don't we move forward with any questions
18 you might have.

19 MR. BRIZZEE: All right. Thank you.

20 HEARING OFFICER VACCARO: And again, if you would
21 just identify yourself for the record, please.

22 MR. BRIZZEE: Yes. Bart Brizzee, deputy county
23 counsel for the County of San Bernardino.

24 CROSS-EXAMINATION

25 MR. BRIZZEE: Mr. Couch, I had a question that

1 was alluded to by Ms. Hammond on the subject of the
2 operating temperature of the heat transfer fluid.

3 MR. COUCH: Yes.

4 MR. BRIZZEE: You indicated in your testimony,
5 page 5, around line 5 that the flash point is 255 degrees
6 Fahrenheit and that that computes to something centigrade
7 under the current MSDS; is that right?

8 MR. COUCH: On the MSDS that I looked at, it was
9 in Fahrenheit. The one I have in front of me is in
10 Celsius. I don't know what the conversion is offhand.

11 MR. BRIZZEE: But the operating temperature of
12 the heat transfer fluid is well in excess of its flash
13 point; is that correct?

14 MR. COUCH: That is correct.

15 MR. BRIZZEE: So would that mean that if it gets
16 access to oxygen, it will burst into flame?

17 MR. COUCH: Not necessarily. That has not proven
18 to be fact.

19 MR. BRIZZEE: So even at 700 degrees it won't
20 burst into flame --

21 MR. COUCH: We --

22 MR. BRIZZEE: -- 700 degrees Fahrenheit?

23 MR. COUCH: We have witnessed -- I have witnessed
24 leaks in the system in excess of 700 degrees Fahrenheit
25 where it has not gone to fire, gone to flame.

1 MR. BRIZZEE: You're aware of the heat transfer
2 fluid fire in 1999 at SEGS I and II?

3 MR. COUCH: Yes.

4 MR. BRIZZEE: And that was allowed to burn for
5 two days; is that right?

6 MR. COUCH: Yes.

7 MR. BRIZZEE: And, in fact, it caused extensive
8 damage to the plant?

9 MR. COUCH: Yes.

10 MR. BRIZZEE: Do you know to what extent it was
11 damaged as a result of that fire?

12 MR. COUCH: The heat transfer fluid used at
13 SEGS I in that fire was a Caloria, which is totally
14 different than the Therminol used at Mojave Solar.

15 MR. BRIZZEE: But the plant was extensively
16 damaged, right?

17 MR. COUCH: Yes, it was.

18 MR. BRIZZEE: Was it in the thousands, hundreds
19 of thousands, millions of dollars; do you know?

20 MR. COUCH: I was never privy to the dollar
21 amount.

22 MR. BRIZZEE: Now, at page 6 of your testimony
23 you indicated -- well, let me back up and ask this:
24 You're not suggesting, are you, that there is no fire
25 hazard if this plant is built as it's designed, are you?

1 MR. COUCH: Say that again, please.

2 MR. BRIZZEE: Are you suggesting there is no fire
3 hazard if this plant is built as per design?

4 MR. COUCH: No, I am not.

5 MR. BRIZZEE: In fact, that's why on page 6 of
6 your testimony, again around line 5, you make great --
7 sorry, I won't editorialize -- but you say, "In addition
8 to the fixed fire protection system, there be fire alarms,
9 smoke detectors, flame detectors, high-temperature
10 detectors, and fire hydrants."

11 Now, am I correct that the reason that a project
12 like this is required to have fire suppression and fire
13 prevention systems like this is because there is a
14 realistic chance of fire occurring?

15 MR. COUCH: There is potential for fire to occur.

16 MR. BRIZZEE: Thank you.

17 MR. COUCH: Even in this room, there is potential
18 for fire to occur.

19 MR. BRIZZEE: And if I understand your background
20 correctly too, you concluded your employment with
21 San Bernardino County in 2000?

22 MR. COUCH: Yes.

23 MR. BRIZZEE: And you have been employed in the
24 private sector since then.

25 MR. COUCH: Yes.

1 MR. BRIZZEE: Not in county government.

2 MR. COUCH: That is correct.

3 MR. BRIZZEE: So in terms of what information you
4 would have been privy to as a county employee, you
5 wouldn't have access to that today and you wouldn't have
6 had it over the past ten years.

7 MR. COUCH: I kept very good notes while I was
8 working for the county fire department to fall back on. I
9 have several ledger books at the house that have
10 information on it from when I worked for the county that I
11 can fall back on.

12 MR. BRIZZEE: But that's been ten years ago,
13 right?

14 MR. COUCH: That's ten years ago, that's correct.

15 MR. BRIZZEE: And so you wouldn't have the
16 ability today or the access to the information you would
17 have had when you were a county employee ten years ago.

18 MR. COUCH: NFPA codes are available to the
19 public, international fire codes are available to the
20 public. That type of information, yes, I would have
21 available.

22 MR. BRIZZEE: So information publicly you would
23 have had access to.

24 MR. COUCH: Right. Right.

25 MR. BRIZZEE: But in terms of the inner workings

1 of the county that you might have known about because of
2 your employment there, you wouldn't know about that.

3 MR. COUCH: No.

4 MR. BRIZZEE: And you haven't known about that
5 for ten years, correct?

6 MR. COUCH: Correct.

7 MR. BRIZZEE: There was a question about the
8 types of heaters. There are heaters as this project is
9 designed, right?

10 MR. COUCH: Yes.

11 MR. BRIZZEE: Because --

12 MR. COUCH: That's -- that's a project design
13 question.

14 MR. BRIZZEE: Well, I'll ask you --

15 HEARING OFFICER VACCARO: Okay. Why don't we --
16 why don't we do this: We need to have the person who's
17 asking a question ask a full and complete question. When
18 that's finished, we'll have the answer. It makes the
19 transcript easier, and it makes it far easier for the rest
20 of us to understand what's going on.

21 So, Mr. Brizzee, if you'd go ahead, ask your
22 complete question, the witness has the opportunity to
23 answer as he deems best. And if it turns out that it is
24 something that he cannot answer, he will so notify us.

25 MR. BRIZZEE: Fair enough, thank you. And I

1 apologize for stepping on the witness's testimony.

2 Mr. Couch, do you know if there are heaters that
3 are in the design of this project?

4 MR. COUCH: Yes, there are heaters in the design
5 of this project.

6 MR. BRIZZEE: And there are two of them?

7 MR. COUCH: I don't know the exact number.

8 MR. BRIZZEE: Do you know what kind of heaters
9 they are?

10 MR. COUCH: They would be -- the heat medium
11 would be steam.

12 MR. BRIZZEE: And how is the steam made?

13 MR. COUCH: Coming from the solar.

14 MR. BRIZZEE: Is there any fire hazard involved
15 in heating of potentially frozen pipes?

16 MR. COUCH: State that question again, please.

17 MR. BRIZZEE: Is there any fire hazard incident
18 to heating the pipes with steam-generating heaters?

19 MR. ELLISON: I'm sorry, I missed that question.
20 Could you repeat it?

21 MR. BRIZZEE: Is there any fire hazard incident
22 to using steam to heat the pipes as this project is
23 designed?

24 MR. COUCH: To use steam to heat the pipes? No.

25 MR. BRIZZEE: Correct.

1 And how is the steam made; do you know that?

2 MR. COUCH: The steam is produced through the
3 mirrors, through the heating of the heat transfer fluid by
4 the sun converting through a heat exchanger and boiling
5 water to create steam.

6 MR. BRIZZEE: One of the questions that
7 Ms. Hammond asked you, the answer that came out was
8 something about a standby fire engine. Do you recall that
9 testimony?

10 MR. COUCH: Yes.

11 MR. BRIZZEE: And forgive me, I understood it
12 had -- it was a standby fire engine from San Bernardino
13 County?

14 MR. COUCH: Negative. It was from Kern County.

15 MR. BRIZZEE: All right.

16 MR. COUCH: Even it was requested through
17 San Bernardino County and Kern County was the closest
18 engine, and they are the one that responded.

19 MR. BRIZZEE: Thank you.

20 That's all the questions I have of this witness.

21 HEARING OFFICER VACCARO: Thank you.

22 Mr. Ellison, did you want to at this time take an
23 opportunity for any redirect?

24 MR. ELLISON: Yes, just a couple questions.

25 And actually, as I've offered to the committee,

1 some of these questions are really more properly directed
2 to Mr. Redell who is more familiar with the specific
3 proposed design of this project. Mr. Couch was offered
4 for his experience as a fire protection worker safety
5 person with experience on the existing plants.

6 So with the committee's indulgence, I can either
7 ask Mr. Couch, but one of my questions is better directed
8 to Mr. Redell, who is on the phone. So with the
9 committee's indulgence and the parties' indulgence, I
10 would like to ask one question of Mr. Redell.

11 HEARING OFFICER VACCARO: So do you have any
12 redirect at all then for Mr. Couch?

13 MR. ELLISON: I do have one question for
14 Mr. Couch.

15 HEARING OFFICER VACCARO: Okay. So why don't we
16 handle -- finish that up, and then we'll address your
17 question.

18 MR. ELLISON: Okay.

19 REDIRECT EXAMINATION

20 MR. ELLISON: Mr. Couch, you were asked by
21 Ms. Hammond a question concerning the reasons that the
22 proposed Mojave Solar Project will be safer, in your
23 opinion, than the Harper Lake Project. Do you recall
24 those questions?

25 MR. COUCH: Yes, I do.

1 MR. ELLISON: And in response you mentioned that
2 there's a greater amount of automation proposed for the
3 Mojave Project than exists at the Harper Project; do you
4 recall that?

5 MR. COUCH: Yes, I do.

6 MR. ELLISON: Are there other reasons that the
7 proposed Mojave Project would be safer than the Harper
8 Project, beyond the automation?

9 MR. COUCH: Gas-fired heaters are not used. In
10 the solar field all joints are being used at the Mojave
11 Project and not flex hoses, as is used at the Harper
12 facility.

13 MR. ELLISON: Thank you.

14 And then I have my one question for Mr. Redell,
15 if that would be permitted.

16 HEARING OFFICER VACCARO: Well, I think -- it
17 might be permitted. But I think we've got a panel of
18 witnesses here right now on this very specific topic of
19 fire safety. And I understand your point that you believe
20 that some of the questions have also gone to design and
21 that it is relevant to the discussion.

22 I think what we'll do is let's finish with this
23 panel for the questions that everyone might have, then
24 let's go ahead and have Mr. Redell, you can have him give
25 a brief summary of what it is that he can even testify to,

1 and then why don't you go ahead and ask him his question.

2 MR. ELLISON: Well, let me be clear here. I am
3 not proposing to offer new testimony from Mr. Redell; this
4 is redirect, this is a direct -- let me tell you what I
5 want to ask. I can ask it of Mr. Couch if you want, but I
6 just think Mr. Redell is better informed on the issue.

7 The question is we've had a number of questions
8 from the two counsel about these heaters and how they
9 might differ from the heaters at other projects and that
10 sort of thing. And that's my question. I wanted
11 Mr. Redell to speak to these heaters and whether they're,
12 in fact, even heaters or boilers and how they work.

13 HEARING OFFICER VACCARO: And I think it's a fair
14 question. And your point was understood; it wasn't lost
15 on me at all. But what I'm submitting is that we finish
16 with these two witnesses and then you're welcome to ask
17 Mr. Redell a question, because it is not truly redirect in
18 that sense.

19 MR. ELLISON: Okay. Fair enough.

20 That's all I have.

21 HEARING OFFICER VACCARO: Okay. Ms. Hammond, do
22 you have any questions of our other witness?

23 MS. HAMMOND: I do. Thank you.

24 HEARING OFFICER VACCARO: And I might ask that if
25 you need a few moments to sort of think about and collect

1 what your questions might be, that would be very helpful.
2 I think what's happened is a process that could go a
3 little more swiftly is being slowed down because I'm
4 finding that you are getting some assistance, which, of
5 course, is not a problem, but if you think you might need
6 a few moments first before you engage in cross, why don't
7 we do that so we can go ahead and move through these
8 questions fairly seamlessly.

9 MS. HAMMOND: I would appreciate that. Thank
10 you.

11 HEARING OFFICER VACCARO: Okay. So let's take
12 five minutes. 3:06 we return. And let's go through a
13 seamless question and answer.

14 (Recess.)

15 HEARING OFFICER VACCARO: We took a slight break.
16 We are getting ready to do the -- excuse me, everyone, I
17 am talking now, so it's helpful to me if you're not
18 talking.

19 We are about to do the cross-examination by staff
20 of Mr. Nickell.

21 Ms. Hammond, are you ready?

22 MS. HAMMOND: I am ready.

23 HEARING OFFICER VACCARO: All right. Let's go.

24 CROSS-EXAMINATION

25 MS. HAMMOND: Mr. Nickell I'm looking at the

1 final memorandum from you to John Mireau. This is your
2 study.

3 HEARING OFFICER VACCARO: Please identify if
4 there is an exhibit number that's attached to that just to
5 orient everybody and the record to the document that we're
6 speaking of.

7 MS. HAMMOND: That's Exhibit 52.

8 HEARING OFFICER VACCARO: Thank you.

9 MS. HAMMOND: And this is your study of the
10 proper allocation of the cost of fire services to the
11 Abengoa Project; is that right?

12 MR. NICKELL: That is correct.

13 MS. HAMMOND: And what are the factors that you
14 used to determine the percentage allocation?

15 MR. NICKELL: Service population, project
16 employment, county budgets, county cost for new stations,
17 county cost for new staffing.

18 MS. HAMMOND: Did you factor in the remoteness of
19 this location in determining that allocation?

20 MR. NICKELL: The only method that used a
21 remoteness-type criterion was method number 3, scenario
22 three, which took into account the risk matrix provided by
23 county fire.

24 MS. HAMMOND: And did you examine the cumulative
25 impacts of the project on fire and emergency services?

1 MR. ELLISON: When you say -- objection. When
2 you say the "cumulative impacts of the project," are you
3 referring to all the solar projects that are potentially
4 being developed or this same individual project?

5 MS. HAMMOND: I'm talking about this project.

6 MR. ELLISON: This project.

7 MS. HAMMOND: This project's impact -- the
8 cumulative impact of this project on fire services.

9 MR. NICKELL: I'm needing some clarification from
10 you on what "cumulative" means, but I examined the impact
11 for all fire services provided by the county to this
12 project.

13 MS. HAMMOND: You examined the impact -- did you
14 consider the impact on fire services created by this
15 project in addition to the other proposed solar projects
16 in the county?

17 MR. NICKELL: No.

18 MS. HAMMOND: Did you consider that this
19 project's exemption from property taxes would result in a
20 loss of funds to the fire department?

21 MR. ELLISON: Objection. Assumes a fact not in
22 evidence.

23 HEARING OFFICER VACCARO: Sustained.

24 MS. HAMMOND: Are you aware that this project is
25 exempt from property taxes?

1 MR. NICKELL: I am aware.

2 MS. HAMMOND: And did you consider that this
3 project's exemption from property taxes would result in
4 money that would otherwise go to the county to support
5 fire services?

6 MR. ELLISON: Objection. I don't understand the
7 question. Could you repeat it?

8 MS. HAMMOND: Did you consider that this
9 project's exemption from property taxes would result in
10 money that would go to support fire services were it not
11 exempt from property taxes?

12 MR. ELLISON: I still don't get it.

13 MS. HAMMOND: So if this project was not exempt
14 from property taxes, it would be required by the county to
15 pay funds to support the fire department; is that right?

16 MR. NICKELL: The point of the project is to
17 calculate the cost burden and not to find the revenues for
18 the fire department, so I did not ask any questions of my
19 analysis in the area of property taxes.

20 MS. HAMMOND: But you did analyze -- excuse me,
21 I'll withdraw that.

22 I have no further questions.

23 HEARING OFFICER VACCARO: Okay.

24 MS. HAMMOND: Thank you.

25 HEARING OFFICER VACCARO: Mr. Brizzee, did you

1 have any questions for Mr. Nickell?

2 MR. BRIZZEE: Thank you.

3 CROSS-EXAMINATION

4 MR. BRIZZEE: Who is John Mireau?

5 HEARING OFFICER VACCARO: Is that your question
6 for Mr. Nickell?

7 MR. BRIZZEE: Yes. His report's addressed to
8 John Mireau.

9 MR. NICKELL: My understanding is that John
10 Mireau is an attorney involved in land use law in
11 San Bernardino and Riverside County.

12 MR. BRIZZEE: So he's somehow involved in this
13 case.

14 MR. NICKELL: I believe so. I'll need to turn to
15 other people to tell me how.

16 MR. ELLISON: Well, I would say, A, the
17 question's irrelevant; but B, for the record, John Mireau
18 is an attorney employed by Abengoa.

19 MR. BRIZZEE: All right. Thank you.

20 No other questions.

21 HEARING OFFICER VACCARO: Do you feel any need
22 for redirect?

23 MR. ELLISON: No. No redirect.

24 HEARING OFFICER VACCARO: Does the committee have
25 a question or two for Mr. Nickell?

1 COMMISSIONER EGGERT: Actually, I do have a
2 couple of questions for Mr. Couch, too. Who should I
3 start with?

4 HEARING OFFICER VACCARO: Oh, why don't we finish
5 with Mr. Nickell, and then we can go ahead and ask your
6 question of Mr. Couch.

7 COMMISSIONER EGGERT: Okay. I'll start with
8 Mr. Nickell. And I shouldn't say that -- I'll probably be
9 asking more or less the same questions of both panels, the
10 applicant's and the staff's.

11 Having sort of tried to parse through some of the
12 financial information and the methodologies that were used
13 in your analysis and the analysis that the staff is
14 presenting, it seems like one of the big differences is
15 the estimate of sort of the proportional share.

16 And I guess for somebody who's not an expert in
17 this type of analysis, could you provide me a little bit
18 more information about sort of the standards that are
19 usually applied in this case? You sort of briefly
20 mentioned it in your testimony, but --

21 MR. NICKELL: The most easily defended standard
22 that any public agency could use to assess new development
23 for its share of cost, either capital cost or operating
24 cost, is the existing service standard. So you take a
25 look at what the agency budgets for a service, its

1 firefighting services basically, and you divide that among
2 its service population.

3 And it's perfectly safe under the Mitigation Fee
4 Act to ask for that amount of money from new development.
5 Once you start asking for more than that level, you get
6 into more complex questions about whether new development
7 has overpaid, will overpay. And there's a risk that if
8 you do not do the math right and you don't follow
9 standards of what gets divided by what, the cost is
10 divided by what denominator, you will assign too much cost
11 to new development.

12 And what that might mean is that solar projects
13 could pay for other people's services, other people's fire
14 stations, and not their portion of it.

15 So there's an existing stand, which I used in
16 scenario one; that's the amount that according to
17 capital -- approximate capital value of the fire stations
18 there and the operating costs, what they should pay, what
19 this particular project should pay.

20 Scenario two is a more generous standard for the
21 county. Scenario two is a system plan standard where you
22 mash together all the growth in fire stations and engine
23 companies that they would like, in addition to everything
24 they have today, and you get one big total in the future,
25 and I divide by everyone who's going to be living and

1 working in San Bernardino County or that part of the
2 county in the future.

3 And that's a standard which I do in table -- that
4 comes out in Table 8. That's a higher standard, at least
5 on the operating side. That standard gets me to the
6 second number, about \$300,000, lifetime.

7 So those are two methods that we offer our
8 clients in order to remain out of -- keep out of trouble
9 with defensibility. And what we want to avoid is that new
10 development overpays or pays for a deficiency in what
11 existing people and businesses have not paid for.

12 COMMISSIONER EGGERT: Okay. That's very helpful.
13 And I guess one thing I wasn't able to easily discern is
14 is there any significant difference in the additional
15 future capital with respect to these stations in your
16 analysis?

17 MR. NICKELL: That's another excellent question.

18 I took their numbers as is so as to give you more
19 of an apples-to-apples comparison. If I had more time, I
20 would like to make sure that I agree as a public finance
21 expert with their capital cost numbers, but they don't
22 look too bad to me.

23 COMMISSIONER EGGERT: So both for the -- I guess
24 it's the future population growth within those regions
25 plus the assumption about the capital requirements to

1 serve that population; the assumptions are the same in
2 both analyses?

3 MR. NICKELL: Yes, primarily, yes. The costs are
4 exactly the same. And a lot of these growth projections
5 and population numbers, the demographics, if you will,
6 presented by the Hoffman report, are carried over into
7 this phase.

8 COMMISSIONER EGGERT: Okay. One of the numbers I
9 saw in yours, which is an estimate of specifically jobs or
10 individuals that might be employed -- is it 80? Is that
11 by the facility?

12 MR. NICKELL: That's correct. That's also taken
13 by -- from the Hoffman report as they got it apparently
14 from the Land Use and Planning Department of the county.

15 COMMISSIONER EGGERT: Okay. I think that's
16 actually my main questions. I guess, is there anything
17 else that you can share in terms of the reasons why
18 there's such a dramatic difference in the final numbers?
19 Is it predominantly a proportional share? And actually,
20 maybe, one's sort of additional nuance as it relates to
21 the specific estimate of the need for the new facility in
22 terms of potential visits or other things; is that
23 factored into your analysis at all?

24 MR. NICKELL: Part of the difference, I'd have to
25 say about -- let me make sure I get this proportion right

1 for you. If you follow the risk matrix, the cost is only
2 about \$300,000 more than my scenario number two, to weight
3 the jobs is more -- as the jobs are at a facility that's
4 more dangerous, according to the county fire criteria.

5 Okay. So you use my methods but you lay over the risks,
6 which the applicant, by the way, does not agree with, the
7 maximum share should be about \$655,000. And I think the
8 major difference is they put the majority of cost on
9 growth instead of spreading it among existing development
10 and growth as you should, and then they put the majority
11 of industrial retail and office growth on solar. So
12 you've got a double heaping of costs on one industry, and
13 it gets translated into a very big cost for one project.

14 COMMISSIONER EGGERT: Okay. I have a few
15 questions for Mr. Couch.

16 COMMISSIONER BOYD: That's fine. Those last
17 statements took care of the question I had.

18 COMMISSIONER EGGERT: Okay. Just as Commissioner
19 Boyd gave a caveat about the Colusa project, I should
20 caveat or disclose that as I'm a mechanical engineer
21 that's worked as a process engineer at one point, in my
22 past had been involved in safety analysis and failure
23 modes effects analysis, et cetera, so I'm pretty familiar
24 with the terminology.

25 And actually, I was trying to figure out whether

1 or not this was a -- some of these were more appropriately
2 directed to the project design, Mr. Redell, but I would
3 maybe just to keep it as a high level, it's clear, I think
4 you answered pretty straightforward the question that
5 there is certainly a fire risk associated with this
6 project.

7 MR. COUCH: Yes.

8 COMMISSIONER EGGERT: And correct me if I'm
9 wrong, but based on your understanding of the facilities
10 that you've previously worked at and what you know about
11 the design of this new project, do you believe that this
12 project will have a lower risk of fire incidence? Is that
13 an accurate portrayal? I don't want to put words in your
14 mouth.

15 MR. COUCH: It will be a safer facility than the
16 existing SEGS in the State of California.

17 COMMISSIONER EGGERT: And, actually, I have a
18 fairly detailed technical question.

19 Is there information about the specific -- I know
20 that this question actually relates to both the material
21 and the design, so again, if it's not something that's
22 easily answerable -- with respect to the HTF that exists
23 in the old facilities versus what's anticipated, the
24 Therminol in the new facility, is there empirical evidence
25 of the relative potential for fire incidence with these

1 different materials?

2 And I can say kind of where I'm getting at is I'm
3 trying to understand if there's any reason to believe that
4 the incidence of frequency at this new facility would be
5 significantly -- materially would be different from the
6 old facilities. And I think you've provided some
7 information both through testimony and cross about that
8 point, but --

9 MR. COUCH: Therminol is used at the SEGS III
10 through VII plants and the SEGS VIII and IX plant.
11 Therminol would also be used at the Mojave plant. Caloria
12 was used at the SEGS I plant when the big fire occurred
13 there. The SEGS II plant uses Therminol.

14 COMMISSIONER EGGERT: Okay. And I think my other
15 question is probably more better directed to Mr. Redell;
16 but I guess you had testified to the fact that these are
17 following the applicable codes and standards for NFPA and
18 otherwise -- I guess is there any -- well, I'll withhold
19 that, the last question I think. Yeah, I think I have
20 everything that I need.

21 COMMISSIONER BOYD: I have no questions for this
22 witness.

23 HEARING OFFICER VACCARO: Okay. Thank you,
24 Mr. Couch and Mr. Nickell, for your testimony and for
25 coming today.

1 Mr. Ellison, I think this is the time that where
2 we turn to your request perhaps to have Mr. Redell address
3 some of the specific design-related questions that went to
4 the fire safety issue. And you are certainly welcome to
5 do that. You'd previously identified him as a potential
6 witness for today's proceeding. We've already heard from
7 Mr. Redell.

8 Let's make sure though, Mr. Redell, are you still
9 on the line?

10 MR. REDELL: I am.

11 HEARING OFFICER VACCARO: Okay. I don't know if
12 you were sworn in at any point today, but just to make
13 sure that we have that covered, if you would please raise
14 your right hand and the court reporter will swear you in.

15 MR. REDELL: Okay.

16 (Mr. Redell sworn.)

17 HEARING OFFICER VACCARO: So, Mr. Ellison, if,
18 perhaps just to make sure that we're all on the same page,
19 you can give us a little set up for Mr. Redell's
20 testimony, however you feel you need to do that, whether
21 it's through eliciting some sort of direct out of him or
22 if you want to set it up yourself.

23 MR. ELLISON: Well, this is in the nature of
24 redirect, and so I'm simply going to have --

25 ///

REDIRECT EXAMINATION

1
2 MR. ELLISON: Mr. Redell, you've been on the
3 line, did you hear the questions posed by the staff and
4 county to the panel regarding the operation of what were
5 described as heaters?

6 MR. REDELL: Yes, I did.

7 MR. ELLISON: Could you describe -- first of all,
8 is "heaters" the right word to describe these -- this
9 piece of equipment? And then could you describe how they
10 function and, in particular, anything relevant to their
11 fire hazard?

12 MR. REDELL: Sure. The project will have two
13 auxiliary boilers. These are small package boilers that
14 we purchase, connect to a natural gas supply, connect to a
15 water supply, and then connect steam so that we could use
16 the steam for heat in other locations in the plant. That
17 steam is then directed to heat exchangers, (inaudible)
18 heat exchangers, where the Therminol is passed through one
19 side of the heat exchanger, and the steam is on the other
20 side of the heat exchanger exchanging the heat, warming
21 the fluid and bouncing and going back to the auxiliary
22 boiler.

23 This is different than the burners that were used
24 or heaters that were used at SEGS VIII and IX in that they
25 were direct-fire burners, I believe they were Alzetta

1 Pro Cor burners used to actually heat the heat transfer
2 fluid directly firing tube. And the potential for a leak
3 there where the heat transfer fluid then leaked into the
4 fire box is where you can have the chance of an explosion,
5 which is what I believe happened at the SEGS VIII plant.

6 MR. ELLISON: Okay. Thank you.

7 And then one other topic that came up was the
8 property tax exemption of the Mojave Solar Project. Is it
9 your understanding that the property will pay property
10 tax?

11 MR. REDELL: It is my understanding that the
12 property will pay -- the project will pay property tax.

13 MR. ELLISON: Do you have any -- if you know, do
14 you have a sense of how much it will pay?

15 MR. REDELL: I don't have that information
16 directly in front of me.

17 MR. ELLISON: Okay. That's fine.

18 If the committee's interested, we can submit
19 evidence on that topic of what the property tax would be.

20 That's all I have.

21 HEARING OFFICER VACCARO: Thank you.

22 Ms. Hammond, did you have a question somewhat in
23 the nature of recross, even though this is really more
24 cross-like for Mr. Redell?

25 MS. HAMMOND: It's not in the nature of recross.

1 But I did have questions for Mr. Redell in the nature of
2 cross.

3 HEARING OFFICER VACCARO: Well, the subject of
4 his testimony we just heard. He wasn't presented as a
5 witness to give direct on a whole host of issues; so more
6 pointedly, do you have a question for Mr. Redell with
7 respect to the matters to which he just spoke?

8 MS. HAMMOND: No, I don't.

9 HEARING OFFICER VACCARO: Mr. Brizzee?

10 MR. BRIZZEE: No questions. Thank you.

11 HEARING OFFICER VACCARO: Okay. Thank you,
12 Mr. Redell.

13 MR. REDELL: You're welcome.

14 HEARING OFFICER VACCARO: Okay. Applicant,
15 anyone else that you are interested in presenting today to
16 provide direct testimony to supplement some of the written
17 testimony that you already presented?

18 MR. ELLISON: Not at this time with the
19 understanding of our concerns about revisiting our
20 objections and our desire to present further witnesses at
21 a later time.

22 HEARING OFFICER VACCARO: If need be. Okay.
23 Understood.

24 So I think let's make sure that we at least get
25 part of this closed up right now then with respect to the

1 current state of evidence and testimony by the applicant.
2 So what I would ask is for the applicant to go ahead and
3 move into the records, that we can get admitted into the
4 record, the evidence as we currently have it.

5 Again, if you needed to be guided by -- I think
6 it was Exhibit 48 seemed to be, at least for some of the
7 initial testimony, what we were looking at, was providing
8 some specificity. We referenced that in June 28th, so you
9 didn't have to go through everything, chapter and verse.

10 MR. ELLISON: Right. Well, it's my understanding
11 that Exhibit 48 is already in evidence and earlier today
12 we admitted Exhibit 52. And I think that's all we have,
13 so I think we're good.

14 HEARING OFFICER VACCARO: Okay. Applicant, do
15 you have any -- excuse me.

16 Staff, do you have any objections to that?

17 MS. HAMMOND: No objections.

18 HEARING OFFICER VACCARO: Mr. Brizzee?

19 MR. BRIZZEE: I'm sorry, just to identify, 58 --

20 HEARING OFFICER VACCARO: 48 has already been
21 admitted. It contained the -- basically identified all of
22 the various portions of the AFC data responses and a host
23 of other information that had previously been admitted
24 into the record on each topical area.

25 The new information was Exhibit 52, which is now

1 the supplemental testimony.

2 MR. BRIZZEE: And that's Mr. Couch and
3 Mr. Nickell.

4 HEARING OFFICER VACCARO: Yes.

5 MR. BRIZZEE: No objection.

6 HEARING OFFICER VACCARO: Thank you.

7 Okay. All of the applicant's current evidence
8 and testimony with respect to the topic of worker safety
9 and fire is now in the record.

10 Ms. Hammond.

11 MS. HAMMOND: Thank you. I'd like to call staff
12 witnesses Dr. Alvin Greenberg, Assistant Fire Chief Peter
13 Brierty, and Stanley Hoffman.

14 HEARING OFFICER VACCARO: Okay. And before we
15 hear from these individuals, I think just for a point of
16 clarification, there's a specific reason of course why the
17 applicant needed to put on direct testimony. They're
18 responding in part to written documentation that had
19 already been at least submitted although not admitted by
20 staff with respect to revised figures and the like.

21 So I guess my question is do we need to go
22 through the exercise of full direct testimony from
23 everyone; is it going to be a summary of testimony? What
24 is it that you envision that we're going to be doing?

25 MS. HAMMOND: Envisioning a summary of testimony,

1 some direct questions, which I think will be helpful to
2 the committee. And I don't anticipate those questions
3 being numerous, from me, anyway.

4 HEARING OFFICER VACCARO: So with that, why don't
5 we have these witnesses sworn in.

6 (Dr. Greenberg, Assistant Chief Brierty, and
7 Stanley Hoffman sworn.)

8 MS. HAMMOND: Would you like me to sit apart from
9 the panel?

10 HEARING OFFICER VACCARO: If that's more
11 convenient for you, because it might be somewhat odd for
12 you to keep doing this. So that's your convenience.
13 There is an empty seat here at the head of the table --

14 MS. HAMMOND: Oh, no, that's fine.

15 HEARING OFFICER VACCARO: -- if that's easier for
16 you. We can see everyone just fine.

17 MS. HAMMOND: Okay.

18 MR. ELLISON: So, Ms. Vaccaro, so we have a clean
19 record here, let me say something real quick.

20 We had actually filed in our hearing statement an
21 objection to the additional testimony that the staff
22 intends to present. And in addition, I note that staff is
23 presenting as part of their panel witnesses from the
24 county when the committee denied the county a request to
25 present witnesses themselves. So in a sense what the

1 staff is doing here is enabling the county to circumvent
2 the committee's ruling about presenting their witnesses.

3 We are going to withdraw our objection and allow
4 these witnesses to go forward, and that's the reason for
5 my statement, is to make clear that we are withdrawing
6 that objection.

7 HEARING OFFICER VACCARO: Thank you, Mr. Ellison.
8 As I think a point of clarification, because you weren't
9 at the pre-hearing conference and I was and I do recall
10 what I said, you're absolutely right, the county's ability
11 to participate and present witnesses is extremely limited.
12 Mr. Brizzee was allowed to engage in cross-examination.
13 However, what we stated was that because staff had already
14 been working with county employees in putting its case
15 together, they might be admitting information or
16 sponsoring testimony that might be coming from the county.

17 And yes, there is someone, an individual here, as
18 opposed to it just coming in through Mr. Greenberg, but I
19 think for the purposes of what we're really trying to
20 achieve, I'm not sure that staff is circumventing the
21 intent of what was stated by the committee at the
22 pre-hearing conference. And again, we'd rather allow
23 applicant the opportunity to ask all questions that it can
24 today and any that it may need to subsequently.

25 MS. HAMMOND: Thank you.

1 DIRECT EXAMINATION

2 MS. HAMMOND: Dr. Greenberg, did you prepare the
3 section entitled "Worker Safety and Fire Protection" in
4 the staff assessment. And that is Exhibit 300.

5 DR. GREENBERG: Yes, I did.

6 MS. HAMMOND: And did you prepare the section
7 entitled "Worker Safety and Fire Protection" in the
8 supplemental staff assessment, a document marked as
9 Exhibit 301?

10 DR. GREENBERG: Yes, I did.

11 MS. HAMMOND: And did you prepare the document
12 entitled "Supplemental Opening Testimony of Alvin
13 Greenberg, Ph.D., on Worker Safety and Fire Protection" in
14 the document marked Exhibit 313?

15 DR. GREENBERG: Yes, I did.

16 MS. HAMMOND: And was a statement of your
17 qualifications attached to these prepared testimonies?

18 DR. GREENBERG: At least the first one.

19 MS. HAMMOND: Okay. Do the opinions contained in
20 both the prepared opening testimony and the -- the
21 prepared opening testimony you are sponsoring represent
22 your best professional judgment?

23 DR. GREENBERG: Yes, it does.

24 MS. HAMMOND: Would you briefly summarize the
25 conclusions of your opening testimony?

1 DR. GREENBERG: I was -- briefly, and in the hope
2 that you'll ask me the question of a little bit of the
3 history, because the hearing officer has expressed some
4 concern over the timeliness of filing of certain
5 information, as has the applicant, and I think an
6 explanation as to why staff has filed this information
7 when it did is probably relevant to the proceedings.

8 HEARING OFFICER VACCARO: I think the motion was
9 made, we've ruled on it, the committee gave its opinion;
10 and I think on the issue of the timeliness, I think what
11 staff has been allowed to do is present this testimony
12 that you are going to give today. I'm not sure that the
13 committee does need to hear the history.

14 So what we'd like you to do is answer the
15 questions, please, that are posed by Ms. Hammond.

16 MS. HAMMOND: Please summarize your analysis and
17 the conclusions of your testimony.

18 DR. GREENBERG: Well, simply put and very
19 briefly, this facility does indeed propose a certain fire
20 hazard, but just as important, the need for emergency
21 response in other areas is also posed by this facility.
22 It's not just fire response, but there's also potential
23 need for rescue, emergency medical services, inspections
24 and permitting from the fire department, and then finally
25 hazardous material spill response.

1 What I found was that there was both a direct
2 impact to the fire department as well as a cumulative
3 impact based upon other reasonably foreseeable, in fact,
4 they're so reasonably foreseeable, these projects are
5 actually in the queue either before the energy commission
6 or before the county permitting authority, that the
7 impacts required mitigation under CEQA.

8 While staff always prefers that the applicant in
9 any power plant siting case negotiate and confer with the
10 local fire department, the authority having jurisdiction
11 in that matter, we are required to come up with a dollar
12 figure. And I did come up with a dollar figure, and I
13 certainly defend that dollar figure. And I open -- and
14 I'm open to questions about that figure.

15 MS. HAMMOND: Dr. Greenberg, can you explain
16 briefly for the committee why that dollar figure changed
17 in your supplemental opening testimony from that presented
18 in your original initial opening testimony?

19 DR. GREENBERG: Simply put, staff can only make
20 the best decision it can based upon the evidence that's
21 presented to us. And at the date of the staff assessment,
22 which -- oh, I have it right here, March 15th, 2010, I had
23 minimal information from the applicant and minimal
24 information from the San Bernardino County Fire
25 Department. And so not having enough information at the

1 time, I put in a figure that was based loosely on my
2 determination of what the need could be.

3 The applicant did not like that particular number
4 at that time and offered a solution of arriving at a
5 different figure by essentially letting the compliance
6 project manager decide the figure and that either the
7 county or the applicant, then the project owner after
8 certification could appeal to the commission if they
9 didn't like what the compliance project manager did,
10 assigned as the figure.

11 At that time though the county had indicated that
12 they were -- the county fire department indicated that
13 they were contracting with a consultant to give me a
14 better number. And through the months they did come up
15 with a better number.

16 And once I got that information, I did do a
17 critical review analysis, and the number came up to be
18 much higher.

19 Then the county fire department even gave me more
20 information and came up with a number that was a little
21 bit lower.

22 So I've actually been working with three
23 different numbers, my initial number, one from the county,
24 that number, number two, and then the number three, which
25 is what you see before you in my supplemental staff

1 assessment.

2 It was an ongoing process. I want to add that
3 this is the best effort, most objective and professional
4 effort I have ever seen a fire department provide to staff
5 on a CEC siting case. And I've been working with the
6 commission for 16 years.

7 And so the simple answer, Ms. Hammond, is we work
8 with the information that we get. And all this time,
9 since the date of the staff assessment, March 15th, the
10 applicant has been aware that there is a process whereby
11 if they don't like the number that staff has, they can
12 provide additional information to counter that number.

13 MR. ELLISON: I'm going to object. This is not a
14 summary of testimony, this is a procedural argument. You
15 already ruled on the timeliness of the testimony.

16 MS. HAMMOND: I'm asking for a summary of why his
17 dollar figure changed.

18 HEARING OFFICER VACCARO: And I think what we
19 need to do then is keep it to the evidence and the facts.
20 Mr. Greenberg is testifying that essentially he had
21 greater evidence as time went on, and I think the
22 editorial parts of it we could leave out and stick to the
23 actual data and the chronology of the evidence.

24 And if it's -- if the answer has been given, then
25 why don't you move on to the next question. And if

1 there's more to the answer that's just the facts, then
2 let's stick to them.

3 MS. HAMMOND: Okay. Thank you.

4 Dr. Greenberg, did you develop the emergency
5 response matrix which is Exhibit 316?

6 DR. GREENBERG: Yes, I did.

7 MS. HAMMOND: And what is the purpose of the
8 emergency response matrix?

9 DR. GREENBERG: In a meeting with San Bernardino
10 County Fire Department and their consultant, Mr. Hoffman
11 and Chief Brierty was there, they asked me if I had a more
12 analytical method of determining the relative need for
13 emergency response enhancement or -- not just enhancement,
14 but emergency response needs.

15 I said yes, I could work on a more objective
16 approach.

17 And, Ms. Hammond, if you notice in that matrix,
18 it doesn't ascribe any dollar amount, but, rather, it
19 lists a relative need of importance for emergency
20 response.

21 MS. HAMMOND: I would like to ask in your 20-some
22 years of experience of reviewing AFCs here at the
23 commission, what did applicants submit relative to working
24 customer safety and fire protection?

25 DR. GREENBERG: In the past applicants have

1 submitted just the information in their AFC. There has
2 been in a very recent case, an example where the applicant
3 disagreed with my assessment --

4 MS. HAMMOND: I'm sorry, I -- let me --

5 DR. GREENBERG: May I just -- maybe I didn't
6 understand your question.

7 MS. HAMMOND: Yeah, I'm sorry.

8 What is the burden of proof of applicants?

9 MR. ELLISON: Objection. Calls for a legal
10 conclusion.

11 HEARING OFFICER VACCARO: Overruled. He can give
12 his opinion of what he believes that applicants are
13 required to submit in the proceeding.

14 DR. GREENBERG: It is my understanding that
15 applicants do indeed have the burden of proof to provide
16 enough information to staff to make a decision and to
17 essentially document their decision or their findings in
18 the application for certification. Staff then, of course,
19 writes the environmental documentation, but we rely on the
20 applicant to provide their position and to document their
21 position.

22 MS. HAMMOND: And did the applicant here document
23 their position?

24 DR. GREENBERG: I don't believe they did.

25 MS. HAMMOND: Did the commission require

1 mitigation for SEGS VIII and IX?

2 DR. GREENBERG: Well, that was certainly before
3 my time, but I do have knowledge of the answer, and that
4 is no, they did not require fire department mitigation.

5 MS. HAMMOND: Do you have an understanding of why
6 they did not?

7 DR. GREENBERG: Yes, I do.

8 MS. HAMMOND: Would you please explain that for
9 the committee.

10 DR. GREENBERG: Basically the staff at that time
11 was unaware and not knowledgeable of the hazards and
12 dangers of a Therminol -- a heat transfer fluid based
13 solar power plant or the need for other types of emergency
14 response.

15 What we know now in many areas of engineering and
16 science is a lot more than we knew 10 years ago, 15
17 years ago or 20 years ago; time marches on. And based
18 upon what we know now, we -- I have found that there is an
19 impact posed by all the solar projects that are before the
20 energy commission today.

21 MS. HAMMOND: I have some -- I'd like to ask
22 Mr. Hoffman to summarize his study, and I have some
23 questions for him as well as Chief Brierty, if that's all
24 right.

25 HEARING OFFICER VACCARO: I think that's fine.

1 I'm not sure why Mr. Hoffman wasn't up at the table
2 initially.

3 MR. S. HOFFMAN: I'm over here.

4 MS. HAMMOND: He's here.

5 HEARING OFFICER VACCARO: Oh, I thought you --

6 MR. S. HOFFMAN: There's two of us.

7 HEARING OFFICER VACCARO: Craig, sorry.

8 I'm looking at Craig and thinking that doesn't
9 make sense. I beg your pardon.

10 But perhaps I think anticipating Mr. Ellison's
11 objection that may come because he's already given it in a
12 backwards way, perhaps you can give us a sense of what the
13 role is of these individuals in the testimony that has
14 been sponsored by staff, since what we have is
15 staff-sponsored testimony, not testimony that's sponsored
16 by either of these other witnesses. So perhaps you can
17 sort of flesh out the record a bit.

18 MS. HAMMOND: Certainly.

19 As Mr. Greenberg had explained, staff works very
20 closely with the local fire departments in conducting its
21 analysis. The fire departments are in the best position
22 to understand their fire needs relative to the locale,
23 their understanding of the fire risks that are existing
24 and that are proposed.

25 So Chief Brierty has been speaking, has been

1 speaking with Mr. Greenberg -- or Dr. Greenberg provided
2 Chief Brierty with the emergency response matrix and
3 solicited Chief Brierty's input on that, and that was
4 provided, as Dr. Greenberg alluded to, in evolving
5 analysis --

6 HEARING OFFICER VACCARO: For purposes of the
7 record, perhaps we can do this by way of a question and
8 answer with the witness so that the witness --

9 MS. HAMMOND: Oh, okay.

10 HEARING OFFICER VACCARO: -- under oath puts into
11 the record what the witness's involvement is relative to
12 the testimony that's being sponsored by staff.

13 MS. HAMMOND: Okay.

14 Chief Brierty, what is your title?

15 ASSISTANT CHIEF BRIERTY: I'm an assistant chief
16 for the County of San Bernardino Fire Department.

17 MS. HAMMOND: And to whom do you report?

18 ASSISTANT CHIEF BRIERTY: I report directly to
19 the chief.

20 MS. HAMMOND: Okay. Have you reviewed
21 Dr. Greenberg's supplemental agreed testimony, which is
22 Exhibit 313?

23 ASSISTANT CHIEF BRIERTY: Yes, I have.

24 MS. HAMMOND: Do you agree with his analysis?

25 ASSISTANT CHIEF BRIERTY: Yes, I do.

1 MS. HAMMOND: Did you prepare or have direct
2 oversight over the preparation of exhibits -- or the
3 documents marked as Exhibits 318 to 328?

4 And if the committee would like, I can identify
5 each of those documents.

6 HEARING OFFICER VACCARO: I think everyone has a
7 copy of the exhibit list; so unless something has changed
8 since this exhibit list was routed to everyone, I think
9 it's fine to just do it by exhibit number, unless the
10 applicant has an objection to that.

11 MR. ELLISON: No objection.

12 ASSISTANT CHIEF BRIERTY: Yes, I participated in
13 or obtained the information from department staff and
14 provided it to Dr. Greenberg.

15 MS. HAMMOND: So you assisted Dr. Greenberg in
16 the data underlying his analysis.

17 ASSISTANT CHIEF BRIERTY: Yes, I did.

18 MS. HAMMOND: Okay. Or that's your understanding
19 of your role in Dr. Greenberg's testimony.

20 ASSISTANT CHIEF BRIERTY: Yes.

21 MS. HAMMOND: Did you review Dr. Greenberg's
22 emergency response matrix?

23 ASSISTANT CHIEF BRIERTY: Yes, I did.

24 MS. HAMMOND: And did you make any modifications
25 to it?

1 ASSISTANT CHIEF BRIERTY: Yes, I did.

2 MS. HAMMOND: And what modifications did you
3 make?

4 ASSISTANT CHIEF BRIERTY: In some cases some of
5 the weighting factors were 1 through 3, and we modified
6 those to 1 through 5. The entire weighting factor was a
7 summary of all the factors added up to 1. And so some of
8 the weighting that went to inspection versus emergency
9 response versus emergency medical aid modified just
10 slightly in terms of the numeric value, but it's still
11 equal to the value, total value of 1.

12 So the weighting structure was slightly modified
13 in terms of percentages per each one of the five factors,
14 and then modified those because each facility has
15 different characteristics to it, we're in different
16 locations. They use -- some cases a facility uses heat
17 transfer, another facility uses hydrogen, another facility
18 uses steam. So because of that difference in
19 methodologies and the distances associated with the size
20 of the county, not only were considerations for emergency
21 response exposure, et cetera, modified, but also the time
22 frames it would take for emergency responders to get to
23 the site were also modified.

24 MS. HAMMOND: Okay. Did the fire department
25 solicit a study from Stanley Hoffman?

1 ASSISTANT CHIEF BRIERTY: Yes, on behalf of the
2 County of San Bernardino, yes.

3 MS. HAMMOND: On behalf of the county.

4 ASSISTANT CHIEF BRIERTY: Uh-huh.

5 MS. HAMMOND: And what was that study?

6 ASSISTANT CHIEF BRIERTY: The study was to
7 determine the financial impact and to provide financial
8 information as to what was necessary to -- in terms of a
9 financial impact to mitigate the additional resources,
10 facilities that would be necessary to provide adequate
11 response to these differing types of renewable energy
12 facilities.

13 MS. HAMMOND: I'm going to turn to Mr. Hoffman.

14 And, Mr. Hoffman, is that a current
15 characterization of your study, which is the document
16 marked as Exhibit 329?

17 MR. S. HOFFMAN: In terms of the overview, yeah.
18 In terms of methodology, I would -- I'd like to be able to
19 say a few more things about that.

20 MS. HAMMOND: Certainly. Would you please
21 summarize the purpose and conclusions -- purpose,
22 analysis, and conclusions of that document?

23 MR. S. HOFFMAN: I would. And I think it's
24 important to characterize the study by Mr. Nickell with
25 what I did. You have two different methodologies. The

1 populous and employment methodology, I think works better
2 in an urban area where you're dealing with pop and
3 employment. But the county, as I understand it and the
4 way it was described by Mr. Brierty, they're faced with
5 14 applications for solar farms. Some of them have
6 employment permanent on site, some don't. So we looked at
7 a different method.

8 The other issue, which is very important, is
9 because of the size of San Bernardino County, because of
10 the desert region, you're largely getting the solar farms
11 in remote areas. These are not growth areas. So if
12 you're allocating to pop and employment, they're really
13 not being served by those fire stations. So you have
14 places like Amboy Mountain Pass, and even the station or
15 the facility at Harper Lake, which I did go out and visit.

16 And so what we did is we took a method where we
17 said these stations are not entirely needed by the solar
18 farms but a portion of them are; and we had the county,
19 instead of doing pop and employment, we looked at calls
20 for service. We said where does the fire department spend
21 its time in terms of rescue, fire suppression, inspection,
22 et cetera. Some of it goes to pop, some of it goes to
23 employment, some of it goes to the highway, for example,
24 going out to Las Vegas. So we divided it down.

25 That 29 percent ratio that we had was to the

1 commercial. But then when we took that ratio of
2 commercial and we applied it to the stations that were
3 going to serve the facilities. They are not in areas that
4 are growing with commercial. And some of them have
5 employment and some of them don't. So we felt there had
6 to be a way of allocating. And so that's where we came up
7 with the matrix that Peter and Dr. Greenberg put together.

8 But there's one other component, and that is we
9 said as a proxy, a facility, the risk of the facility has
10 to do with what it's producing; what it's producing is
11 megawattage. The thermal systems produce more megawattage
12 than the photovoltaic. When you look at them, as I
13 pointed out in my report, the range of voltage or megawatt
14 is just much different, thereby the megawattage, we
15 weighted the megawattage with their matrix so we came up
16 with an allocation factor of the cost to the systems after
17 we had prorated it down by the 29 percent. So we felt
18 this was a measure of the facility's power or, if you
19 will, it's heat transfer issues and its risk.

20 And that's the way we allocated. And that's --
21 the fundamental difference in the methodology, which
22 Mr. Nickell used, where he took populous, employment, and
23 basically spread it evenly across the county. So we saw a
24 different kind of a risk, a remoteness and a megawattage
25 issue, as opposed to pop and employment.

1 MS. HAMMOND: Did you consider the hazardous --
2 strike that.

3 Did you consider the nature of the materials used
4 on site?

5 MR. S. HOFFMAN: Yes, we did. In the ranking
6 matrix, those with Therminol and hydrogen came out much
7 higher than the photovoltaic. And you can see that in the
8 allocation, it was much lower, because the photovoltaics
9 are basically benign systems and create direct current as
10 opposed to actually having a power plant on site.

11 MS. HAMMOND: Okay. Did you consider the volume
12 of that material on site?

13 MR. S. HOFFMAN: We didn't consider directly the
14 volume, but as I mentioned, the megawattage was our proxy
15 for the size of facility. We could have looked at
16 acreage, but it turns out that, you know, the larger the
17 area, the more megawattage. So we could have done a
18 weighting of those two, but we took the weighted
19 megawattage, which is our measure of size and power.

20 MS. HAMMOND: And did you take into consideration
21 the lack of permanent staff at the nearest fire
22 department, fire station?

23 MR. S. HOFFMAN: We did in the evaluation matrix,
24 and we reported it in the report.

25 The photovoltaic systems, as we understood it

1 from talking with the county and looking at their
2 applications, is that they generally don't have permanent
3 on-site employment because you don't -- you're not running
4 a power plant, you're just transferring energy through the
5 photo cells. They do have people that come out
6 occasionally, but the power plant, Therminol and the
7 hydrogen systems, have permanent employees ranging -- in
8 our analysis it was 80 to 160 employment was identified
9 for the three, three facilities.

10 MS. HAMMOND: Chief Brierty, could you explain to
11 the committee how the project compares with other
12 facilities in the county that have over two million
13 gallons of combustibles or flammables?

14 ASSISTANT CHIEF BRIERTY: It's a particular
15 concern of the -- if you look at the number of facilities
16 in the county that store this volume of -- and I use the
17 term "store" in that it's there; it's not stored in the
18 traditional sense it's in a tank. We have a facility
19 that's a major bulk storage facility transferring fuel
20 from high pressure pipelines, gasoline, diesel fuel that
21 run from the Port of Los Angeles into Rialto where it's
22 stored, and then it gets shipped up through the Cajon Pass
23 to Las Vegas Nevada and to other places through these
24 pipelines. That's probably the largest accumulation of
25 fuel, flammable liquids, if you will, in the county.

1 If you take the total volume -- we won't say the
2 word "store" -- but if you take the total volume of the
3 Therminol being 2.3 million gallons, this becomes one of
4 the largest storage, if you will, or largest volumes of a
5 combustible flammable liquid in the county because of just
6 the volumetric equivalence of it there.

7 But then when you look at the storage facility in
8 Rialto with these huge fuel tanks, that's at standard
9 temperature and pressure. This is at a pressure -- I'm
10 sorry, at a temperature three times its flash point, three
11 times its flash point, and it's at a much, much higher
12 pressure.

13 And in terms of the flammability, the question
14 was asked why were there no conditions placed on the
15 original SEGS. Well, one of the -- one reason, it's a
16 very small one, doesn't encompass the whole thing, but I
17 was told personally by a person there that it wasn't
18 flammable. But now looking back on it and seeing the
19 extreme pressure that it's under and the extreme
20 temperature that it's at, it dramatically throws off the
21 concept of flammability in terms of your standard
22 flammability.

23 It's much like water; water's inert, doesn't do a
24 whole lot until you get it up to extreme high temperatures
25 and pressures. Then that water becomes very dangerous.

1 So this facility has a significant volume, we
2 won't call it "stored" because it's moving through the
3 pipes, but it does have a significant -- very substantial
4 in terms of what's stored in the county, county wide, of
5 liquids that are -- their operating process are indeed, I
6 won't use the word "flammable," but just subject to
7 catching on fire and burning things.

8 MS. HAMMOND: Now, Chief Brierty, are you
9 familiar with the fire incident at SEGS VIII in January of
10 1990?

11 ASSISTANT CHIEF BRIERTY: Yes.

12 MS. HAMMOND: Can you characterize the incident
13 at that time?

14 ASSISTANT CHIEF BRIERTY: Again, in terms of
15 fires in the history of the County of San Bernardino, it's
16 a very significant event. Concern that we have overall in
17 the county, particularly remote areas, is a thing called
18 drawdown. And drawdown is the use of resources and how
19 one station has to come up and try to back up another.

20 Well, in traditional urban environments, it's
21 very, very common that a fire station will go out on a
22 call, another call will back it up. To give you an
23 example, the train wreck that occurred in Los Angeles had
24 50 companies respond to it. 50 companies responded to the
25 train wreck in Los Angeles. They never reached drawdown.

1 In remote areas, Hinkley, Kramer Junction, Amboy
2 where Calico's going to go, Ivanpah, we don't have
3 stations to back up other stations. When that station
4 goes out on a traffic accident, it's gone. If it goes out
5 on an injury in a home, or pregnancy, that engine's out of
6 station. There's no one there to backfill that capacity.

7 So the concern we have, if you look at some of
8 the maps that we provided in Mr. Hoffman's testimony, you
9 can see the vast array of different types of facilities
10 that are going to be developed in our county. And that
11 ability to provide adequate response, adequate resources,
12 and adequate firefighters, medics, not just EMTs, but
13 paramedics, is of paramount importance to us to try to
14 figure out a way to make that possible.

15 But in the report though, we only considered a
16 fraction of the facilities that are proposed because we
17 only wanted to deal with facilities that have submitted
18 applications, are going through review, and what we call
19 active. So we wanted to make it real.

20 But the potential exists, particularly for the
21 mitigation, that there could be many, many more members
22 of -- I don't want to say "members," but participants in
23 the process, other proponents that could be contributing
24 to this -- to lower the individual contribution by any one
25 project as more projects come in. And that's the way we

1 designed Hoffman's process, is that if more people get
2 involved and more people develop projects, they will
3 contribute to this existing number. We won't expand the
4 number, but they'll contribute to the existing mitigation
5 value, and thereby drive down everyone else's
6 contribution.

7 MS. HAMMOND: You've heard Mr. Couch talk about a
8 fire department at Kramer Junction earlier today; is that
9 right?

10 ASSISTANT CHIEF BRIERTY: Yes.

11 MS. HAMMOND: And is that -- is he referring to a
12 publicly-financed fire department or a privately-financed
13 fire brigade?

14 ASSISTANT CHIEF BRIERTY: Traditionally brigades
15 are financed by the facility that they're involved with.

16 MS. HAMMOND: And are there any fire brigades in
17 the county today to your knowledge?

18 ASSISTANT CHIEF BRIERTY: We don't have -- the
19 county does not have any MOUs with any brigades in the
20 county at this point.

21 MS. HAMMOND: So --

22 ASSISTANT CHIEF BRIERTY: To be clear, there's a
23 brigade at Trona, at the chemical plant in northern
24 San Bernardino County, and there's a brigade at Cal Steel,
25 but they are not at any capacity to provide any type of

1 MOU or mutual aid or even an automatic aid agreement.

2 MS. HAMMOND: Okay. So having conducted your --
3 the fire department's analysis and presenting it to
4 Dr. Greenberg, what would you say is the relationship
5 between this project's impacts on public services and the
6 mitigation you've proposed?

7 ASSISTANT CHIEF BRIERTY: I think there's a very
8 strong relationship between the impacts of this project,
9 the mitigation we proposed; but I think in a larger sense
10 we tried to look at the impacts of all of these projects
11 and develop a system that the county fire department and
12 county resources could respond to all the projects.

13 And I think the fact that when you heard that
14 there was a high dollar value and a lower dollar value and
15 different dollar value, but ultimately, by taking the time
16 necessary to look at all the factors and in the time frame
17 that we had you can consistently see that dollar value go
18 down, because we were re-refining and re-refining.

19 Originally we'd come up with a commercial value
20 and a residential value; and that's where we were headed
21 until I said, wait a minute, in these remote areas there's
22 a traffic value, I call it a traffic value, which means
23 that the fire station has to go out on the highway to
24 pick -- to clean up things, and respond. So we added
25 that, and that drove it down by even a third more.

1 So what you don't see in front of you is the
2 iterations of how this thing was refined, not completely
3 to the applicant's dollar value, but we worked very, very
4 hard and continually added more things to refine this to
5 get a much more accurate and I think a much more close
6 cross with the nexus required by CEQA, and also something
7 that's very -- that we believe to be reasonable, because
8 we -- facilities are adding, even though it's a remote
9 area, they're changing the face of the neighborhoods from
10 a rural, farmland type to a more commercial-industrial.
11 And in our county, if you exclude the city portions of the
12 county, you know, the county area, these are the most --
13 the more significant, the most significant commercial
14 developments in those areas.

15 And with regard to, you know, applying these at
16 previous times, we're looking at this with fresh eyes in
17 the same way that the engineering principles are improving
18 and the valves are improving and the seals are improving.
19 We're looking at this from a county perspective and trying
20 to improve our approach to how we attempt to mitigate the
21 impacts that may be caused by these projects.

22 MS. HAMMOND: Chief Brierty, can you tell me does
23 the county give any deference to the fire department's
24 recommendations for mitigation?

25 ASSISTANT CHIEF BRIERTY: When the fire

1 department works on any other project that's a
2 county-reviewed project, that the county has the
3 condition -- has the authority to issue a conditional use
4 permit, there's obviously some discourse with the
5 proponent in the presence of the first -- I'm sorry,
6 excuse me, first with the development review committee,
7 but eventually it goes to the planning commission and then
8 it goes to the board of supervisors.

9 And it's an iterative process, and that's why we
10 would enjoy the opportunity to speak with a proponent over
11 the next 30 days and a continuance to get to that
12 resolution.

13 There's obviously the gap between what the
14 company, the proponent perceives, and what the fire
15 department perceives as public safety. We always move to
16 the middle to get there with our belief that public safety
17 and fire safety is the highest concern we have. But in
18 the end, the deference typically will go in favor of the
19 fire department's concerns, that it's a life safety issue.

20 MS. HAMMOND: I have two questions I'd like to
21 pose to the panel, and that is there has been talk about
22 or suggestions about a fire department or a fire brigade
23 at Abengoa facility. Have you seen any proposal made by
24 the applicant as to a fire brigade?

25 DR. GREENBERG: No, I have not.

1 MR. S. HOFFMAN: I have not.

2 ASSISTANT CHIEF BRIERTY: I believe -- I don't
3 know if I can say this, but I believe that a person
4 mentioned it to our county administrative officer in a
5 conversation, but this is the first I've heard of a real
6 robust discussion of the potential for a brigade.

7 Our department has very, very strong concerns
8 about the brigade. And I -- with deference to Mr. Couch
9 and the work that was done at the original facilities, we
10 have a very strong concern over the training, the
11 consistent participation in firefighting in response to
12 emergencies. We don't believe it should be a part-time
13 job, even though in many cases we have paid call
14 firefighters just because of the situation or the
15 financial ability to keep those full-time firefighters
16 there versus paid call, but our effort is to move towards
17 what we believe to be the best service to the public and
18 the safety is the professional firefighter that responds
19 on a full-basis. And I think its inescapable, that if you
20 have a part-time firefighter at a facility whose main
21 job -- their main job is to produce energy and work at the
22 plant, by default their part-time job is the firefighter,
23 and include the paramedic, emergency response with that
24 firefighter. But our objective is to provide the
25 community and the facilities and any other industry,

1 commercial endeavor that comes in, with the highest level
2 of protection.

3 MS. HAMMOND: Any other comments?

4 ASSISTANT CHIEF BRIERTY: And we clearly through
5 our efforts have shown we do not want the new industries
6 and the industry to bear the brunt of that. We want -- we
7 have contributions from very -- we have contributions from
8 the board of supervisors through the general fund to help
9 us cover traffic issues. Because many of these roads, if
10 you drive from Barstow to Las Vegas, there is no tax
11 support for that, any activity we perform on that highway,
12 none. All that's done because the board of supervisors
13 has said, we'll take tax dollars to help do that. The
14 residential portion is provided through the ad valorem
15 taxes, which go on your property tax.

16 So our effort was to show, okay, what should be
17 commercial, industrial fair share. And that's why we
18 worked so hard to separate those numbers and to make those
19 numbers clear through this report, because there's
20 multiple contributions, but basically the fire department
21 is supported -- the most significant contribution comes
22 from ad valorem property taxes.

23 MS. HAMMOND: Another question for the panel
24 is -- Dr. Greenberg, did you want to --

25 DR. GREENBERG: Yes. I thought you had addressed

1 that previous question to the panel.

2 MS. HAMMOND: I did address it to the panel.

3 DR. GREENBERG: Besides agreeing with the chief,
4 I just want to point out a couple of things.

5 It is my opinion that a facility fire brigade
6 would be very problematic, and it would most likely still
7 have to result in -- an emergency, rather, would still
8 result in them contacting the San Bernardino County Fire
9 Department and not just as backup.

10 As you have heard, the fires when they have
11 occurred, some of them have been very large, that depleted
12 regional resources. And the January 1990 at the SEGS VIII
13 and IX Harper Lake required the fire department and
14 explosives experts from the China Lake Naval Air Base to
15 come and use C4 explosive to blow out the fire. It could
16 not be put out.

17 And I agree with Mr. Couch that what you do is
18 try and shut off the flow of heat transfer fluid, much
19 like you fight a fire, a natural-gas fire. You don't try
20 and put it out, you try and snuff it out by shutting off
21 the flow.

22 And valves failed there; and yes, these -- I
23 agree with Mr. Couch that these will be newer valves and
24 better coordinated, but yes, valves do fail, control
25 systems fail.

1 And so even if they had a fire brigade and a fire
2 broke out, you would need the San Bernardino County Fire
3 Department to respond. There's going to be ten miles of
4 fence line, and you want to make sure that the fire does
5 not cause a spread beyond the borders, beyond the fence
6 line, not so much from a traditional, you know, wooden
7 structure fire which would send ash over, but a Therminol
8 fire would be very intensely hot. And the thermal
9 radiation flux from that would definitely go beyond the
10 fence line if the fire were along the fence line. If it
11 were in the middle of the facility, maybe not.

12 What you have, of course, on the other side of
13 the fence line just maybe a thousand feet to the south is
14 a residence. So there are people in the neighborhood of
15 the Abengoa Mojave Solar power plant that the fire
16 department would have a responsibility for responding and
17 protecting, should there be a fire or explosion, if
18 something should happen.

19 MS. HAMMOND: Does any other member of the panel
20 want to speak to that?

21 Okay. Another question for the panel is
22 Mr. Nickell had expressed concern that this project was
23 bearing a disproportionate share of costs of the fire
24 department and fire defense.

25 Do you have a response to that?

1 MR. S. HOFFMAN: I would have a response.

2 I think our methodologies are fundamentally
3 different, and I don't believe, at least our intent in the
4 methodology was not to allocate responsibility of someone
5 else to this power plant. That's why we used the calls
6 for service and broke it down between residential,
7 highway, and commercial.

8 And then I think the fundamental difference is
9 whether you accept the fact that these facilities are in
10 remote areas and these fire stations are really not
11 serving the general population. The most obvious one is
12 the one in Mountain Pass. When you go out on that
13 highway, as Chief Brierty said, there's not much out
14 there, and county projections are very low, and it's just
15 stretch of desert. Amboy is also a very remote area. The
16 one at Harper Lake is closer to population, it's closer to
17 Barstow, but it still is remote.

18 And in the immediate vicinity of the Harper Lake
19 facilities, you don't have any commercial development to
20 speak of other than in Hinkley you've got a small grocery
21 store, you know, convenience market, but you don't have
22 any other major facilities out there.

23 That's why we allocated, once we broke it down on
24 the calls for service basis.

25 So it was not our intent -- now, they may argue

1 that and, you know, we can discuss it, but it was not our
2 intent to allocate the responsibility of those facilities
3 to anyone else, I mean to take, you know, residential and
4 put it on this. We tried to do a fair-share approach,
5 just as he did, but we had a different methodology.

6 MS. HAMMOND: Would any other member of the panel
7 like to add anything?

8 HEARING OFFICER VACCARO: On the specific
9 question that was posed?

10 MS. HAMMOND: Yes.

11 Nothing?

12 Would the panel please identify the fire hazards
13 at this project site.

14 DR. GREENBERG: Want me to go ahead?

15 What we have here is 2.3 million gallons of --
16 now, whether you consider it flammable or combustible,
17 it's going to burn, and we know that. There is a
18 difference of opinion. I will agree with Mr. Couch that
19 at standard temperature and pressure, it's combustible;
20 however, at elevated pressures, which the heat transfer
21 fluid will be operating at elevated pressures and at
22 elevated temperatures, and the fact that there are all
23 these breakdown products, volatile organic chemicals
24 moving along with it, I submit to you in my professional
25 opinion that once this material leaks out at that high

1 temperature, it is flammable.

2 Now, the temperature is below the auto ignition
3 temperature, but what if it should leak and hit the focal
4 point of the mirror, which is about 1100 degrees
5 Fahrenheit? Well, it's not just a what if, because that
6 actually happened at the Kramer Junction facility, and it
7 burst into flame. So there was no source of ignition
8 other than 1100 degree heat that caused this to break into
9 fire. It causes a high fire danger.

10 There is a significant risk of there being a fire
11 or a leak. Even with better valves and better seals,
12 there still will be some leaks.

13 There is the need for emergency response for
14 things other than fire. There will be confined spaces in
15 the power blocks. There could be a need for a rescue. As
16 I've explained in my testimony, there is what's called an
17 OSHA rule of two-in-two-out, whether it's a fire or
18 whether it's a confined space rescue operation. That
19 means you have to have four trained firefighters there. I
20 don't know if a fire brigade, for example, would have four
21 trained firefighters on site 24/7. Certainly the
22 San Bernardino County Fire Department is trained in that.

23 Emergency medical response, I don't know whether
24 they're going to have EMTs there. All the firefighters
25 are trained as emergency medical technicians. And, of

1 course, they have paramedics. There's a big difference
2 between an EMT and a paramedic. I know if I got injured,
3 I would want to have a paramedic come from the fire
4 department, not rely on an on-site fire brigade of EMT.

5 All told, the facility, and whether you call it
6 stored or whether it's moving about -- and by the way,
7 there will be some storage in the ullage tank and an
8 overflow tank.

9 So these are semantical differences, and I'll
10 agree to any terminology. There's a lot of fluid there.
11 And it's an oxygenated fluid. And ether contains oxygen.
12 And I could tell you as a trained organic chemist, that is
13 the definition of an oxygenated substance, if it has
14 oxygen in the chemical makeup. So it is an oxygenated
15 fluid, and it burns hotter, it burns brighter, and more
16 difficult to put out.

17 So there is a significant fire risk, and
18 certainly the applicant has recognized that. I think what
19 we're differing here is what they predict the need might
20 be or off-site emergency fire response and what I and the
21 chief predict might be needed for off-site emergency
22 response.

23 And remember, there's five different categories
24 for the need for the San Bernardino County Fire
25 Department. One of those is not true emergency, it's

1 routine inspections, which are extremely important to
2 ensure that the safety measures, the fire detection, and
3 suppression systems are indeed working. The rest, the
4 other four then are emergency responses.

5 And based on, admittedly, a very small pool of
6 solar power plants in California, three of them, and we
7 recognize that those are older, but nevertheless, when
8 they were put in, we thought they'd be perfectly 100
9 percent safe; we know that it's not 100 percent safe.

10 I feel that this poses a significant risk that
11 can only be mitigated by having proper response. Risk is
12 mitigated by engineering and administrative controls to
13 prevent the risk, and then emergency response to respond
14 to that risk and mitigate it to low level, below level of
15 significance. And I submit to you that that's what's
16 needed, is mitigation to the fire department.

17 I for one am always willing to hear from the
18 applicant different arguments on it, different
19 information, another -- you know, another proposal, but
20 that is my summary of the risk posed by this facility.

21 MS. HAMMOND: Chief Brierty, would you like to
22 highlight anything else for the committee?

23 ASSISTANT CHIEF BRIERTY: No. After listening to
24 Dr. Greenberg, I agree. I mean, not after listening to
25 him, while I'm listening to him, I agree in every sense.

1 We've worked very, very closely with staff on
2 this project, toured facilities, met with other fire
3 departments that may have these projects in their
4 jurisdictions. And the significant amount of work that
5 goes into what we've proposed for mitigation, I think
6 stands on its own merit.

7 And this is indeed a flammable substance at these
8 temperatures and pressures. And it is indeed oxygenated.
9 And the issue there is that lots of -- there's lots of
10 hydrocarbons that exist, but hydrocarbons need oxygen to
11 burn. And so they have to sort through our air to find
12 the oxygen. Well, they now -- this has an oxygen inside
13 the molecule. So it is not only ready to burn, but it has
14 the capacity to oxygenate its own burning.

15 So I agree with what Dr. Greenberg provided you,
16 and we'll stand by it.

17 MS. HAMMOND: The panel's available for
18 questions.

19 HEARING OFFICER VACCARO: Mr. Ellison, there's no
20 need, of course, for you to remind us of the reservations
21 that you've already made and the caveats in terms of
22 preparedness today for full cross on all of the various
23 issues that have been raised. Certainly you identify that
24 specific questions on the matrix are something that you
25 need more time to develop, but I think my hope would be

1 that there is some amount of cross that you might be able
2 to accomplish today. You might dash my hopes, and if so,
3 that's fair enough based on what you've said, but why
4 don't you give us a sense of whether or not you're in a
5 position to engage in some level of cross-examination.

6 MR. ELLISON: We have lots of questions. I'm not
7 going to dash your hopes in that sense at all. What we
8 cannot do is ask all our questions. There are certainly
9 some areas where we're not prepared, the matrix is one.

10 But if your question is can we do
11 cross-examination right now, yes, we can.

12 HEARING OFFICER VACCARO: Okay. Well, then, I
13 think that would be the best thing to keep everything
14 moving. One caveat, of course, is that we noticed a 5:00
15 public comment period. As you've noticed in these
16 proceedings so far we haven't had much by way of public
17 comment, but wherever we are at 5:00, we do need to pause
18 the proceedings to take that public comment and then
19 continue to move forward with as much cross-examination as
20 the applicant can get done today.

21 Is there a comment either one of you wanted to
22 make? Okay.

23 Mr. Ellison?

24 MR. ELLISON: Okay. Does the panel need a break?

25 MS. HAMMOND: A break would be appreciated by

1 counsel.

2 MR. ELLISON: Let's take -- let's take --

3 HEARING OFFICER VACCARO: Then let's --

4 MR. ELLISON: Can we just do five minutes or -- I
5 mean, if --

6 HEARING OFFICER VACCARO: If that's okay with the
7 committee.

8 MR. ELLISON: I'm sorry, I didn't mean to usurp
9 the --

10 MS. HAMMOND: Yeah, I'm sorry, too.

11 HEARING OFFICER VACCARO: Okay. We'll go off the
12 record.

13 (Recess.)

14 HEARING OFFICER VACCARO: Okay. We just came
15 back from a brief break, and Mr. Ellison is about to
16 engage in some cross-examination of witnesses presented by
17 staff.

18 Before we go there, I think maybe if we can look
19 ahead to what happens at the completion of your cross
20 today, Mr. Ellison, since we know that it's not going to
21 be a full cross.

22 I think what we're curious about is what happens
23 next. You do as much of the cross as you can today, your
24 sense is that you might require some additional time for
25 cross, particularly with respect to the matrix. Are we

1 looking at just additional time for cross, or are we
2 looking at additional time potentially for cross and
3 supplementing some of the direct testimony that you've
4 already submitted? And can you answer that as you sit
5 here? Because it helps the committee to look at the next
6 steps.

7 All of this said, with everyone understanding
8 that schedules are very tight right now, and we've been
9 moving on a very slick schedule, and to build in
10 additional days is quite a challenge, and it's something
11 the committee is certainly willing to do, and the
12 preference, of course, I think from the applicant's
13 perspective as submitted in the papers is the sooner the
14 better, but not such that it prejudices the applicant.
15 And that's a balance that only you, of course, can figure
16 out.

17 The committee stands willing to build another
18 hearing day in if needed, and it stands ready to do it
19 maybe a little faster than you had anticipated with your
20 request for 30 days. But in light of the progress that
21 was made today, and the information that's been elicited,
22 maybe it -- you're able to recast your original view of
23 30 days and see what we can accomplish.

24 MR. ELLISON: Well, you know, we definitely find
25 ourselves between a rock and a hard place here. We -- on

1 the one hand, you know, nothing's more -- nobody cares
2 more about the schedule in this proceeding than we do. I
3 think we've made that abundantly clear and demonstrated it
4 through our actions. It remains an extremely high
5 priority for this project.

6 At the same time, we have a proposal from the
7 staff and the county that's come in at the 11th hour, as
8 you've characterized it, that is a factor of seven times
9 higher than the number that was on the table in the
10 staff's final staff assessment. And that pretty much is
11 fatal to this project.

12 So had this number appeared in the final staff
13 assessment, we would have had a lot more than 30 days, we
14 also would have had, in this matrix, for example, had a --
15 was an adopted methodology of the commission and had been
16 around, we would have been able to conduct discovery on
17 it. We would have had a very different kind of
18 opportunity to present our case than what we're faced with
19 now.

20 To have a full and fair opportunity to address
21 this kind -- this magnitude of a proposed impact, we would
22 want to be able to do discovery with the staff, perhaps
23 have a workshop with the staff to go over the matrix.
24 Ideally, the matrix would be peer-reviewed, and you know,
25 that sort of thing. We don't have any of that, okay?

1 At a minimum what we need is an opportunity to
2 hire somebody who can help us address that. We have not
3 been able to do that yet. We do anticipate submitting
4 additional testimony from that person.

5 So it's not just cross-examination that we're
6 anticipating. The 30 days was -- you know, we didn't just
7 grab that number out of the air, that was sort of the
8 minimum amount of time that we thought we needed to
9 present, not the full case that we would have presented
10 had it -- you know, this had been something that we could
11 have anticipated from other projects in past commission
12 history, but certainly to be able to respond to it in a
13 minimally adequate way.

14 And I emphasize that the 30 days was not based
15 upon anything other than that. For example, it wasn't
16 based upon time we need to negotiate with the county or
17 anything like that and that's how much time we think it's
18 going to take. Considering also, you know, that we would
19 presumably be filing our testimony before the 30 days was
20 up, it was 30 days to hold a hearing. So, you know, that
21 kind of thing.

22 Here is how I would prefer to see this case
23 handled, and you can accept it or reject it: I continue
24 to think that the Colusa proposal is the adopted policy of
25 the commission, I think it's absolutely legal, and I think

1 it provides a fair way to resolve this issue and allow the
2 county and Abengoa to negotiate without a gun to anybody's
3 head over that, and provides a meaningful mechanism to
4 resolve it if we can't come to an agreement.

5 So I would propose that the committee -- and, you
6 know, you can decide how you want to do this -- that the
7 committee rule quickly on the legality of the Colusa
8 conditions and the objections that staff has raised, the
9 legal issues that they raised about those conditions. And
10 perhaps such a ruling would enable us to negotiate
11 meaningfully with the staff around those conditions, if
12 the committee were to rule that they are, in fact, legal,
13 as we think they are, and that might enable us to move
14 forward without having to wait for 30 days. That's my
15 preferred outcome.

16 And we're prepared to brief these issues, we're
17 prepared to oral argue them today. You know, we'll do
18 anything to get to that as quickly as possible.

19 But failing that, you know, if there isn't -- if
20 staff doesn't change its position and if the committee
21 doesn't do something to take this number off the table,
22 then as important as the schedule is, you know, as I said
23 in our hearing statement, it doesn't do any good to meet
24 the schedule and end up with a project you can't build,
25 you know? That's what happens -- you know, there was a

1 SEGS X. They got the SEGS nine projects that were built,
2 there was actually a SEGS X that was approved and died for
3 lack of -- you know, for lack -- for being economic, for
4 not able to get the investors together. So there's, you
5 know, really world history of that too. And that's not
6 where we want to be.

7 So and I can't say strongly enough, you know,
8 these numbers, which we think are, you know, incorrect
9 technically, and we're prepared to make that case, but
10 whether they're correct or incorrect, this project doesn't
11 go forward if this condition is adopted. And so, you
12 know, it's really something that we have no choice but
13 to -- and I'm sorry for being so long-winded about this,
14 but we really have no choice but to take the extra time,
15 as much as we don't want to do that.

16 So my bottom line, if we can't get a change in
17 the staff's position or something from the committee that
18 gives us confidence that this kind of project-killing
19 number isn't going to be the outcome, then we need 30
20 days.

21 HEARING OFFICER VACCARO: 30 days from when?

22 MR. ELLISON: 30 days from today, for the hearing
23 itself. We might be able to file testimony sooner than
24 that.

25 I assume staff's going to want -- you know, I'm

1 making some assumptions about staff's going to want to
2 have time to review the testimony before we have the
3 hearing and all that sort of thing.

4 COMMISSIONER EGGERT: Just a quick question.

5 Is the 30 days the -- the specific things that
6 you mentioned were primarily the opportunity to address
7 the testimony of the staff with respect to their analysis.
8 Is any of that 30 days also to further refine the analysis
9 that was presented today in testimony, or is that --

10 MR. ELLISON: No, we wouldn't have presented that
11 if we didn't think that was ready to go.

12 Now, there is -- as Mr. Nickell testified, if he
13 had been given more time, he could do more work. We may
14 want to supplement that, if that's what you mean by
15 "further refine," but we don't anticipate -- you know,
16 that testimony was final as far as it goes. I mean, we're
17 happy with it as far as it goes. We might ask Mr. Nickell
18 to address some of the things that he mentioned that he
19 could address if given more time.

20 But no, we don't envision -- and if the question
21 is would our number perhaps go up, that's the more
22 practical question; I have asked Mr. Nickell based on new
23 information that he's received lately whether his numbers
24 are likely to go up or down, and he told me they'd go
25 down. So I don't think we're going to bridge this gap by

1 our number moving very much. You know, that's the truth.

2 HEARING OFFICER VACCARO: And as far as the
3 timing with respect to what -- for the purposes of ARRA
4 funding is required in terms of a final decision one way
5 or another from this commission, what -- what does that
6 look like? I mean, I take it your ending is still the
7 same even if you're moving -- even if we potentially move
8 the hearing date back 30 days.

9 MR. ELLISON: Yeah. Now, what the committee
10 could do, as you know, you could issue a PMPD on
11 everything but this issue. You -- but, you know, yeah,
12 there may be certain ways we could save time, but -- but
13 let me put it this way: We understood and took extremely
14 seriously the fact that if we asked for 30 days, it
15 probably delays the final decision by at least 30. We
16 know that. And that's extremely problematic. I mean, I
17 can't emphasize to you enough that we appreciate that. We
18 don't make this --

19 COMMISSIONER BOYD: When do you turn into a
20 pumpkin, so to speak?

21 MR. ELLISON: Well, you know what the ARRA
22 deadlines are; I don't need to educate you about those.
23 And, you know, we need a decision that would allow us
24 to -- you know, there's a lot of moving parts here, not
25 just the energy commission, there's DOE, there's all kinds

1 of other things going on. And, you know, getting these
2 projects to the finish line, you know, requires all of
3 those pieces to fall in place.

4 So there are certainly things that could happen
5 where we might miss the deadline for other reasons apart
6 from this, but assuming all those other things fall in
7 place, we need, you know, a decision from the commission
8 that would allow us to, you know, proceed -- the current
9 hope is that we can proceed by the end of this year and
10 begin construction, at least in enough of a way to satisfy
11 the ARRA deadlines.

12 The fallback position is there's a second ARRA
13 deadline in 2011, as you know. That's -- that's the
14 fallback for a different kind -- you know, there's a loan
15 guarantee versus the grant. And I know you all understand
16 that in more detail than you probably want to, but that's
17 the circumstance.

18 And again, I mean, I wouldn't -- you know, I
19 sound like a one-note trumpet here, and I apologize; we
20 would not be putting the project schedule at risk having
21 fought for it so diligently if this wasn't such a serious
22 issue, but it is.

23 HEARING OFFICER VACCARO: Okay. That's helpful.
24 Thank you.

25 MR. ELLISON: Okay. Now, I will say one other --

1 in terms of getting creative here, in addition to, you
2 know, ruling on the legality of the Colusa conditions, I
3 suppose based on this record today when we finish -- and I
4 haven't discussed this with my client, so forgive me --
5 but I suppose that, you know, we might make some sort of
6 summary judgment kind of motion and ask you to just say
7 you're going to adopt the Colusa conditions based upon
8 this record and you don't need to hear any further
9 evidence to be satisfied to do that. Because recognize
10 that if you do that, we're the ones that haven't had the
11 full and fair opportunity to respond to want staff. If
12 you've heard enough to believe that the Colusa conditions
13 are preferable to the staff position, that's all you need.
14 All we're going to do is augment that with something
15 further, right?

16 So I suppose we could do some kind of summary
17 judgment style motion that would say make that decision
18 now and we don't need to take 30 days, but that would be
19 pretty creative and unusual.

20 COMMISSIONER EGGERT: I think for me, I mean,
21 it's going to be beneficial to proceed with the cross,
22 build a richer record, and then I think --

23 COMMISSIONER BOYD: I was about ready to ask
24 Mr. Ellison if once we got done with this procedural
25 discussion if he did intend to ask any questions today in

1 the way of cross.

2 MR. ELLISON: I can ask a lot of questions. I
3 mean, I'm not trying to -- I'm not trying to filibuster
4 here, I can ask a lot of questions that we think really
5 need to be asked. I'm happy to do that today. We'll stay
6 as long as necessary. Or we can postpone that.

7 But you know, I would at a minimum -- there are
8 certainly some questions that I think we would much prefer
9 to be able to ask today because I think they might inform
10 the committee as to some of the procedural issues that
11 we've been talking about.

12 COMMISSIONER BOYD: That's kind of where I'm
13 going with the question, quite frankly.

14 MS. HAMMOND: Hearing Officer Vaccaro, may I be
15 heard?

16 HEARING OFFICER VACCARO: Yes.

17 MS. HAMMOND: Thank you.

18 I'd like to emphasize for the committee and for
19 all parties here and address any sort of implication that
20 this, you know, staff is sandbagging this proceeding. I'd
21 like to address the characterization of this information
22 coming in at the 11th hour.

23 As we pointed out, the applicant has the burden
24 of making a showing. And without that showing, staff had
25 to take it upon itself to create a record on this issue of

1 worker safety and fire protection. Staff has been very
2 accommodating in this proceeding. We've seen that in the
3 areas of water, biology, multiple areas. So our intention
4 is always to be cooperative, as cooperative as possible
5 and facilitate the smooth processing of these AFCs.

6 We're hearing new information, perhaps we're
7 misinformed, we're hearing information that there will be
8 tax revenues that would support fire services. There was
9 talk about a workshop. That's something I'd like to
10 forward once more to the committee based on our new
11 information. That may help us with our numbers. We can
12 have settlement discussions.

13 But staff is also willing to be creative with the
14 condition, not necessarily with something that's identical
15 to the Colusa condition, but I think we can be creative.
16 And I did mention that we were forwarding a revised worker
17 safety condition 6; and the idea there was, again, it was
18 as an accommodation to the applicant, to give them some
19 assurances that the monies paid would go toward fire
20 protection services, and adjustments to that dollar amount
21 could be made downward.

22 So again, our intention was to be cooperative and
23 accommodating. But I think a workshop would be a really
24 good idea given the new information we're hearing. And
25 this -- that's sort of a surprise to the staff, and

1 Chief Brierty.

2 COMMISSIONER BOYD: Let me react a little bit
3 just having been around here a long time.

4 I no more feel sandbagged by the staff, and I
5 believe you, than I feel sandbagged by the applicant
6 saying that this is a fatal amount of money and the
7 project dies. What each of those circumstances have given
8 us, I would subscribe to the 11th hour. It was -- no
9 matter what the rationale, it's late in our process and
10 it's jamming this committee just like a comment like, you
11 know, that's a fatal flaw and there will be no project,
12 concerns us as well.

13 So we'd like to see this issue resolved in any
14 way we can, not to the point that it pushes the project
15 out beyond the ability to get appropriate financing if
16 it's a project that we were to deem should move forward.

17 So that's the dilemma I see this committee has,
18 but I'll defer to the chairman who's got more voice than I
19 do right now in terms of where we go. I would like to
20 continue to build the record more today, to understand
21 this issue.

22 I actually have a question or two ultimately I'd
23 like to ask in this arena. So I think it would help us
24 make a decision in terms of what to do next. All the
25 options have been tossed out on the table are options we

1 would -- you know, we have thought of and need to
2 consider. Obviously, by throwing out the Colusa option,
3 we recognize that there was a very difficult issue
4 suddenly confronting this particular case. Enough said.

5 COMMISSIONER EGGERT: So I'm going to agree with
6 you, Commissioner. I think the benefits of continuing
7 today with the cross to complete, you know, the current
8 questions that you have for the panel, given sort of the
9 current state of analysis and testimony, I think is going
10 to be very helpful to our decision about the next step.

11 And I think -- my sense is that we will probably
12 have to confer, if only for a matter of hours, not days,
13 about what that next step is subsequent to today's
14 hearing, and I don't think we'll be quite ready to make
15 that decision before we adjourn. But I think we can do it
16 quite soon.

17 And I think once we have -- and we have, I think,
18 a majority of the information already on the table before
19 us, and we're going to get a little bit more, I guess,
20 following the public comment if there is any. I'm feel
21 fairly confident that we can make a sound decision about
22 the next step, but I think we probably need some time to
23 talk amongst the committee and with our hearing officer,
24 if that's agreeable to you.

25 COMMISSIONER BOYD: By all means.

1 COMMISSIONER EGGERT: Okay.

2 COMMISSIONER BOYD: I figured I'd be pretty
3 exhausted by the time this day's over, and it would be
4 very difficult to ponder a well-reasoned final conclusion,
5 recommendation, but I would like to get as many facts out
6 into the record as possible. The more there is, the
7 better opportunity we have to make a good decision rather
8 than an emotional decision.

9 COMMISSIONER EGGERT: Right, and I think -- I
10 think I would fully -- I appreciate the pros and cons of
11 the difference paths; and so with that, I think I would
12 suggest that we proceed with any public --

13 COMMISSIONER BOYD: With the magic hour of 5:00
14 having arrived.

15 COMMISSIONER EGGERT: Does our public advisor
16 have any indication that there might be a --

17 MS. JENNINGS: No, I have no cards. I don't know
18 if --

19 COMMISSIONER EGGERT: We should probably check
20 with the phone to see if there's anybody on the line from
21 the public.

22 So if anybody's on the line that is not a party
23 to the proceeding and wanted to make a comment as a member
24 of the public.

25 They've got a lot of endurance if they do.

1 Okay. Hearing none, I'll turn it back over to
2 Kourtney to proceed.

3 HEARING OFFICER VACCARO: Okay. So, Mr. Ellison,
4 the floor is yours for cross-examination.

5 CROSS-EXAMINATION

6 MR. ELLISON: For those of you on the panel, you
7 don't know me, my name is Chris Ellison, I represent
8 Abengoa in this proceeding.

9 Let me begin -- Mr. Brierty, am I pronouncing
10 your name correctly? What's the correct --

11 ASSISTANT CHIEF BRIERTY: Brierty, just like a
12 big T on the briars.

13 MR. ELLISON: Brierty?

14 MR. BRIERTY: Uh-huh.

15 MR. ELLISON: During your testimony you -- and if
16 I mischaracterize it, correct me -- but you said something
17 to the effect that the amount that the fire department
18 needed to serve the collective projected solar projects,
19 that Abengoa's share of that might go down as other
20 projects contributed.

21 ASSISTANT CHIEF BRIERTY: Yes, I did.

22 MR. ELLISON: Do you recall that?

23 ASSISTANT CHIEF BRIERTY: Yes, I do.

24 MR. ELLISON: Could you elaborate exactly on how
25 that would work; and specifically, you know, we understand

1 under the staff's proposal that over the life, projected
2 30-year life of the Mojave Solar Project, that staff's
3 asking in both capital and operating for roughly
4 \$24.6 million. Was it your testimony that that number
5 would somehow go down if other projects contributed, and
6 how do you see that working?

7 ASSISTANT CHIEF BRIERTY: Yes. When this --
8 we've had other projects in the county that have been --
9 gone through the development process. Primarily
10 residential projects that may have a commercial strip
11 center or industrial portion of them. And what we've
12 structured, and we did this in cooperation, we had Stan
13 Hoffman's financially to do this, is we created what's
14 called a fair-share agreement.

15 And the proponent supports the development of a
16 fire station, apparatus, and firefighters until such time
17 that other folks join into the process, and then they
18 contribute their fair share to that fire response
19 capacity. And we've structured these before with other
20 developments inside the county. And this would be the
21 same type of a thing.

22 And we would, for example, whether you believe it
23 would work or not, the high-speed rail from Victorville to
24 Las Vegas, we would approach them and say, you're going to
25 contribute -- we want you to contribute to this system

1 that we've created to provide firefighter emergency
2 response and medical aid to this area. And they would be
3 a contributor to that, the money would be tracked, and
4 then the other contributors' contribution would be
5 reduced, if not reimbursed.

6 And other types of developments, other types of
7 projects, other types of revenue sources, such as
8 permitting off-road vehicle activity, could contribute to
9 that because they're a receiver of our services. When
10 somebody's out at Dumont Dunes and on a motorcycle and has
11 a problem, we have to respond out there. And it's an
12 unfunded mandate to respond out there. So we're thinking
13 about licensing them and then contributing that to the
14 pool, if you will.

15 We've actually talked internally creating an
16 association of -- you know, where we have the renewable
17 energy facility proposers create an association that would
18 be a legal entity in and among itself that would be kind
19 of like a user group, if you will, but the idea is that we
20 set a system in place and then people contribute to that,
21 support of that, and the more they contribute to it, the
22 less the participation -- the less -- the contribution
23 goes down.

24 Yes, I did say that. Is that a little bit
25 clearer?

1 MR. ELLISON: Little bit.

2 ASSISTANT CHIEF BRIERTY: Okay.

3 MR. ELLISON: Are there any specific projects
4 that are in the county's process or the energy
5 commission's process right now that you believe will
6 contribute to this?

7 ASSISTANT CHIEF BRIERTY: Well, as I mentioned,
8 we had a total list of about 35 projects that were
9 renewable energy projects. Because some of those are
10 just, I don't know how you want to say it, but
11 conceptualized, they haven't actually applied for a
12 permit, they haven't applied to get into the process, they
13 haven't been assigned a county planner, we selected just
14 14 of them that were what we consider active.

15 And the three that are energy commission are
16 Abengoa, Calico, and Bright Source Ivanpah, but then there
17 are 11 others that are county-only projects. And as these
18 other 14 to 15 or so come on board, they would be
19 approached in the same process we're doing here and saying
20 that we've got this matrix, we've come up with this
21 fair-share concept, nexus, if you will, under CEQA, and we
22 believe this is your contribution to that process.

23 MR. ELLISON: Are you aware that in the Ivanpah
24 case the staff position and current, I believe, committee
25 position is that there is no significant worker safety

1 impact with that project?

2 ASSISTANT CHIEF BRIERTY: Yes. And when we -- we
3 responded in the EIS comments that we disagreed with staff
4 on that, and as you can see it's in our matrix, but we did
5 disagree with staff's -- in a similar fashion, we believe
6 it does have impacts, and we believe that, and we stated
7 in our EIS comments, that we would be developing this
8 matrix to come up with a value of mitigation that they
9 should contribute to.

10 MR. ELLISON: Do I correctly understand then that
11 the \$24.6 million that's being assessed to Abengoa here is
12 to fund the anticipated needs for fire protection for all
13 of these future projects and that Abengoa's share might go
14 down if by some devices, other projects were compelled or
15 volunteered to contribute?

16 MS. HAMMOND: Are you ask- -- I'm sorry. Are you
17 asking if Abengoa's asked to fund the fire protection
18 services for all of the projects or for its share?

19 MR. ELLISON: The former.

20 ASSISTANT CHIEF BRIERTY: I think the matrix
21 shows that all of the projects pay their fair share
22 contribution, and Abengoa is not being asked to pay for
23 the entire response capacity for the fire department.

24 MR. ELLISON: Then how does Abengoa's share go
25 down if other projects contribute if they're only being

1 assessed their share?

2 ASSISTANT CHIEF BRIERTY: Because there's more
3 participants in the group that would be paying.

4 MR. S. HOFFMAN: I think what he's -- can I
5 answer? This is a comment.

6 In the formula we have, if there are more
7 projects that it's spread across, that would be --

8 MR. ELLISON: So you're saying if a project --
9 I'm sorry to interrupt you.

10 MR. S. HOFFMAN: Go ahead.

11 MR. ELLISON: Do I correctly understand that what
12 you're saying is that you're -- you've assumed a certain
13 number of certain development projects and assessed,
14 quote, "fair shares" to Abengoa based on that. So if any
15 of those projects go forward, that's not going to lower
16 Abengoa's share; is that correct?

17 ASSISTANT CHIEF BRIERTY: Within the 14?

18 MR. ELLISON: Correct.

19 ASSISTANT CHIEF BRIERTY: No, those are included
20 in the assessment.

21 MR. ELLISON: Okay. So the only way that
22 Abengoa's share goes down is if some other project outside
23 the universe of those that you currently foresee shows up
24 and by some device contributes.

25 ASSISTANT CHIEF BRIERTY: Uh-huh, yes.

1 MR. ELLISON: Okay. Let me turn to Mr. Greenberg
2 on the issues about oxygenated and flammability and all of
3 that.

4 You've referred in your testimony, and I'm
5 referring to the top of page -- let me refer you to that
6 paragraph I read earlier about -- bottom of page 4, top of
7 page 5.

8 HEARING OFFICER VACCARO: What exhibit number,
9 please?

10 MR. ELLISON: The pages aren't numbered, but
11 it's --

12 HEARING OFFICER VACCARO: But the exhibit itself
13 has a number, correct?

14 MR. ELLISON: Yes. This is the staff's
15 testimony -- yeah, it's Exhibit 313 --

16 HEARING OFFICER VACCARO: Thank you.

17 MR. ELLISON: -- and not counting the cover page,
18 it's the bottom of page 3, top of page 4.

19 And you described -- I'm going to direct these
20 questions to you, Dr. Greenberg. If they need to go
21 somewhere else, tell me.

22 DR. GREENBERG: Thank you.

23 MR. ELLISON: There you say "The AM solar plant
24 would be larger in scale than the existing solar power
25 plants in Mojave and will have a huge amount of," quote,

1 "highly flammable, oxygenated heat transfer fluid." And
2 in the next sentence you again say "highly flammable,
3 oxygenated" and then again "flammable," so "highly
4 flammable, oxygenated flammable material."

5 Using -- "flammable" is a term of art, is it not?

6 DR. GREENBERG: No, it's a technical term.

7 MR. ELLISON: Okay. By "technical term" -- let
8 me put it this way: It's defined in the international
9 fire code, is it not?

10 DR. GREENBERG: Yes. It's defined in Cal/OSHA
11 regulations as well.

12 MR. ELLISON: Okay. Using that definition, is
13 this heat transfer fluid flammable?

14 DR. GREENBERG: At normal temperature, standard
15 temperature and pressure, that's normal atmospheric
16 pressure and ambient temperature, no, it is not. And I
17 believe I agreed with Mr. Couch on that.

18 MR. ELLISON: Okay. So it's not only not highly
19 flammable, it's not flammable, correct?

20 DR. GREENBERG: At normal temperatures.

21 At the working temperature and pressure, my
22 opinion is that it's flammable.

23 MR. ELLISON: In terms of the characterization of
24 the fluid as that term is used, when you refer to a
25 substance being flammable or not flammable, there is a

1 specific test that you do to determine that, correct?

2 DR. GREENBERG: That's correct. There are
3 actually three tests the --

4 MR. ELLISON: And that test -- okay, sorry,
5 please finish.

6 DR. GREENBERG: There are actually three tests
7 that are allowed. And one of them was used and reported
8 in the Material Safety Data Sheet. There was another one
9 that was not allowed, and that was also reported.

10 MR. ELLISON: Okay. And those tests include
11 parameters for temperature, pressure, and those things,
12 correct?

13 DR. GREENBERG: That's correct.

14 MR. ELLISON: Okay. So using those tests and
15 using that definition, do you agree it's not flammable?

16 DR. GREENBERG: It would be combustible; it was
17 not flammable, yes, I said that.

18 MR. ELLISON: Okay. So it's not only not highly
19 flammable, it's not flammable, correct?

20 DR. GREENBERG: Under those conditions, yes.

21 MR. ELLISON: Okay. Now, with respect to
22 oxygenated, what do you mean when you use the word
23 "oxygenated"?

24 DR. GREENBERG: I use it in the technical and
25 scientific sense that you can find it in any dictionary or

1 any chemical -- you know, organic chemistry textbook that
2 it means it is a chemical substance that contains oxygen
3 in the molecular structure.

4 MR. ELLISON: So, for example, what you're
5 saying --

6 DR. GREENBERG: It has an oxygen atom in that
7 structure.

8 MR. ELLISON: Okay. So you are not saying -- I
9 mean, sometimes people introduce oxygen, free oxygen into
10 a substance to enhance its burning capabilities. You are
11 not using it in that sense, correct?

12 DR. GREENBERG: Oh, that's correct. I'm not at
13 all suggesting that anybody is introducing, as you say,
14 free oxygen, an O₂ molecule into the system.

15 MR. ELLISON: Okay. So what you're saying is
16 that the Therminol molecule includes atom of oxygen.

17 DR. GREENBERG: Correct.

18 MR. ELLISON: Okay. Water also includes an atom
19 of oxygen, correct?

20 DR. GREENBERG: That is correct. But water is
21 not an organic chemical.

22 MR. ELLISON: But water is oxygenated as you are
23 using this word, correct?

24 DR. GREENBERG: Yes, it is.

25 MR. ELLISON: So isn't it fair to say that the

1 use of the word "oxygenated" here says nothing about the
2 combustibility, flammability, fire hazard of the material
3 you're talking about?

4 DR. GREENBERG: No, I wouldn't say that.

5 There is an inference that we are talking about a
6 hydrocarbon fluid, not water. And so it is an
7 oxygenated -- I left out the word "hydrocarbon," but it is
8 an oxygenated fluid. And I'm certainly not talking about
9 water.

10 MR. ELLISON: But by the way you've defined, the
11 way you're using this word, water would qualify, correct?

12 DR. GREENBERG: I would disagree.

13 MR. ELLISON: Really? Does water not have an
14 oxygen molecule?

15 DR. GREENBERG: Water's not a heat transfer
16 fluid, and that's what we're talking about.

17 MR. ELLISON: No, I'm talking about your use of
18 the word "oxygenate."

19 DR. GREENBERG: And I'm talking about the context
20 of the word "oxygenated."

21 MR. ELLISON: No, please, I'm asking you a
22 precise question; on redirect you can do whatever you
23 want.

24 DR. GREENBERG: No, I'm answering your question,
25 sir.

1 MR. ELLISON: The question is -- okay. I heard
2 you testify, correct me if I'm wrong, that when you say
3 "oxygenated," you just mean the molecule includes oxygen.

4 DR. GREENBERG: That is correct.

5 MR. ELLISON: And by that definition, water is
6 oxygenated.

7 DR. GREENBERG: It's not a hydrocarbon.

8 HEARING OFFICER VACCARO: Please just answer the
9 question.

10 DR. GREENBERG: It's not a hydrocarbon.

11 Sometimes you can't answer "yes" or "no" in a
12 trial even.

13 COMMISSIONER EGGERT: May I break in here?

14 I think that -- if I may, the -- I suspect that
15 what you're trying to get at is whether or not -- I think
16 what you're trying to get at is whether or not the
17 presence of the oxygen molecule within the material
18 contributes in way to its potential for combustibility or
19 flammability; is that correct?

20 MR. ELLISON: Yes.

21 COMMISSIONER EGGERT: Okay. I think you could
22 potentially answer that question, maybe. Can you answer
23 that question?

24 Does the presence of the oxygen molecule
25 specifically contribute to its combustibility or

1 flammability?

2 DR. GREENBERG: Yes, it does. There's a number
3 of other factors too, but it does contribute to that, yes.

4 MS. HAMMOND: Do these questions go only to
5 Dr. Greenberg, or can any member of the panel chime in?

6 MR. ELLISON: I'm finished with that line of
7 questioning --

8 MS. HAMMOND: But as a general, going forward?

9 MR. ELLISON: I will address my questions to the
10 panel, although I understood this is the testimony of
11 Dr. Greenberg, and I think it's specifically his words
12 that he chose.

13 MS. HAMMOND: It's his words based on input from
14 Chief Brierty.

15 MR. ELLISON: If the panel wants to add
16 something, I'm happy to hear it.

17 ASSISTANT CHIEF BRIERTY: Oxygenating the
18 compound, or this hydrocarbon with an oxygen in it, yes,
19 it does increase the flammability or ignitability, or
20 combustibility. For example, another compound that you
21 may have heard of, polychlorinated biphenyl, PCVs, isn't
22 even close to as combustible or igniting I believe as this
23 is because it's two phenyls put together. You take those
24 two phenyls and you put an oxygen in the middle of them,
25 you create a diphenyl ether, and that oxygen contributes

1 to the molecular ability for that thing to combust, burn,
2 whatever term you want to use, it absolutely does increase
3 the potential for it to burn.

4 MR. ELLISON: Okay. Well, my question to the
5 panel is, and if anybody disagrees with this, tell me, the
6 presence of this oxygen molecule is accounted for in the
7 tests that are done to determine flammability, is it not?

8 ASSISTANT CHIEF BRIERTY: Yes.

9 MR. ELLISON: And using those standard tests and
10 the accepted fire code definition, this is not a flammable
11 material, correct?

12 DR. GREENBERG: Yes.

13 MR. ELLISON: All right. Now I'd like you to
14 turn to page 3 of Exhibit 13; and, again, I'll address
15 this to Dr. Greenberg on the assumption that you wrote it,
16 but the panel's free to answer it. And it goes to this
17 question about the sufficiency of the database that we're
18 looking at here.

19 And at the bottom of the -- the paragraph that
20 concludes just above the headline "Analysis of Impacts Due
21 to the Abengoa Mojave Solar Project" is a bracketed and
22 parenthetical note.

23 Do you see that note, Dr. Greenberg?

24 DR. GREENBERG: Yes, I do.

25 MR. ELLISON: Okay. And the note essentially

1 says, if I can paraphrase it, that there's sparse data
2 regarding the history of solar power plants, and so the
3 conclusions regarding accident rates are, quote, "weak
4 from a statistical perspective." And you go on to say
5 that simply put, the data set is not robust enough to
6 allow definitive conclusions about the safety records of
7 these solar power plants.

8 Do you see that?

9 DR. GREENBERG: Correct, yes, I do see that.

10 MR. ELLISON: Okay. Isn't it correct that there
11 are nine solar power plants, the nine SEGS plants in
12 San Bernardino County?

13 DR. GREENBERG: I counted them as three because
14 they're -- I look at a contiguous area. I will submit to
15 you that technically speaking from, you know, an
16 operational perspective, yes, there are nine, SEGS I
17 through IX. But they're at three different locations, and
18 they're all -- they all share a same, quote, unquote,
19 "site."

20 MR. ELLISON: Okay. So I think a precise
21 statement would be there are nine projects at three
22 different sites?

23 DR. GREENBERG: Well, we have permitted them, I
24 believe, and I could stand corrected, at -- as three
25 different locations and they're under one owner for each

1 of the locations, they're contiguous fencing. That's how
2 I look at -- that's how I arrived at three. If you want
3 to call it nine, you can; I call it three different
4 locations.

5 MR. ELLISON: Okay. Let's say three.

6 Okay. How long have they been operating?

7 DR. GREENBERG: As I stated in my testimony, some
8 of them have been in there since -- well, I don't recall,
9 but at least 1984, '85. I'd rather take a look and see
10 rather than rely on my memory.

11 Let's see. One of them since 1984, the other
12 since 1989, and another one since 1989, also.

13 MR. ELLISON: Okay. So we have three solar power
14 plants, or nine, depending on how you want to characterize
15 it, who have been operating for more than 20 years for the
16 youngest and a quarter of a century for the oldest,
17 correct?

18 DR. GREENBERG: Correct.

19 MR. ELLISON: And that's the database that you
20 consider sparse.

21 DR. GREENBERG: Yes.

22 MR. ELLISON: Now, the database that you relied
23 upon also included ten years of data for all of the
24 different service calls at the county, correct?

25 DR. GREENBERG: That is correct.

1 MR. ELLISON: And how many service calls are we
2 talking about?

3 DR. GREENBERG: The data speaks for itself; I
4 don't have that memorized.

5 MR. ELLISON: These sites that we're talking
6 about, these three plants collectively comprise what has
7 been until recently the largest solar facility in the
8 world, correct?

9 DR. GREENBERG: I'm not aware of that, I don't
10 know.

11 MR. ELLISON: Okay. This is a question for the
12 panel.

13 I'm referring now to page 6 of Dr. Greenberg's
14 testimony, and in a moment I'm going to cross-reference to
15 Mr. Hoffman's report.

16 In the middle of the second full paragraph is the
17 sentence, "Using the emergency response matrix and
18 weighting it for the size in megawatts of each energy
19 project and applying an allocation factor of 29 percent
20 for solar project based on fire department service calls,"
21 do you see that?

22 DR. GREENBERG: Yes.

23 MR. ELLISON: I want to focus on the allocation
24 factor of 29 percent for solar project based service
25 calls.

1 Is that the same 29 percent that I find in
2 Table 9 of Mr. Hoffman's report for the share rounded of
3 commercial service calls in the year 2009?

4 MR. S. HOFFMAN Yes.

5 MR. ELLISON: Yes, okay.

6 HEARING OFFICER VACCARO: And what is the number
7 that goes with Mr. Hoffman's report, exhibit number? For
8 the clarity of the record, it's helpful for us to know
9 what we're looking at.

10 MR. ELLISON: It's Exhibit 329.

11 HEARING OFFICER VACCARO: Thank you.

12 MR. ELLISON: And I'm looking at Table 9.

13 So referring to Table 9, that 29 percent
14 represents the share of the total service calls in 2009
15 from what are characterized here as commercial sources,
16 correct?

17 MR. S. HOFFMAN: In the rural and remote areas.

18 MR. ELLISON: Now, am I correct that what you've
19 done is to allocate to solar facilities, and I'm looking
20 again at your testimony, Dr. Greenberg, 29 percent of the
21 total mitigation cost that you are assessing to respond to
22 all of the future needs of the county, correct?

23 MR. S. HOFFMAN: Not the full future needs to the
24 county. That's of those remote areas.

25 MR. ELLISON: Okay. Of those remote areas, the

1 areas that we're talking about, you've allocated 29
2 percent of those costs to solar projects, correct?

3 MR. S. HOFFMAN: To commercial. And then since
4 those are the only commercial developments in that area
5 that we allocated to those projects, yeah.

6 MR. ELLISON: Are you saying, when you say
7 "commercial" in your table here, you say the solar
8 projects are the only commercial projects, are you saying
9 that everything in this commercial category, 29 percent of
10 these --

11 MR. S. HOFFMAN: Well, in the --

12 MR. ELLISON: Let me finish.

13 -- of these calls in 2009 came from solar
14 projects?

15 MR. S. HOFFMAN: No. All I'm saying is that
16 their calls for commercial are 29 percent of their total
17 calls within this remote area. Since I'm classifying
18 these projects as commercial and there's no other
19 commercial around these projects, I'm allocating the cost
20 of them -- now, as Peter Brierty, Chief Brierty said, if
21 other projects come in, that would lower the cost, but
22 right now for those areas there's no -- there's no other
23 commercial that's up there.

24 MR. ELLISON: But this is based on historic 2009
25 data, correct?

1 MR. S. HOFFMAN: It's based on total calls to the
2 county, which include everything. The solar projects make
3 up a small part of it.

4 MR. ELLISON: So if you were to -- and
5 commercial, as I understand it, includes every service
6 call in the county that was not traffic or residential; is
7 that right?

8 MR. S. HOFFMAN Correct.

9 MR. ELLISON: So that would include all service
10 calls from all commercial establishments, correct? All
11 shopping centers?

12 MR. S. HOFFMAN: Right.

13 MR. ELLISON: All industrial facilities. Many
14 more facilities than just solar, correct?

15 MR. S. HOFFMAN: Correct.

16 MR. ELLISON: How would this percentage change if
17 instead of commercial you used the existing -- the calls
18 from the existing nine solar projects as a percentage of
19 all the calls in the county in 2009, what would that
20 percentage be?

21 MR. S. HOFFMAN: If I used just the calls from
22 the solar?

23 MR. ELLISON: Yeah.

24 MR. S. HOFFMAN: I don't know offhand, I'd have
25 to run it. But that -- that would not -- for those areas

1 though, since they're the only commercial, it would be
2 a -- I think, an incorrect number to use.

3 MR. ELLISON: 29 percent -- how many calls were
4 there total in the county in 2009?

5 MR. S. HOFFMAN: There were 25,386.

6 MR. ELLISON: And 29 percent of that would be
7 approximately what?

8 MR. S. HOFFMAN: 29 percent was, that was about
9 7200.

10 MR. ELLISON: So you're saying that you expect
11 these solar projects that you're counting in your universe
12 of projects to generate 7,200 calls in a given year?

13 MR. S. HOFFMAN: I think the point we disagree on
14 is these are remote areas. If you were spreading things
15 evenly in an urbanized area, the direction you're going
16 with your argument might work, but since this is like
17 leapfrog development, if you will, there's nothing else
18 out there, relatively speaking, to pay for the impact of
19 these facilities. That's the key assumption where we
20 differ.

21 MR. ELLISON: My question is you've assumed that
22 29 percent --

23 MR. S. HOFFMAN: Go to commercial.

24 MR. ELLISON: -- go to solar?

25 MR. S. HOFFMAN: No. I first said go to

1 commercial, and then I put this in the category of
2 commercial.

3 MR. ELLISON: Okay. And what that means,
4 assuming the county calls were to stay the same, that you
5 expect 7,000 or something, give or take, service calls
6 from these future solar projects; isn't that correct?

7 MS. HAMMOND: Objection. That's a
8 mischaracterization of his statement.

9 MR. S. HOFFMAN: No, I wouldn't expect 7,000.

10 MR. ELLISON: Okay. How many calls -- elsewhere
11 in the testimony there's the statement, and the panel can
12 address this, that there have been 30 service calls over
13 the past 10 years for the existing nine solar projects,
14 correct?

15 HEARING OFFICER VACCARO: Let the record
16 reflect -- is that a yes or is that just a nod, just for
17 the purposes of the record?

18 MR. S. HOFFMAN: I think -- I think there was a
19 number 30 that was in one of the testimonies, yes.

20 HEARING OFFICER VACCARO: Thank you.

21 MS. HAMMOND: In one of staff's testimonies or
22 one of applicant's testimonies?

23 MR. ELLISON: No, it's in staff's testimony. If
24 you look at --

25 COMMISSIONER BOYD: 30 in 12 years on page 3 of

1 Dr. Greenberg's study.

2 MR. ELLISON: Thank you, Commissioner.

3 So 30 in 12 years is, to round roughly, somewhere
4 between two and three per year, correct?

5 MR. S. HOFFMAN: But I think, as Dr. Greenberg
6 pointed out, there's also inspection too, which is not
7 included in those numbers.

8 MR. ELLISON: I'm talking about service calls.

9 MR. S. HOFFMAN: Yeah.

10 MR. ELLISON: That's two or three per year from
11 nine solar projects. That's what we've seen in the past
12 12 years, correct?

13 MR. S. HOFFMAN: That's correct.

14 MR. ELLISON: Okay. But looking forward, you are
15 allocating 29 percent of 25,000 service calls to solar,
16 correct?

17 MR. S. HOFFMAN: What I am saying is in those
18 remote areas, that's the pro-rata share for commercial
19 development. And if there's other commercial development,
20 it could be used to offset that. But at this point
21 there's no other commercial development in that area.

22 MR. ELLISON: Okay. If I could ask you to look
23 at Table 8 of your study. Now, this refers to the
24 estimated impact of population growth on demand and fire
25 services in the desert region essentially, correct?

1 MR. S. HOFFMAN: Table 8?

2 MR. ELLISON: Yes.

3 MR. S. HOFFMAN: Yes.

4 MR. ELLISON: And the desert region is the remote
5 region we're talking about, correct?

6 Okay. How much growth of households do you
7 expect in that remote region based on this table?

8 HEARING OFFICER VACCARO: Mr. Ellison, I'm sorry,
9 I'm going to interrupt your question.

10 Just if I could remind the witnesses that we see
11 you just fine and we get the sense when you nod that you
12 mean yes, but for the purposes of the transcript I
13 actually need an audible "yes," "no," or whatever it might
14 be.

15 Thank you.

16 MR. S. HOFFMAN: So could he re-ask the question,
17 because there's nothing on the record.

18 HEARING OFFICER VACCARO: Or I think that your
19 answer to Mr. Ellison's last full question was in the
20 affirmative, you nodded your head in the affirmative; is
21 that correct? Do you need it --

22 MR. S. HOFFMAN: What was -- if he could repeat
23 the question again, so we make sure.

24 MR. ELLISON: The question that I had asked was
25 this table represents the estimated impact of population

1 growth on demand for fire services in the desert region,
2 correct?

3 MR. S. HOFFMAN: Yes.

4 MR. ELLISON: Okay. And the desert region is the
5 remote region that you were referring to in your answer a
6 moment ago, correct?

7 MR. S. HOFFMAN: The three areas that are shown,
8 yes.

9 MR. ELLISON: So this is the area where you
10 expect solar to be the only development out there and that
11 you've allocated based on that assumption 29 percent of
12 the expected calls, correct? Is that correct? You have
13 to verbalize.

14 MR. S. HOFFMAN: Yes.

15 MR. ELLISON: Thank you.

16 Based on Table 8, what is the expected growth in
17 households in that region?

18 MR. S. HOFFMAN: The growth in households,
19 showing about 2200 in those remote areas, but that's been
20 allocated out.

21 MR. ELLISON: Would it be fair to say that those
22 areas are expected to grow, not just in terms of solar
23 development but in terms of other types of development?
24 Is that a fair statement?

25 MR. S. HOFFMAN: I would not say it is.

1 Particularly the outlying desert, there's very, very
2 little expected to grow out there.

3 MR. ELLISON: The desert region that I'm
4 referring to here in Table 8 is the remote --

5 MR. S. HOFFMAN: No.

6 MR. ELLISON: -- region that you were referring
7 to a moment ago? That's the region I'm referring to now.

8 MR. S. HOFFMAN: Well, the portions -- what I'm
9 saying is the portions where the stations are going or
10 where the solar farms are going are not expected to grow
11 significantly.

12 MR. ELLISON: That's not the question I asked
13 you.

14 The question I asked you is whether the desert
15 region as identified in Table 8 is expected to experience
16 some significant --

17 MR. S. HOFFMAN: Yes, if you take --

18 MR. ELLISON: -- non-solar growth, correct?

19 MR. S. HOFFMAN: If you take this whole area, if
20 you take this whole area that I call desert, yes, there is
21 some growth there as shown.

22 MR. ELLISON: And isn't this the area that the
23 new fire services are intended to serve that we're talking
24 about, that we're funding?

25 MR. S. HOFFMAN: No. They -- they are serving

1 part of it, not all of it. They actually have several
2 areas, the north desert area, the south desert areas,
3 which are subsets of this.

4 MR. ELLISON: If instead of allocating 29 percent
5 you had allocated based upon the percentage of service
6 calls from the existing solar projects, the nine existing
7 solar projects in 2009 to the total service calls in the
8 county, how would that have changed your result?

9 MR. S. HOFFMAN: If I did it that way, if I
10 would -- on this basis, it would change it significantly,
11 but what I do though is I would say -- I would have to
12 zero in more tightly on the sub areas where those
13 stations, where their primary service is, which is the
14 north desert area and the outlying area, because much of
15 this growth goes around the unincorporated area around
16 Victorville and around Barstow. So I would probably
17 change -- if we went to that approach, I would probably
18 change the geography.

19 MR. ELLISON: All right. Well, let's do that.
20 I'll distribute these.

21 MR. S. HOFFMAN: Could I ask a question?

22 HEARING OFFICER VACCARO: Yes. Is it of me?

23 MR. S. HOFFMAN: If we're going to go into
24 technical details, I'm going to be handed something, I
25 don't think I can respond to it at this point. I don't

1 want to be at the point where I have to respond to numbers
2 that are being fed to me. And if the applicant has the
3 ability to take some time to look at things, I would also
4 like the same opportunity.

5 MR. ELLISON: Well, the document I'm going to
6 give you is the San Bernardino County Fire Department's
7 2009 Annual Report; are you familiar with that?

8 MR. S. HOFFMAN: Yes. But I'm saying, I'm not --
9 I'm not prepared to run some numbers through at this
10 point. So I can accept your report, I mean, the report,
11 but if you're going to ask a question, you can pose it, I
12 would like the opportunity to work through those numbers
13 as opposed to responding right now.

14 MR. ELLISON: Well, okay. Let me --

15 HEARING OFFICER VACCARO: Or --

16 MR. ELLISON: I'm sorry.

17 HEARING OFFICER VACCARO: Or, you know, depending
18 on the nature of the question, if it's something that your
19 answer is just merely it would take me time to run through
20 the numbers before I can answer that, then I'd probably
21 have Mr. Ellison move on to something that won't require
22 you having to take a significant pause in the testimony.

23 MR. S. HOFFMAN: Well, I understand what he's
24 asking me to do, but I would need some time to look at
25 that, and we'd have to work through that.

1 MR. ELLISON: Well, maybe we can keep this
2 relatively straightforward and short. I hope so.

3 In Table 9 you allocated to solar 29 percent of
4 all the calls in the county in 2009, correct?

5 MR. S. HOFFMAN: Yes. One -- and one of the
6 reasons we took the larger area is we anticipated more
7 solar projects.

8 MR. ELLISON: Okay.

9 MR. S. HOFFMAN: But if -- if we're moving into a
10 modification of this, I would really like to look at a
11 smaller area where the primary service is.

12 MR. ELLISON: I understand that. And I believe
13 the testimony was that all the calls in the county were
14 something like 25,000? Am I correct about that?

15 MR. S. HOFFMAN: Yeah, 25,386.

16 MR. ELLISON: Okay. So now you've said that if I
17 were to ask you to, instead of using all commercial as the
18 numerator in the ratio, to use just the service calls from
19 the existing solar projects, what I think I heard you say
20 is that you then want to change the denominator to that
21 more-confined area where those projects exist; is that
22 correct?

23 MR. S. HOFFMAN: I'd have to look at that. I
24 would like to take a look at that, yeah.

25 MR. ELLISON: Okay. Now, looking at this annual

1 report --

2 MS. HAMMOND: I'd like to clarify that
3 Mr. Hoffman did not make a yes response to your question.

4 MR. ELLISON: Okay. Did I misunderstand your
5 answer?

6 When you say you'd like to --

7 MR. S. HOFFMAN: Well, if you're going to give me
8 some information, I'd like to take the opportunity to look
9 at it and think about it. I don't -- I don't think I can
10 give you a yes or no response right now.

11 MR. ELLISON: My question was, a moment ago when
12 I said how would your results change if you used the
13 service calls from the existing solar projects instead of
14 all the non-residential and non-traffic calls in the
15 county, you said that if you did that, you'd want to use a
16 more-defined geographic area of those calls and not the
17 entire county; is that correct?

18 MR. S. HOFFMAN: I said yes, that is -- that is
19 correct. I don't think for that area that I would want to
20 use that methodology, but I would have to look at it.

21 MR. ELLISON: Okay. So now what I'm doing is I'm
22 trying to follow your lead and -- okay, if we look at the
23 service calls instead of the entire county, which was
24 25,000, if we only look at the north desert division,
25 which is the area where the existing solar projects are,

1 according to this annual report, there were 19,603 service
2 calls in that north desert region in 2009. Subject to
3 check, would you accept that as the correct number?

4 MR. S. HOFFMAN: If it's from the report, I would
5 accept that's their number.

6 MR. ELLISON: Okay. And, Mr. Brierty, if I'm
7 mischaracterizing the report, I assume you'll tell me.

8 ASSISTANT CHIEF BRIERTY: Well, if you're reading
9 out of the report, you're reading out of the report.

10 MR. ELLISON: Right. Okay.

11 HEARING OFFICER VACCARO: Mr. Ellison, would you
12 mind just making a copy of the report available to the
13 folks when --

14 MR. ELLISON: We have copies of the relevant
15 pages, yes.

16 HEARING OFFICER VACCARO: Okay. Just as long as
17 I think Ms. Hammond and the witness to whom you're
18 directing the question actually have it before them, I
19 think that would be helpful.

20 MR. ELLISON: Certainly.

21 HEARING OFFICER VACCARO: Wouldn't hurt if we had
22 a copy either.

23 Okay. I think at this point it looks at though
24 everybody has the opportunity to see the cover page of the
25 document. And what you've done, as I understand it,

1 Mr. Ellison, is taken a few excerpts out of the larger
2 document. And everyone should have that before them so
3 that the questioning can now continue.

4 MR. ELLISON: That's right. And I'm specifically
5 referring to the attached page 10 from the annual report
6 which has calls for service 2008 and 2009.

7 And, Ms. Vaccaro, should we mark this as a
8 cross-examination exhibit, or how do you want to handle
9 that?

10 HEARING OFFICER VACCARO: We can -- yes, let's go
11 ahead and -- for identification, what would it be, your 53
12 or --

13 MR. ELLISON: It would be 53 because we did not
14 submit rebuttal testimonies.

15 (Applicant's Exhibit 53 was marked for
16 identification.)

17 MR. ELLISON: Okay. Looking at this table, and
18 looking at the north desert division, that is the location
19 of the existing solar projects, correct?

20 MR. S. HOFFMAN: Correct.

21 MR. ELLISON: Okay. This table shows 19,603
22 service calls, correct?

23 MR. S. HOFFMAN: Uh-huh.

24 MR. ELLISON: Do you know how many of those
25 calls -- does anybody on the panel know how many of those

1 calls came from the existing solar projects in 2009?

2 MR. S. HOFFMAN: I think in the report -- no,
3 it's not sure -- I'm not sure.

4 MR. ELLISON: Okay. What I'm hearing is no,
5 nobody on the panel has that number.

6 Okay. Using the 30 calls over 12 years that's in
7 Dr. Greenberg's testimony, that would suggest two or three
8 calls per year.

9 MR. S. HOFFMAN: See, and what you would say
10 there is based --

11 MR. ELLISON: Please, I get to ask the questions,
12 you get to answer them, and you get to do redirect.

13 So my question is if we used, let's say, three
14 calls as the average over 12 years from the solar projects
15 as the numerator and 19,603 as the total calls in the
16 north desert division as the denominator, and you used
17 that instead of the 29 percent, how would your results
18 have differed? How would Abengoa's share have changed?

19 MR. S. HOFFMAN: They would be non-sensical,
20 that's my point. And that's why I don't agree with that
21 methodology.

22 HEARING OFFICER VACCARO: Well, excuse me. I
23 think the issue isn't whether or not you agree with his
24 methodology, you can disagree with it; but the question
25 itself I believe can be answered regardless of whether or

1 not you agree with the methodology. And Ms. Hammond's job
2 afterwards will be to ask you a question such as, did you
3 agree with whatever the premise might be. But in
4 answering the question, you have to answer the question as
5 posed, not the question you would have liked to have
6 received.

7 So Mr. Ellison, once again he's posed the
8 question, and if we could just get a direct answer,
9 regardless of your view of the propriety of the question,
10 and let's get an answer to the question.

11 MR. ELLISON: Okay. Again, assuming that there
12 were approximately three service calls from the existing
13 nine solar projects, out of a total of 19,603 in the north
14 desert division, if you were to use that instead of your
15 29 percent, how would Abengoa's mitigation cost have
16 changed?

17 MR. S. HOFFMAN: It would go down.

18 MR. ELLISON: And how much would it go down,
19 approximately?

20 MR. S. HOFFMAN: It would go down; I don't know
21 exactly.

22 MR. ELLISON: Okay. Would it go down roughly
23 proportional to the percentage represented by 3 over
24 19,000 compared to 29? In other words, would it be a
25 direct correlation, would it change directly?

1 MR. S. HOFFMAN: If you use that methodology, if
2 that's the one you would take, but that's not the one I
3 would take.

4 MR. ELLISON: I understand that.

5 But if you did --

6 MR. S. HOFFMAN: It would go down, low, if you
7 used your --

8 MR. ELLISON: And it would go down
9 proportionally.

10 MR. S. HOFFMAN: If you used your approach, it
11 would go down lower.

12 MR. ELLISON: Okay. All right. And just to sum
13 this up, based upon the historic over 12 years service
14 calls from the existing solar projects, an average of
15 three, roughly, per year, and based upon this report in
16 the north desert division, there were 19,603 calls total
17 from all sources, that ratio, 3 to 19.6 thousand, okay,
18 all right, is the historic ratio of solar share of total
19 service calls in the north desert division in 2009,
20 correct?

21 MR. S. HOFFMAN: I don't have a breakdown of the
22 calls, so I can't answer that specifically. As you can
23 see, they're not -- they're not in my land use, so I don't
24 know how they've been distributed.

25 MR. ELLISON: If you --

1 MR. S. HOFFMAN: I'd have to look at it.

2 MR. ELLISON: If you make the assumption, and you
3 understood how I got there, if you make the assumption
4 that there were approximately three calls from the solar
5 facilities and 19,603 total calls, okay, in 2009 in the
6 north dessert division, that would represent solar's --
7 existing solar's share of the calls in the north desert
8 division, correct?

9 MR. S. HOFFMAN: I don't know. I'd have to -- as
10 I said, that's your assumption; I would have to look at it
11 carefully.

12 MR. ELLISON: One of the services, fire services
13 that is assumed to be provided and funded are, in addition
14 to service calls, are plan reviews; is that correct? And
15 that's for the panel. Plan reviews. Is that correct?

16 DR. GREENBERG: Yes.

17 ASSISTANT CHIEF BRIERTY: You mean inspections?

18 DR. GREENBERG: Inspections, plan reviews.

19 MR. ELLISON: Well, those are separate things as
20 I understand it.

21 DR. GREENBERG: True.

22 I'll let the chief respond.

23 ASSISTANT CHIEF BRIERTY: That's correct.

24 MR. ELLISON: I'll direct these questions to the
25 chief, and you can redirect them as appropriate.

1 Am I correct that the county charges for plan
2 reviews? There's a fee for that, isn't there?

3 ASSISTANT CHIEF BRIERTY: Yes, there is.

4 MR. ELLISON: Was the fee accounted for in your
5 analysis, the revenues from the fee?

6 MR. S. HOFFMAN: Are you talking about for plan
7 review?

8 MR. ELLISON: Yes.

9 MR. S. HOFFMAN: The plan review fees were not
10 included. Those are typically assumed to cover plan
11 review costs. They can't -- technically they're not
12 supposed to charge more than what they provide to do the
13 plan review.

14 MR. ELLISON: But one of the fire services that
15 you are requiring Abengoa to fund through this mitigation
16 is for plan reviews, correct?

17 MR. S. HOFFMAN: I was not assuming that. I
18 don't think -- once -- my understanding is once the plan
19 review is done and the project is approved, the ongoing
20 service is inspection, not plan review.

21 MR. ELLISON: Does anybody else on the panel know
22 the answer to that question?

23 DR. GREENBERG: I did not have plan review in my
24 emergency response matrix. You'll have to ask the county
25 fire department if they included that in there is.

1 ASSISTANT CHIEF BRIERTY: We did not include the
2 plan review in the matrix.

3 MR. ELLISON: In the matrix?

4 ASSISTANT CHIEF BRIERTY: I mean in the
5 calculation.

6 MR. ELLISON: The cost of plan reviews was not a
7 factor?

8 ASSISTANT CHIEF BRIERTY: Not that I'm aware of,
9 no.

10 MR. S. HOFFMAN: In your annual operations and
11 maintenance cost, that was just for the fire personnel and
12 the fire response --

13 ASSISTANT CHIEF BRIERTY: Operations and
14 maintenance cost is just for the fire station response.

15 MR. ELLISON: Okay. And with respect to
16 inspections, did you include those as part of your costs
17 that are being assessed here?

18 DR. GREENBERG: I included inspections in my
19 matrix, yes.

20 MR. ELLISON: And is there a fee for that?

21 DR. GREENBERG: I'm not aware one way or the
22 other.

23 ASSISTANT CHIEF BRIERTY: There's two groups of
24 inspections. There's a haz mat inspection that there is a
25 fee that's paid, and then there's a fire prevention

1 inspection for which there's not a fee charged.

2 MR. ELLISON: Okay. So the fees that are
3 charged, were they accounted for in your analysis?

4 ASSISTANT CHIEF BRIERTY: No.

5 MR. ELLISON: And did you account for the
6 property tax that the project will pay?

7 MR. S. HOFFMAN: We did not include the property
8 tax. We understood it to be exempt. And that was one of
9 the questions we had about these projects. Today someone
10 said that it was to pay property tax, but we've been told
11 that they are exempt. That would certainly, you know,
12 make a difference.

13 MR. ELLISON: All right. Is it -- and I'll
14 direct this to the chief. Again, you can redirect it.

15 My understanding is that in some cases the
16 department charges for service calls, bills an entity.
17 For example, I understand that in the SEGS VIII fire that,
18 you know, of January 10th, 1990, and February 13th of
19 1990, that the project owner was billed for the fire
20 suppression associated with those calls. Do you know?

21 ASSISTANT CHIEF BRIERTY: It -- I'm not certain
22 about that, but it very easily could have happened,
23 because we don't have mitigation from those projects.

24 MR. ELLISON: Okay. So at least historically you
25 have billed on some occasions for service calls.

1 ASSISTANT CHIEF BRIERTY: Yes, sure. Yes.

2 MR. ELLISON: Did you make any assumption about
3 revenues from billing in any of your analysis here?

4 ASSISTANT CHIEF BRIERTY: No, because that would
5 be negated by the mitigation.

6 MR. ELLISON: We heard testimony earlier from
7 Mr. Couch that at least at Kramer Junction over the
8 10-year period of the mutual-aid agreement, that the fire
9 brigade as you've called it, provided assistance to the
10 county off site.

11 Do you recall that testimony?

12 ASSISTANT CHIEF BRIERTY: Yes, I do.

13 MR. ELLISON: Okay. Do you have any reason to
14 disagree with that testimony?

15 ASSISTANT CHIEF BRIERTY: No.

16 MR. ELLISON: Assuming that there would be a fire
17 brigade at least at the Mojave Solar Project, did you
18 assume in your analysis any benefits of that kind of
19 assistance?

20 DR. GREENBERG: No, I did not, because this is
21 the first I've heard that you're making a proposal for a
22 fire brigade. I don't see that in your AFC or any of your
23 pleading papers.

24 MR. ELLISON: Then the answer's no.

25 DR. GREENBERG: Correct.

1 I'd love to discuss that with you at a workshop
2 though.

3 MR. ELLISON: So if you understood that the
4 applicant is proposing to have a Kramer Junction style
5 fire brigade on site, I take it then your analysis might
6 change.

7 DR. GREENBERG: It may or may not, yes.

8 MR. ELLISON: May or may not.

9 DR. GREENBERG: That's right. I am certainly
10 open to considering it.

11 MR. ELLISON: But you don't know that it would
12 change.

13 DR. GREENBERG: That's correct. I don't have any
14 details other than now today you've sprung on me -- you
15 are proposing a fire brigade, but I don't have any other
16 details.

17 MR. ELLISON: And, Chief Brierty, you mentioned
18 earlier in your testimony that you were not in favor of
19 fire brigades because I believe you characterized them as
20 not having the same sort of training and experience that
21 professional firefighters have, something to that effect;
22 is that correct?

23 ASSISTANT CHIEF BRIERTY: That characterizes it
24 correctly, yes.

25 MR. ELLISON: Okay. During the ten years that

1 there was a mutual-aid agreement with the fire brigade at
2 Kramer Junction, are you aware of any instances in which
3 that fire brigade failed to do its job properly?

4 ASSISTANT CHIEF BRIERTY: I'm not -- I'm not
5 aware of the details of what they did, no. I'm not aware
6 of that.

7 MR. ELLISON: Have you heard any complaints,
8 anybody say that they were not capable of doing their
9 work?

10 ASSISTANT CHIEF BRIERTY: No, I've not heard
11 that.

12 MR. ELLISON: Abengoa's share of the mitigation
13 costs that you've identified is, I believe, \$24.6 million
14 over the life of the project, and you've testified that
15 that represents what you characterize as Abengoa's fair
16 share, in other words, only a portion of the total
17 projected mitigation costs for the projects that you
18 assumed, correct?

19 DR. GREENBERG: Yes.

20 MR. ELLISON: Can you tell me what the total
21 dollars that you're assuming will be spent to mitigate the
22 projects that you assumed would be?

23 ASSISTANT CHIEF BRIERTY: It's on the same table.

24 MR. S. HOFFMAN: Which table are you referring
25 to?

1 MR. ELLISON: I'm not referring to the table.

2 MR. S. HOFFMAN: Because I have -- are you -- are
3 you taking the operations cost times 25? Is that what
4 you're --

5 MR. ELLISON: Well, the 24.6 million is the
6 capital and operations costs over 30 years for Abengoa.

7 MR. S. HOFFMAN: For over 30 years.

8 MR. ELLISON: So the question would be if you
9 apply that to the entire universe of projects that you've
10 assumed, what would be the total dollars to the county
11 that you're looking for?

12 MR. S. HOFFMAN: You mean across all the solar
13 projects?

14 MR. ELLISON: Across all the projects that you
15 assumed, yes.

16 COMMISSIONER EGGERT: Actually, just a
17 clarification.

18 Is that over the full 30-year period; is that
19 your question?

20 MR. ELLISON: Yes.

21 COMMISSIONER EGGERT: All projects over 30 years.

22 MR. ELLISON: Yes.

23 ASSISTANT CHIEF BRIERTY: We didn't calculate
24 over the 30 years, we just calculated on a per-annum
25 basis, and so we didn't do the calculation; but I believe

1 the values that are in the evidence are for the capital
2 cost, \$3.6 million a year for all projects, and
3 \$3.3 million for maintenance and operation for all
4 projects.

5 MR. ELLISON: The capital cost is annual as well?

6 ASSISTANT CHIEF BRIERTY: No. Capital cost is
7 one time.

8 MR. ELLISON: Okay. So I'm sorry, could you
9 repeat your answer?

10 ASSISTANT CHIEF BRIERTY: Capital cost is three
11 point -- if I'm reading this directly, capital cost 3.6
12 million one-time cost for all 14 projects; and three --

13 HEARING OFFICER VACCARO: Chief Brierty, excuse
14 me, would you please identify --

15 ASSISTANT CHIEF BRIERTY: Oh, I'm sorry.

16 HEARING OFFICER VACCARO: -- for the purposes of
17 the record the exhibit that you're referring to and
18 identify the table to which you're referring as well?

19 ASSISTANT CHIEF BRIERTY: I'm sorry.

20 We're in Exhibit 329, and we're on Table 1, which
21 is the capital cost, and it's 3.6 million one-time cost
22 for all 14 projects.

23 And then Table 2 -- and of that Abengoa would be
24 responsible for 860,000 capital costs.

25 On Table 2, the total allocation per year, which

1 would be operation and maintenance, which would be an
2 annualized, annual cost is 3.3 million for all the
3 projects, and Abengoa's would be 485,000 of that.

4 MR. ELLISON: So if you were to take that
5 operating cost and multiply it times 30 and then add it to
6 the capital cost, we'd have a total cost of over --

7 MS. HAMMOND: There's a clarification going on.
8 I'm sorry to interrupt you.

9 MR. ELLISON: That's fine.

10 HEARING OFFICER VACCARO: So, Mr. Ellison,
11 Mr. -- Chief Brierty has a correction to make to the
12 answer to your question.

13 ASSISTANT CHIEF BRIERTY: Right. The annual cost
14 would be 793 for Abengoa.

15 MR. ELLISON: And the annual cost for all the
16 projects would be how much?

17 ASSISTANT CHIEF BRIERTY: Annual cost for all
18 projects would be 3.3 million.

19 MR. ELLISON: Okay. So if we were to take that
20 number and multiply it times 30 and then add it to the
21 \$3.6 million one-time capital cost, we'd have a 30-year
22 cost for all 14 projects.

23 ASSISTANT CHIEF BRIERTY: Yes.

24 MR. ELLISON: Okay.

25 MR. S. HOFFMAN: And I'm discounting dollars.

1 MR. ELLISON: I'm sorry?

2 MR. S. HOFFMAN: It would be in undiscounted
3 dollars. It would be less if it were discounted, but --

4 MR. ELLISON: With respect to the existing land
5 uses, not future development, but the existing land uses
6 in the county, would you expect that these -- well, let me
7 ask something else first. And I'll direct this to
8 Chief Brierty.

9 Do you consider your department to be adequately
10 funded now and able to provide the level of service that
11 you've assumed would be the result of this mitigation to
12 the existing land uses now?

13 ASSISTANT CHIEF BRIERTY: I'm -- could you repeat
14 the question?

15 MR. ELLISON: Let me ask the question a little
16 bit differently.

17 ASSISTANT CHIEF BRIERTY: Sure.

18 MR. ELLISON: The question -- and what I'm trying
19 to get at is this: There's an existing level of service
20 right now that you're, as currently funded, as currently
21 staffed, as currently equipped that you can provide to the
22 existing calls for service and inspections and all that
23 right now.

24 ASSISTANT CHIEF BRIERTY: Yes.

25 MR. ELLISON: Okay. Let me ask it this way: Is

1 your mitigation proposal for the solar projects intended
2 to maintain that same level of service or to improve it?

3 ASSISTANT CHIEF BRIERTY: In the area of
4 commercial responses, to improve it.

5 MR. ELLISON: Okay. So you would expect that it
6 would improve the level of service for all commercial uses
7 but no other uses?

8 ASSISTANT CHIEF BRIERTY: Expecting the
9 mitigation to, yes.

10 MR. ELLISON: Okay. Are you expecting that it
11 would also improve the level of service for non-commercial
12 uses?

13 ASSISTANT CHIEF BRIERTY: No, because we didn't
14 factor that into the financial equation.

15 MR. ELLISON: So in the real world, do you
16 expect, apart from whatever assumption you made, do you
17 expect that only the commercial uses would see an improved
18 level of service?

19 ASSISTANT CHIEF BRIERTY: That's the goal, yes.
20 We're trying to fund the other activities, the residential
21 through the property tax and the traffic activities
22 through contributions from the general fund. And we're
23 looking at other sources to fund those other areas of
24 response.

25 MR. ELLISON: And when you say you expect to see

1 an improved level of service for all commercial uses as a
2 result of this mitigation, that will improve the level of
3 service for non-solar commercial uses, correct?

4 ASSISTANT CHIEF BRIERTY: In the assessment for
5 commercial, yes.

6 MR. ELLISON: Okay. How do you expect the other
7 non-solar commercial uses to pay their fair share of that
8 improved level of service?

9 ASSISTANT CHIEF BRIERTY: They pay through a
10 property tax basis right now; but as anybody who's
11 developed development impact fees has to start someplace,
12 and I know that's not the greatest of arguments, but like
13 anybody who's developed development impact fees, they're
14 not retroactive, they cannot be made retroactive, and
15 they're designed to work with new facilities.

16 MR. ELLISON: Do you expect their property tax
17 burden to increase to pay for the additional level of
18 service?

19 ASSISTANT CHIEF BRIERTY: Whose property tax?

20 MR. ELLISON: The non-solar commercial uses that
21 will see an improved level of service as a result of this
22 mitigation.

23 I asked you how you expect them to pay for this
24 increased level of service --

25 ASSISTANT CHIEF BRIERTY: Yes.

1 MR. ELLISON: -- and you said they're paying
2 property taxes now.

3 ASSISTANT CHIEF BRIERTY: Yes, uh-huh.

4 MR. ELLISON: So my question is do you expect
5 their property tax to go up as a result of this improved
6 level of service?

7 ASSISTANT CHIEF BRIERTY: No.

8 MR. ELLISON: So is it fair to say that with
9 respect to those non-solar commercial uses, that they will
10 receive an improvement in their level of service and no
11 increase in their cost?

12 ASSISTANT CHIEF BRIERTY: I would think that's
13 the case -- the answer -- the direct answer is yes, but
14 that's the case in any situation where jurisdiction,
15 county or a city, develops development impact fees and
16 implements them. It affects the new businesses more than
17 it affects the existing businesses.

18 MR. ELLISON: Can I have five minutes?

19 HEARING OFFICER VACCARO: Sure.

20 MR. ELLISON: Thank you.

21 HEARING OFFICER VACCARO: Let's go off the record
22 for five minutes.

23 (Recess.)

24 HEARING OFFICER VACCARO: We've just come back
25 from a brief break. We're back on the record.

1 Mr. Ellison, it looked as though you might be
2 winding down your cross for today. I don't know if that's
3 an under- or overstatement, so why don't you educate us?

4 MR. ELLISON: I do have just a couple more
5 questions for today, and then we're done for today.

6 COMMISSIONER BOYD: I thought after that energy
7 break, why, you'd be --

8 MR. ELLISON: All recharged ready to go for
9 another two hours?

10 COMMISSIONER BOYD: Maybe you went out in the
11 heat.

12 MR. ELLISON: Okay. With your permission.

13 HEARING OFFICER VACCARO: Yes, please go ahead.

14 MR. ELLISON: Okay. For the panel as a whole,
15 there was some discussion about the fire brigade that is
16 being proposed by Mojave Solar Project, and staff
17 testified that this was news, that you didn't know that
18 Mojave was proposing this.

19 My question is, isn't it required by the fire
20 code and by OSHA requirements to have such a fire brigade
21 on site, to have trained people?

22 MS. HAMMOND: Can you cite, give us specific
23 citations?

24 MR. ELLISON: No, not right now, but --

25 MS. HAMMOND: You're referring to the fire code

1 or --

2 MR. ELLISON: -- we'd be happy to provide them.

3 Let me ask the staff this way: Are you aware of
4 any requirements as worker safety witnesses for Abengoa to
5 provide haz mat training, confined space training, fire
6 suppression training, to have those trained people on
7 site?

8 DR. GREENBERG: Well, the answer is yes, but
9 perhaps I'm lost in your use of the terminology "fire
10 brigade." Perhaps if you could explain what you mean, I
11 can better answer your question.

12 MR. ELLISON: What I was referring to in my
13 earlier questions was something similar to what Kramer
14 Junction had, so let's use that.

15 DR. GREENBERG: Would you please tell me what
16 Kramer Junction had?

17 MR. ELLISON: You don't know?

18 DR. GREENBERG: No, I don't know what they had.

19 MR. ELLISON: Okay. Does anybody on the panel
20 know?

21 ASSISTANT CHIEF BRIERTY: I do not.

22 MR. ELLISON: Okay. We can produce a witness to
23 testify to that; I can't do it myself.

24 But let me ask the question this way. Well, let
25 me ask my earlier question.

1 Are you aware of any requirements of any
2 applicable LORS that require personnel on site to have
3 emergency response, haz mat, confined space, that sort of
4 training and capability?

5 MS. HAMMOND: You're talking about anytime,
6 anywhere?

7 MR. ELLISON: I'm talking for this project.

8 DR. GREENBERG: Yes, there are regulations that
9 they -- Cal/OSHA regulations that require training and
10 certain aspects of that, but a fire brigade itself, using
11 that term, is more of a technical term, almost a term of
12 art that refers to something a lot more specific. That is
13 permissible, but not required to have a, quote, unquote,
14 "fire brigade." That's why we really need to
15 communicate -- we really do need to communicate and find
16 out just what you mean.

17 But when it comes to workers being trained, say,
18 as first haz mat responders, I've acknowledged that in the
19 staff assessment, so it states there fully, that yes,
20 they're going to have workers that will be able to respond
21 to haz mat, will be able to do other things.

22 But is it a, quote, unquote, "fire brigade" as
23 defined by other regulations, no, I don't believe it is.
24 Please educate me.

25 MR. ELLISON: What assumptions did you make about

1 on-site capability in compliance with these requirements
2 in doing your mitigation proposal here?

3 DR. GREENBERG: Well, again, my staff assessment
4 and my revised staff assessment, supplemental staff
5 assessment speak for themselves, and it's -- I'll just
6 paraphrase what it says, and I'll give you the page.

7 For example, in Exhibit 301, which is the
8 supplemental staff assessment part A, on May 12th -- I'll
9 get the page here. Let's see. I'm just going to
10 page 5.14-18, I state -- and this, of course, is the
11 second time because the first time was on March 15th in
12 the staff assessment, that there be both on-site and
13 off-site fire protection systems that will be relied upon.
14 The on-site fire protection system will include first-line
15 defense for small fires.

16 And this is actually taken from words that I
17 gleaned from the AFC. And so you do intend to have
18 workers who are trained in hazardous materials response,
19 the applicant is proposing to have a sprinkler system in
20 administrative buildings, et cetera. So there's isolation
21 valves, et cetera.

22 And so my understanding then is that there is
23 a -- the applicant had planned for a combination of
24 on-site response and off-site response.

25 MR. ELLISON: And this is the AFC that you said

1 didn't provide any information about the applicant's
2 proposals?

3 DR. GREENBERG: I beg your pardon?

4 MR. ELLISON: This information comes from the AFC
5 that you earlier characterized as not providing any
6 information as to the applicant's proposals?

7 DR. GREENBERG: No, I did not -- I did not say
8 that. I said did not provide information about a, quote,
9 unquote, "fire brigade." And again --

10 MR. ELLISON: Okay.

11 DR. GREENBERG: -- if you'll tell me what you
12 mean by "fire brigade," we can cut to the chase here.

13 MR. ELLISON: Okay, well, I leave it to the
14 committee's discretion.

15 We can -- right now we can put Mr. Couch back up,
16 we can put Mr. Frier up here, I mean, we can discuss as
17 much as you wish and to the staff's questions about what's
18 included.

19 I will say that we previously testified that it
20 was intended that on-site personnel be able to suppress
21 incipient fires, I believe was the phrase. So none of
22 this is that new.

23 We can provide that information again now if the
24 committee so desires, or not.

25 HEARING OFFICER VACCARO: Well, I mean, obviously

1 subject to either commissioner telling me that I've got it
2 wrong, we've heard from applicant's witnesses today, and
3 there was discussion with respect to what the modeling
4 was. The term "brigade" has come up in this discourse,
5 but it did not originally come in the context of the
6 initial testimony. I think there's enough on the record
7 for what was intended, what the model was and what the
8 standards were. There's information in the AFC. We've
9 already heard enough oral testimony from staff's witnesses
10 as well as to what's acceptable in their view and what's
11 not with respect to a brigade.

12 I just think that term has been used rather
13 loosely today. But I think everyone's intent and meaning
14 is very well defined in the record, and I don't believe we
15 need to hear any more.

16 But then again, as I said, subject to --

17 COMMISSIONER EGGERT: Well, I mean, I'm not sure
18 that we need to hear testimony on it. But is it filed in
19 any fashion in a detailed sense, in other words, the types
20 of personnel training, and specifically with respect to
21 fire safety that would be on site in terms of being able
22 to respond to certain types of incidents? I mean, I know
23 some of it's sort of inclusive within the context of the
24 requirements, but is there further supplemental
25 information?

1 MR. ELLISON: In all candor, Commissioner,
2 there's been so many filings and data responses in this
3 case, that off the top of my head, I can't tell you.

4 Let me suggest this: We will either find that
5 and reference it, subsequent to the hearing, we'll send
6 notice to all parties, or if it's not, we will provide a
7 succinct summary of, you know, what kinds of training,
8 what kinds of equipment, what kinds of things are expected
9 to be on site, just for clarity of the record.

10 COMMISSIONER EGGERT: That would be helpful,
11 yeah.

12 COMMISSIONER BOYD: If I'm not mistaken,
13 Mr. Ellison, you can help me with my memory from the
14 testimony earlier in the day, I heard repeatedly reference
15 to a fire force of 25 persons that would be trained and
16 have various certifications of training. It's going to be
17 in the record for the day, I just don't know is 25 the
18 right number that I heard earlier.

19 MR. ELLISON: I think the number was 25 at Kramer
20 site, and we have also stated that we intend to do the
21 equivalent of Kramer. I would be careful to, for the
22 record, to make clear that -- and I'm sure that staff
23 would point this out if I didn't, that we're talking about
24 training 25 employees in various -- you know, in emergency
25 response, resuscitation techniques, how to use equipment,

1 confined space, fire suppression, all those sorts of
2 things, and we can provide more detail on that. But it's
3 not 25 people whose only job is to do that; it's training
4 of 25 employees on the site to do that kind of work as
5 well as whatever else they did.

6 COMMISSIONER BOYD: If you can provide the
7 supplements that were referenced, that would be helpful to
8 us.

9 MR. ELLISON: Okay. We will do that.

10 HEARING OFFICER VACCARO: Ms. Hammond?

11 MS. HAMMOND: I would not want the committee to
12 take for granted that the definition of a fire brigade is
13 as simple as a description. There's probably many, many
14 opinions on this, and I think you probably have a sense of
15 that from our discussion today. So, of course, we'd like
16 an opportunity to address whatever is presented and
17 present staff's own position.

18 COMMISSIONER BOYD: Rest assured. You may have
19 noticed I went to great pains not to use the term "fire
20 brigade." I said "fire force" or something.

21 COMMISSIONER EGGERT: Okay.

22 MR. ELLISON: Okay. Well, we will provide that
23 information, either the reference or the description as
24 soon as we can. I'm sure it will only be a couple, three
25 days.

1 Actually, it's just been pointed out to me that
2 the staff's response to our motion to strike cites,
3 "applicant's opening testimony states that," quote, "the
4 project will rely on both on-site and off-site fire
5 protection systems and off-site fire protection services,
6 but acknowledges that," quote, "site personnel will not be
7 expected to fight fires past the incipient stage." And
8 then it cites the AFC for that.

9 So what that is making clear is that staff is
10 acknowledging we are expected -- on-site personnel are
11 expected to fight incipient fires.

12 DR. GREENBERG: And I think staff just testified
13 to that.

14 MR. ELLISON: Okay.

15 DR. GREENBERG: I don't think we're arguing
16 anything. I think what we're confused about is the term
17 "brigade," because that has a very specific meaning. Like
18 I don't know whether he means that the project will have a
19 fire truck or two fire trucks.

20 It's very clear in the AFC that the applicant
21 stated right at the outset that the San Bernardino County
22 Fire Department will have fire protection responsibility
23 for the project site. And we recognize it will be both.

24 HEARING OFFICER VACCARO: Yes, thank you. And I
25 think the committee understands that.

1 DR. GREENBERG: Thank you.

2 HEARING OFFICER VACCARO: And they also
3 understand that the term "brigade" was somehow woven into
4 today's discussion, but that might not have been the term
5 that everybody was intending to use with its true
6 technical meaning. As Ms. Hammond is pointing out, it may
7 not be -- the colloquial use may not be the true --
8 reflect truly what that term means.

9 We understand what everyone is meaning. We
10 understand what's been put into the record so far and the
11 clarifications that have come today.

12 And to the extent Mr. Ellison can further
13 supplement or clarify as was requested by the committee
14 members, we would appreciate that. And as always, we've
15 given everybody the opportunity to have their say in this
16 proceeding, which is why we are proceeding today with all
17 of this testimony.

18 So I think you can rest assured, Ms. Hammond, if
19 there's something for staff to say, you'll have the
20 opportunity to say it.

21 MS. HAMMOND: Thank you.

22 HEARING OFFICER VACCARO: So, Mr. Ellison, do we
23 have any more questions today?

24 MR. ELLISON: Not for today. Reserving our prior
25 concerns and waivers and objections and all those sorts of

1 things, we're done for today.

2 HEARING OFFICER VACCARO: Okay. Thank you.

3 Ms. Hammond, would you like to engage in any
4 redirect at this point?

5 Mr. Brizzee, I'm assuming that you don't have any
6 cross for these witnesses. It seemed as though they were
7 really intended for applicants, but I don't want to forget
8 you in all of this.

9 MR. BRIZZEE: Thank you. But you're correct, I
10 have no questions for them.

11 HEARING OFFICER VACCARO: Okay. Thank you.

12 So, Ms. Hammond, if you're prepared to engage in
13 redirect, we're here to listen.

14 MS. HAMMOND: Thank you.

15 REDIRECT EXAMINATION

16 MS. HAMMOND: These are questions addressed to
17 the panel.

18 Applicant's counsel asked Dr. Greenberg about
19 Dr. Greenberg's characterization of the SEGS facilities as
20 nine facilities as opposed to three facilities.

21 Can you explain why you identified or
22 characterized the facilities as nine facilities?

23 DR. GREENBERG: Well, I characterized them as
24 three.

25 MS. HAMMOND: Oh, I'm sorry. Three.

1 DR. GREENBERG: Well, as I attempted to explain
2 in my response to applicant's counsel, they -- each one of
3 these three are three locations, they're under the same
4 command and control system, they may have different --
5 they may have been built at different times, but they're
6 surrounded by the same fence. So we've got, you know, one
7 site, two sites, three sites. And that looked to me as if
8 it were three projects, three different.

9 MS. HAMMOND: When you are looking at the three
10 SEGS projects, as you characterize them, are you comparing
11 those projects with the Abengoa Project on a megawatt
12 basis?

13 DR. GREENBERG: No, I'm not.

14 MS. HAMMOND: Okay. Now, applicant's counsel
15 asked the panel about the number of incidents at the SEGS
16 facilities over an approximate 20-year period. How would
17 you compare that number at these SEGS facilities with
18 incidents that occur at gas-fired facilities?

19 DR. GREENBERG: In my experience, the number of
20 incidences at these SEGS facilities, whether you consider
21 them to be three or nine, is significantly higher than at
22 natural-gas power plants. In 16 years I am aware of only
23 one fire at a natural-gas power plant, gas turbine, and I
24 did the incident investigation for that. That doesn't
25 mean to say that there hasn't been more, but that's my

1 experience and my knowledge, one fire in 16 years with,
2 oh, what, 60, 70, 80 natural-gas fired power plants around
3 the state. And that was a small fire that took one engine
4 to deal with. And actually it was the -- it was in the
5 combustion turbine building. The fire department arrived
6 essentially as a -- and no disrespect to the fire
7 departments, but as mop up because the fire suppression
8 system put out the fire, and they removed the smoldering
9 insulation.

10 Other than that, I'm not aware of any other fire
11 at a natural-gas turbine under the authority of the energy
12 commission.

13 MS. HAMMOND: Now, Mr. Ellison took you through a
14 discussion of the number of service calls for the SEGS
15 projects, and he presented items for assumption, and those
16 are two service calls for nine projects every year.

17 How does being in a remote area affect
18 developer's pro-rata share of fire facility costs?

19 MR. S. HOFFMAN: Peter, do you want to go first
20 or --

21 ASSISTANT CHIEF BRIERTY: No, go ahead.

22 MR. S. HOFFMAN: I think what we were trying to
23 explain with our methodology is that these projects are
24 different than any other commercial development, and if
25 you just go on call-for-service basis, you'll come up with

1 a very low cost. But they do have -- there are many, many
2 projects that are coming in, and they do have a fire
3 impact. That's number one.

4 When we allocated the commercial cost with the
5 19 percent, that was to say a typical station would have
6 about 19 percent of its calls to commercial. In this
7 particular area, the only commercial that's really going
8 in are these stations -- I mean these facilities. So then
9 we allocated among the facilities on a megawattage basis.

10 If there were other commercial developments in
11 there, you know, we could allocate some more commercial,
12 but in these areas, because they're remote, that's why we
13 treated them the way we did. And then the final step was
14 the megawattage.

15 The other thing I was just given by Craig is that
16 this property will pay property tax, but guess what it is?
17 It says in the EIR, I guess it's the EIR --

18 MS. HAMMOND: I -- if I may interrupt, we, the
19 staff and the fire chief and Mr. Hoffman, have been trying
20 to gather what facts we could about applicant's payment of
21 taxes, and we did go back to the AFC, and I think that's
22 identified as Exhibit 1, and we're looking at
23 page 5.11-32. We've made copies for everyone.

24 HEARING OFFICER VACCARO: Okay. But I guess my
25 only question would be the initial question that you

1 started with and where the answer is going seemed to be
2 two entirely different things. If you have a question
3 that's going to be about property tax on redirect, you're
4 welcome to raise it. Let's keep the question and answer,
5 though, focused on what you initially were --

6 MS. HAMMOND: Which -- which dealt with how any
7 development projects being in a remote area affects that
8 developer's pro-rata share of fire protection costs.

9 ASSISTANT CHIEF BRIERTY: And one of the things
10 that was brought up was the 19,000 calls. You must
11 remember that those 19,000 calls are spread over any -- a
12 very large number of fire stations. Many of those fire
13 stations are in cities like -- and more metropolitan
14 areas. So the call volumes can be a lot higher than you'd
15 find at Hinkley and higher than you'd find -- and Hinkley
16 is near where Abengoa will go. So the call volume is
17 much, much higher and a more -- and that's why we broke
18 our table into urban, rural, and remote areas, because
19 that's reflects more about what those types of stations
20 respond to in their call volume.

21 And so the numerator-denominator argument can be
22 worked in various different ways. But in terms of what
23 the developer in a remote location, because they are few
24 and far between, it does have -- there's more of an
25 influence and more of a role is played by that project

1 that comes in. And it's just de facto that when
2 development impact fees are imposed, everybody that made
3 it in under the wire or before those fees were imposed,
4 either through a county process or through city, are not
5 subject to them. But they do get the advantage of it.
6 Just when cities do this, we can't retroactively do that.
7 We can't raise the taxes on those properties or the
8 property taxes without a vote of -- without a two-thirds
9 majority vote.

10 MS. HAMMOND: Now, Mr. --

11 ASSISTANT CHIEF BRIERTY: That's experience in
12 every metropolitan area that raises -- that develops
13 development impact fees.

14 MS. HAMMOND: Now, Mr. Ellison had walked you
15 through a scenario and asking you to consider the
16 historical actual number of calls by the SEGS facilities
17 and the solar facilities in the county. And he then asked
18 you to make a cost allocation based on the actual number
19 of incidents at these facilities.

20 Do you recall that?

21 ASSISTANT CHIEF BRIERTY: Yes.

22 MS. HAMMOND: Okay. Is it ever appropriate in a
23 risk assessment and a fire-needs assessment and a
24 cost-allocation study to look only at historical actual
25 number of calls without reference to the nature of the new

1 development, the scale, the materials used at the
2 facility? Is it ever appropriate to not consider those
3 elements?

4 MR. S. HOFFMAN: Is it ever? Is it ever
5 appropriate to consider them or not to consider them?

6 MS. HAMMOND: What is appropriate to consider
7 when you're making a cost allocation?

8 MR. S. HOFFMAN: Well, I think it's appropriate
9 when you're dealing with urban area and you're probably
10 just dealing with straightforward industrial commercial
11 residential. When you're dealing with something that is
12 what I characterize as leapfrog, you know, similar to
13 leapfrog development, leapfrog development has unique
14 costs because it is farther out.

15 Because these projects are remote, we use several
16 techniques, and just doing a straight pro-rata share would
17 lead you to no cost. And I think with 14 facilities out
18 there, there is going to be some cost. We may argue on
19 what that exact number is, but I think the straight
20 allocation would not -- would not be appropriate because
21 of its remoteness.

22 And the method that Mr. Nickell used would work
23 probably better in an urban area -- urbanized area, but
24 not so much in a remote area. And that's our basic point
25 on that.

1 DR. GREENBERG: There are different ways of
2 looking at the data set that I presented. You can look at
3 the way applicant's counsel want to look at it and say
4 that there's a very low number of responses over a 10-year
5 period to these three existing solar power plants. The
6 other side of that coin, however, is that we've had a
7 significant fire at each one of those. One can turn it
8 around, the statistic, and say it's all -- it's virtually
9 a certainty that a solar power plant built is going to
10 have a major fire because that's what our history is,
11 which is one reason why I described the data set as not
12 being very robust and rather its illustrative of what's
13 happened in the past, but I don't think that we can rely
14 solely on that to predict what's in the future. We take
15 in all the information we can.

16 But this one thing that I would not object to is
17 the applicant conducting a fire-needs assessment, and a
18 risk assessment, which would in a comprehensive manner
19 address the probabilities of their being a need for this
20 fire service. That is the burden of the applicant, and it
21 is stated quite clearly in all of our staff assessments
22 for any power plant if the applicant should disagree with
23 staff. The burden is on them to provide us with that type
24 of information.

25 MS. HAMMOND: How does serving a facility such as

1 the project proposed here differ from serving other
2 commercial facilities?

3 DR. GREENBERG: Do you want to take that, Chief?

4 ASSISTANT CHIEF BRIERTY: If you've got an answer
5 for that, go ahead.

6 Commercial facilities in urban areas or --

7 MS. HAMMOND: Well, the comparison asked by
8 applicant's counsel was to compare the cost responsibility
9 borne by this project as compared with other commercial
10 projects.

11 ASSISTANT CHIEF BRIERTY: Well, it's still an
12 issue of -- the numbers are always important to look at,
13 to develop the baseline information. But we still have a
14 facility that's one of the largest -- the facility will
15 hold the largest amount of a combustible liquid that at
16 its operating temperature is very susceptible to catching
17 on fire. And it's -- by that alone, it's very
18 significant.

19 But the fact that they do have in place these
20 very sophisticated systems for suppression, auto
21 suppression, the automatic shut-off valves, those types of
22 things is also an indication of the potential problem that
23 exists there. We don't have those types of systems in
24 fire suppression, automatic fire suppression systems in
25 dairies where milk a produced, we have them at this

1 facility. So de facto, by the systems that they're
2 putting in place, the dairy doesn't have 25 employees that
3 are going to be trained to firefighting capacity. So the
4 fact that the system is there, I believe, we need to have
5 the capacity to respond to it.

6 The predictability can be figured in numbers, but
7 the reality if you want to go the way that Dr. Greenberg
8 said, it will happen. If you use those same numbers, you
9 can clearly say it will happen.

10 DR. GREENBERG: Ms. Hammond, I think I better
11 understand your question now with the chief's answer.

12 Are you asking what is -- what makes this project
13 so different from other commercial --

14 MS. HAMMOND: Yes.

15 DR. GREENBERG: -- projects?

16 Okay.

17 MS. HAMMOND: Yes. Yes, and why the comparison
18 with this project and the cost responsibility of other
19 commercial projects can't be compared.

20 DR. GREENBERG: Right. As the emergency response
21 matrix that I developed shows and which the County of
22 San Bernardino Fire Department took that and modified it a
23 little bit, the five reasons that the fire department
24 would go to this site -- I mentioned those before, so I
25 won't mention them again -- would not hold for other

1 commercial developments. You may have two, you may have
2 three, you may have four, some of them would have all five
3 needs, but most of them would not have all five.

4 Second of all, then there is the scale of this, a
5 10-mile-plus perimeter. Again, you've got heat transfer
6 fluid operating at higher temperature, higher pressure, it
7 burns quite well. The sheer volume of that and the
8 potential for escalation, if there is a fire, it could
9 knock out the command and control system so that the
10 valves would fail. A smaller commercial establishment
11 wouldn't have literally miles of heat transfer fluid that
12 burns quite well.

13 So there's many other comparisons I can make.
14 Those are the most important ones. And I think we all
15 know that, again, it's -- I support them, I appreciate the
16 applicant is putting in these control systems. What
17 happens when they fail?

18 The applicant has admitted, well, they've got on
19 their on-site team, but they're also going to rely on the
20 San Bernardino County Fire Department.

21 MS. HAMMOND: Sorry, I'm just going to take a
22 look at my notes here.

23 Now, Mr. Ellison asked if your analysis,
24 Dr. Greenberg, assumed the applicant's payment of property
25 taxes. Have you seen any evidence of applicant's payment

1 of property taxes in the record?

2 DR. GREENBERG: Well, yes. In the AFC there is a
3 statement that the applicant will pay a certain amount of
4 property taxes. I had forgotten that. That's why we have
5 breaks, I can go back and look.

6 MS. HAMMOND: And do you recall what they said?

7 DR. GREENBERG: I believe they said that they
8 would be paying, oh, I think it's \$300,000 over 30 years
9 for property tax -- is it over 30 years or is it one year?
10 I think the AFC speaks for itself.

11 MS. HAMMOND: I think what I'll do now is hand
12 around a page from Exhibit 1. This is the AFC, and it
13 talks about the applicant's payment of property taxes.

14 HEARING OFFICER VACCARO: Are their further --

15 MR. ELLISON: Let me ask this -- yeah, if you're
16 going to do follow-up questions that require that, that's
17 fine, but if it's just to establish that that's what it
18 says, we'll stipulate that the AFC says what it says.

19 MS. HAMMOND: Okay.

20 HEARING OFFICER VACCARO: So, yeah, I mean, thank
21 you for doing my job for me.

22 MR. S. HOFFMAN: Could I -- could I -- could I
23 add one thing?

24 Other properties pay property taxes one percent
25 of their value, and then 17 percent approximately goes to

1 the fire department. So other commercial properties are
2 paying. This one, as it shows in the record, the
3 percentage is minuscule. It's a one-billion-dollar
4 valuation. They're paying property tax on 25 million. I
5 haven't calculated that percentage. I put it on my
6 calculator; it was too small to say what it was. It comes
7 out to 300,000 they say per year. 17 percent would go to
8 the county. That's -- to the fire department. That's
9 50,000. And whatever number you come up with, you know,
10 it's a low number. So I think that -- that magnitude
11 should be put in the record, that it's a low number.

12 HEARING OFFICER VACCARO: I'm not sure there was
13 a question to which that answer pertains. I think all
14 that we have on the table is a redirect on the very
15 specific question of whether or not property taxes would
16 be paid. Ms. Hammond and one of the witnesses has now
17 identified that yes, in fact, there is something in the
18 AFC on that point. What it says I think is clear on the
19 page, and people can draw whatever inferences they would
20 like from that. I don't think there's a question on the
21 table.

22 MR. S. HOFFMAN: Well, one of the questions
23 earlier was how does -- how does this property differ from
24 another commercial property. That's another way it
25 differs.

1 MS. HAMMOND: My direct question was going to
2 pursue this thought.

3 HEARING OFFICER VACCARO: Then why don't we get
4 there and do it by way of question and answer.

5 MS. HAMMOND: Right. Right. Thank you.

6 My question to the panel is Mr. Ellison was
7 asking you about -- was asking you to compare this
8 project's impacts and the pro-rata share borne by this
9 project as opposed to other commercial projects.

10 Do you think that's a fair comparison?

11 MR. S. HOFFMAN: On a property tax basis, they
12 pay very low share of what another commercial property
13 with the same valuation would pay, which means that they
14 don't pay a very high share of fire tax as well as, again,
15 government, as well as police, all the county services; so
16 that's a big difference. That's an exemption that they
17 get. And it is quite a bit -- quite a bit of value. And
18 so it doesn't pay -- it seems to me it doesn't pay a fair
19 share of what its service costs would be.

20 MS. HAMMOND: So the fire services that the
21 applicant will receive are comparable to the fire services
22 that others in the service territory will receive, but the
23 cost responsibility for the project will be different.

24 Is that what I'm hearing from the panel?

25 MR. S. HOFFMAN: Well, the land uses will tend to

1 subsidize that fire cost; yes, that would be my opinion.

2 MS. HAMMOND: Does the panel -- anyone else on
3 the panel --

4 ASSISTANT CHIEF BRIERTY: Yeah, that would be the
5 case, yes. Because existing properties, commercial and
6 otherwise, would be paying their ad valorem tax at
7 17 percent of the one percent. And this facility would be
8 paying much, much less than that.

9 MS. HAMMOND: Now, Mr. Ellison had asked you
10 about existing service levels for existing land uses. Do
11 you recall that line of questions?

12 DR. GREENBERG: Yes.

13 MS. HAMMOND: Are existing service levels
14 adequate for the existing solar facilities, knowing what
15 you know now and have come to appreciate about the fire
16 risks about solar thermal facilities?

17 ASSISTANT CHIEF BRIERTY: No, they're not,
18 they're not adequate.

19 MS. HAMMOND: Would you like to elaborate on
20 that?

21 ASSISTANT CHIEF BRIERTY: Oh, elaborate? Thank
22 you. Sorry about that.

23 The -- many of the things that were proposed in
24 terms of response to incipient fires and response to use
25 of fire extinguishers, we would expect of any business.

1 The training of haz mat response is required of any
2 business that handles hazardous materials. So many, many
3 of the things that they put in here in terms of what their
4 people would respond to were things that we would expect
5 at a base level for any type of facility that would handle
6 similar-type substances.

7 They go on to say, well, we're proposing, and
8 this is a very kind of an amorphous discussion about a
9 brigade and what a brigade is and what it does, but
10 upwards of 25 people that are necessary. The Hinkley
11 station doesn't have 25 paid call volunteers. They have
12 12. So is it adequate? Certainly not by their standards;
13 by half, and they're paid call.

14 So the answer that I would give is no, it's not
15 adequate. That's why we're proposing these mitigation
16 measures, is to make it adequate.

17 Is it adequate for the freeways that we patrol
18 and are responsible for responding to, no, that's why the
19 county board of supervisors uses the general fund and
20 makes all taxpayers pay for the use of the -- for the
21 response for the use of the highway from Barstow to Vegas.
22 It's in these rural areas, and that's why we broke it into
23 three categories; it was dramatically underfunded, and
24 we're trying to make that happen.

25 Are we trying to make all of the responses the

1 responsibility of the solar plants? Absolutely not.
2 We're trying to make their share of it, according to these
3 numbers that are provided, a billion dollars of taxes at
4 one percent, that's \$10 million, and 17 percent of the one
5 percent, that's \$1.7 million that would have gone to the
6 fire department. I scratched it out; I'm not a tax expert
7 by any stretch of the imagination, but that's a simple one
8 percent of the -- 17 percent of the one percent, which is
9 normally what the fire department would get in one year.
10 So I believe it to be un- -- yes, those current services
11 in those areas are in need of support.

12 MS. HAMMOND: So if public services such as those
13 that staff and the fire department are proposing to
14 mitigate the impacts of this project, if those -- if that
15 funding results in incidental benefits to non-solar --
16 non-solar facilities or residences, should the fire
17 department not pursue the mitigation?

18 ASSISTANT CHIEF BRIERTY: I don't -- well, I
19 believe we should pursue the mitigation. But once again,
20 I don't know how you can -- how you can create any --
21 suppose it's not solar, suppose we just went out and said
22 we want to develop development impact fees. You cannot
23 not cause those that were in service or in business before
24 the development impact fees went into effect to not
25 benefit from the net improvement. It's just not -- you

1 can't re-tax them, you can't impose it on them; de facto
2 they do. That's just the rule of development impact fees.
3 I don't know where to --

4 MS. HAMMOND: I have no further questions.

5 HEARING OFFICER VACCARO: Mr. Ellison, do you
6 feel the need to recross?

7 MR. ELLISON: I'm afraid I do, but I'll keep it
8 short, I promise, I'll try.

9 RECCROSS-EXAMINATION

10 MR. ELLISON: My first question goes to this
11 issue about the fact that the solar projects are remotely
12 located rather than being located in an urban area.

13 And my question to the panel is, isn't it also
14 true that a fire at one of these solar facilities,
15 particularly given the boundaries of these facilities and
16 the fact that it's in a remote area is not the same threat
17 to public health and safety as a similar fire in an urban
18 area would be?

19 MS. HAMMOND: I'm a little unclear on --

20 HEARING OFFICER VACCARO: It's a clear question.

21 MS. HAMMOND: I am unclear on what you mean by
22 "given the boundaries of these projects."

23 MR. ELLISON: Given the fence lines that
24 Mr. Greenberg was referring to, given the size of the
25 projects themselves.

1 Isn't it the case that because these projects are
2 remotely located, that the threat to public health and
3 safety and structures off site in these remote locations
4 is considerably lower than it would be if these projects
5 were located in an urban area?

6 DR. GREENBERG: And the answer to that is yes,
7 except there are site-specific conditions we do take into
8 account, or at least I take into account on my matrix the
9 number of population that would be in close proximity to
10 this power plant.

11 Unlike some of the other power plants, solar
12 power plants along the I-10 corridor, this one does happen
13 to have a close location to a residence that would have
14 the solar power plant to the north of it and to the east
15 of it. In fact, staff felt that the proximity was so
16 close, that one of the conditions of certification staff
17 is proposing is air quality, which as the author of the
18 public health section I endorse, is a requirement to
19 relocate those people during the construction phase
20 because of the massive amounts of dust, PM-10, PM-2.5,
21 that are going to be generated in leveling the area,
22 making it appropriate for the solar. Then the people can
23 come back. So in this particular case there is a -- an
24 existing residence that is closer than in all the other
25 solar power plants.

1 Now, there's some others that get weighted more
2 heavily because they're close to a major freeway, and
3 that's shown on the matrix also.

4 So the answer to his question is yes, we do take
5 into account the remote location, but if there happens to
6 be a home there that's got two sides, you know, covered by
7 the solar fields, the solar arrays, we take that into
8 consideration also.

9 MR. ELLISON: Okay. There was some discussion of
10 property tax and specific reference to a section of the
11 AFC. My question to the panel is did you take that
12 section of the AFC and that specific number into account
13 in your testimony when you wrote it, or did you become
14 aware of that just now?

15 MR. S. HOFFMAN: I just became aware of it. We
16 had tried to get what the tax was, and we were told they
17 were exempt, and then we heard that they paid a little bit
18 of tax; but I just saw it today.

19 MR. ELLISON: Okay. So for your analysis, you
20 assumed that they were exempt.

21 MR. S. HOFFMAN: That's correct.

22 MR. ELLISON: Okay. Now, I have been told, you
23 know, I'm informed that that number in the AFC is wrong
24 and that it's substantially too low. It depends on what
25 the parties and the committee want, but we can provide an

1 accurate number of what the property tax would be for this
2 record if the committee would allow us to do that.

3 MR. S. HOFFMAN: I think it would be important.

4 HEARING OFFICER VACCARO: I think, well, if
5 nothing else, it -- that current figure should be
6 corrected, and of course, subject to staff having
7 something that they might want to say to vet that figure,
8 then, of course, submit it, and staff will have the
9 opportunity to --

10 MR. ELLISON: Yeah, we're not --

11 HEARING OFFICER VACCARO: -- review the
12 credibility of the source of the information. But I think
13 the county would likely be a good source of that
14 information, so that the credibility shouldn't really be
15 at issue.

16 MR. S. HOFFMAN: I think the other issue is we
17 should know how the other projects -- whether they're
18 going to pay property tax too, because I've heard that
19 some are on BLM land and there may be a different
20 condition. It's not just for his project, but also for
21 the others too.

22 HEARING OFFICER VACCARO: For his immediate
23 concern, which is the correction of the information that's
24 in the AFC, and to the extent that that somehow needs to
25 be captured in the record, that's how that will be

1 addressed. I think you're addressing it as sort of a
2 different issue altogether as to how the staff
3 collectively approach or reevaluate some of the analysis
4 that's already been performed, and you're certainly
5 welcome to do that.

6 MR. ELLISON: Next question is this: We've had
7 quite a bit of discussion today about, you know, the
8 operating history of the existing SEGS facilities and how
9 that information is or isn't relevant to a future facility
10 such as this one.

11 My question now is simply this: For the purposes
12 of your analysis, did you assume that this Mojave Solar
13 Project and the other new solar projects would be
14 substantially different in their hazard than the existing
15 SEGS facilities?

16 DR. GREENBERG: Yes, I did.

17 MR. ELLISON: Okay. Can you explain -- can you
18 tell me did you assume they would be substantially more or
19 less hazardous?

20 DR. GREENBERG: Well, without putting in the word
21 "substantially," I determined that they would be more
22 hazardous than the existing facilities.

23 MR. ELLISON: Okay. So it was your professional
24 opinion that -- let's take the Mojave Solar Project
25 specifically -- that it would be more hazardous than, for

1 example, SEGS VIII, the existing facilities.

2 DR. GREENBERG: Yes.

3 MR. ELLISON: Okay. Did you assume a certain
4 number of service calls that you would expect in a year
5 from this more-hazardous facility?

6 DR. GREENBERG: No, I left that to the county.
7 They had the better data and the better professional
8 experience.

9 MR. ELLISON: Okay. Let me ask -- let me ask the
10 panel this: Based on everything you know and the existing
11 experience of the SEGS projects, what do you think is a
12 reasonable assumption for the amount of service calls that
13 you would expect for the Mojave solar facility in an
14 average year requiring off-site response from the fire
15 department?

16 DR. GREENBERG: I cannot answer that. It would
17 be conjecture, and I don't want to testify on conjecture.

18 MR. ELLISON: We make these kinds of presumptions
19 in these proceedings all the time. I'm asking for your
20 professional opinion; what do you think would be a
21 reasonable assumption for the number of service calls for
22 this facility?

23 MS. HAMMOND: I think you need -- I would like
24 clarification on what types of service calls.

25 MR. ELLISON: Service calls as defined in your

1 analysis of, for example, comparable to the 30 service
2 calls over 12 years at the existing SEGS facilities, those
3 kinds of calls.

4 MS. HAMMOND: I think this is a hypothetical that
5 we probably need to flesh out more.

6 MR. ELLISON: The hypothetical is this: The
7 Mojave as built on schedule as proposed, based on your
8 experience of over a quarter century with solar projects
9 in this county and based on all the analysis that you've
10 done and all the expertise represented on this panel, what
11 is a reasonable assumption for the number of service calls
12 that you would expect in a year?

13 MS. HAMMOND: I think still that's vague.

14 HEARING OFFICER VACCARO: If you're objecting as
15 to vague, it's not vague.

16 If the witnesses can make a reasonable
17 assumption, then please do so. And if you do not believe
18 you can make a reasonable assumption, then you need to say
19 so.

20 But it is a clear question that's asking for an
21 extrapolation based on what's already been presented here
22 today.

23 DR. GREENBERG: Hearing Officer Vaccaro, I do
24 stand by my statement. Essentially what he's asking is
25 for me to conduct a fire-needs assessment and a risk

1 assessment right here at the table on a
2 back-of-the-envelope calculation. Give me \$40,000 and two
3 months, and I'll give him a real good answer. I cannot do
4 so now.

5 HEARING OFFICER VACCARO: Then that's your
6 answer. So submitted. Thank you.

7 MR. ELLISON: So your testimony is you don't
8 know --

9 DR. GREENBERG: My testimony is what I said, sir.

10 MR. ELLISON: Do you know -- do you have -- can
11 you give me a reasonable assumption for the number of
12 service calls that you expect from this facility and the
13 other facilities like it?

14 MS. HAMMOND: I think the witness is --

15 MR. ELLISON: And what I'm hearing is no, you
16 cannot do that.

17 MS. HAMMOND: The witness has said that it's too
18 speculative to answer.

19 MR. ELLISON: Okay. Is that also true for the
20 other members of the panel?

21 MR. S. HOFFMAN: Could I add one thing on that?

22 In the methodology, we weighted megawattage as
23 opposed to service calls so that the risk that he is
24 referring to, even if we had a number, say it's 5, 10, 15,
25 20, the risk was tied to megawattage. So it wasn't -- the

1 allocation wasn't just on service calls.

2 MR. ELLISON: I understand that. But when you
3 say the risk was tied to megawattage, what you really, I
4 think, mean, is that the allocation among the different
5 projects was based on megawatts.

6 MR. S. HOFFMAN: Right.

7 MR. ELLISON: It doesn't -- that does not speak
8 to what is the risk. How many service calls do you think
9 would be required for any of these projects, regardless of
10 their megawatt size.

11 MS. HAMMOND: Well --

12 MR. ELLISON: And what I'm hearing --

13 MS. HAMMOND: -- responded, asked and answered.

14 MR. ELLISON: And I wanted to hear from the rest
15 of the panel.

16 Does anybody else feel that they can offer an
17 answer to my question, what a reasonable assumption for
18 the number of service calls from the Mojave Solar facility
19 or something like it would be?

20 HEARING OFFICER VACCARO: So we have heard from
21 Mr. Greenberg.

22 Chief Brierty, can you -- it's yes or no; can you
23 give a reasonable assumption as you sit here today, or do
24 you believe that you cannot do that as you sit here today?

25 ASSISTANT CHIEF BRIERTY: If you want a

1 mathematical computation, you just take an average of it.
2 But other than that, you're asking me to, what I think my
3 colleagues have said, speculate on it. But we could just
4 do a simple division, but I think I'm providing an
5 answer -- well, anyways --

6 MR. ELLISON: Could you explain what you mean by
7 "simple division"? Do you mean -- could you explain what
8 you mean by that?

9 ASSISTANT CHIEF BRIERTY: Take the number of
10 years and divide it by the number of calls; but that would
11 be a very simplistic answer in terms of looking at the
12 entire facility, the risk that it poses, the potential
13 that exists there. I could be put on record saying it's
14 ten divided by 3.3, and then the facility has an accident,
15 and I'm proven wrong, within a day of operation.

16 MR. ELLISON: I understand that. I want to be
17 clear, I'm not asking about -- I'm not asking you to
18 predict the future in the sense of we all understand these
19 are assumptions, okay? But, well, let me ask you, do you
20 believe that the Mojave solar facility's risk, need for
21 service calls, however you want to describe it, should be
22 comparable to the existing solar facilities that are
23 already in the county?

24 ASSISTANT CHIEF BRIERTY: Yes.

25 MR. ELLISON: Okay. Making that assumption then

1 and doing the division that you described, is something
2 like three calls a year a reasonable assumption?

3 ASSISTANT CHIEF BRIERTY: If you're asking me to
4 do a simple average, the answer would be yes.

5 MR. ELLISON: Okay. Now, -- okay. Did that
6 complete your answer?

7 ASSISTANT CHIEF BRIERTY: Yes.

8 MR. ELLISON: Now, there was some redirect on
9 this issue of the need for fire stations in rural areas
10 versus urban areas and that sort of thing, and that's the
11 last thing I want to turn to.

12 We've already had testimony about the service
13 calls in 2009 for the north desert division. Let's drill
14 down a little more.

15 Do you know how many service calls were
16 experienced in 2008 or 2009 specifically at the Hinkley
17 substation?

18 ASSISTANT CHIEF BRIERTY: No, I don't.

19 MR. ELLISON: Do you have a rough estimate?

20 ASSISTANT CHIEF BRIERTY: No, I don't know.

21 MR. ELLISON: You have no idea?

22 ASSISTANT CHIEF BRIERTY: I have access to
23 information that I could provide to you, but at this point
24 I don't have that in front of me; so yeah, I have no idea.

25 MR. ELLISON: No idea?

1 MS. HAMMOND: Asked and answered.

2 MR. ELLISON: Okay. Fair enough, you're right.
3 Same question with respect to the Silver Lakes,
4 Helendale station.

5 MS. HAMMOND: I'm sorry, could you repeat the
6 question?

7 MR. ELLISON: Same question.
8 Do you know how many calls in 2009 for the
9 Helendale --

10 ASSISTANT CHIEF BRIERTY: No.

11 MR. ELLISON: Is that information you have and
12 can provide?

13 ASSISTANT CHIEF BRIERTY: Sure. Yes, the answer
14 is yes.

15 MR. ELLISON: Would staff object to that
16 information being provided to the record?

17 MS. HAMMOND: No, will not object.

18 MR. ELLISON: Okay. Then I'm asking for the
19 provision to the record of the number of service calls at
20 those two fire stations for 2009.

21 Would it be fair to say --

22 MS. HAMMOND: I'm sorry, I thought you were going
23 to go on.

24 Staff would also like to reserve the right to
25 submit records for the number of service calls at -- of

1 two stations other than the two Mr. Ellison has
2 identified.

3 MR. ELLISON: That's fine.

4 Do you agree that those are the two stations
5 nearest to the Mojave Solar Project, current stations,
6 currently existing stations?

7 ASSISTANT CHIEF BRIERTY: Yes, yes, they would be
8 the ones called out to activity there.

9 MR. ELLISON: And because they are located in
10 that -- they are the two nearest stations, would it also
11 be fair to say that they are in the type of environment
12 that we're talking about here? They are the kinds of
13 rural stations that we're talking about --

14 ASSISTANT CHIEF BRIERTY: Yes.

15 MR. ELLISON: -- adding new stations, they would
16 be --

17 ASSISTANT CHIEF BRIERTY: Yes.

18 MR. ELLISON: -- these would be comparable to the
19 new stations we're talking about?

20 ASSISTANT CHIEF BRIERTY: They would be
21 comparable to the new stations?

22 MR. ELLISON: Yes. There would be no less rural.

23 ASSISTANT CHIEF BRIERTY: In terms of location,
24 staffing, equipment?

25 MR. ELLISON: No, in terms of location and, you

1 know, the amount expected.

2 ASSISTANT CHIEF BRIERTY: Oh yeah, right.

3 Uh-huh, yeah, in terms of location, yes.

4 MR. ELLISON: So it would be fair to use either
5 Hinkley or Silver Lakes, Helendale, as proxies for the
6 expected demands on the new stations?

7 ASSISTANT CHIEF BRIERTY: The expected demands?

8 MR. ELLISON: Right, expected service calls.
9 Similarly rural locations.

10 ASSISTANT CHIEF BRIERTY: I would say yes.

11 MR. ELLISON: That's all I have. Thank you very
12 much.

13 HEARING OFFICER VACCARO: Commissioner Boyd,
14 Commissioner Eggert, do you have any questions?

15 COMMISSIONER BOYD: No, I don't. All my
16 questions have been answered, ad nauseam, frankly. Thank
17 you.

18 COMMISSIONER EGGERT: I think all of my questions
19 have been asked.

20 Actually, I did have one question which I think
21 has been answered, but I just want to ask it again, and
22 that is the -- with respect to the methodology to
23 establish the capital requirement, or the capital estimate
24 for the new stations, and this is for Mr. Hoffman, the --
25 am I interpreting this correctly to say that there's an

1 expectation based on the county land use services
2 department of growth and a population of 9,457 for the
3 particular area that's under evaluation here, within those
4 three --

5 MR. S. HOFFMAN: Which table are you looking at?

6 COMMISSIONER EGGERT: Well, it's first introduced
7 in the paragraph on -- I guess it's the fifth page of your
8 analysis, your memo. And then I think it's also repeated
9 again in one of the tables here.

10 MR. S. HOFFMAN: Referring to Table 8?

11 COMMISSIONER EGGERT: Yeah, that's correct. So
12 this is basically, for outlying desert, 202, Barstow,
13 Victor Valley, yeah, the total 9,457.

14 MR. S. HOFFMAN: Yeah, the population.

15 COMMISSIONER EGGERT: And then the further
16 assumption is that was one of these rural stations
17 required for every 5400 people?

18 MR. S. HOFFMAN: 5400 pop, or that's the ratio
19 that it came out to be.

20 COMMISSIONER EGGERT: Okay. So is it currently
21 the case that that estimate for a need of capital
22 investment would exist with or without new solar
23 development in those regions?

24 MR. S. HOFFMAN: I'm sorry, ask again.

25 COMMISSIONER EGGERT: So based on this

1 methodology, is the need that's established from that
2 population projection for the three new stations as, at
3 least if I'm reading this correctly, is that the projected
4 need with or without development of solar in that region?

5 MR. S. HOFFMAN: Well, the ratio that I used, the
6 5400, which is also the same ratio that came out from the
7 calls was about 58, 59 percent went residential; so I
8 assume that the capital cost that would go to residential
9 was that percentage. So because the solar farms are
10 throughout that area.

11 COMMISSIONER EGGERT: So I think I'm probably
12 asking somewhat of a hypothetical then. So, I guess, feel
13 free to object to it.

14 But if there were -- if -- strictly using your
15 methodology, and assuming that there was no solar
16 development in San Bernardino, no future development,
17 based on these population projections, is the investment,
18 the capital requirements to serve this new population, the
19 5400 per station, or 9,457 for the three regions, would
20 that require three new stations to serve that population?

21 MR. S. HOFFMAN: No. The ratio that I came up
22 just for the population part was 1.75 stations, one and
23 three-quarters.

24 COMMISSIONER EGGERT: Okay. So the additional
25 1.25 is to serve the --

1 MR. S. HOFFMAN: Yeah.

2 COMMISSIONER EGGERT: -- commercial, okay.

3 MR. S. HOFFMAN: That was what the 29 percent
4 was. I was taking the 12 million or so of capital costs
5 and breaking it down to about three and a half million
6 plus or minus. It was 3.6 million. That was on Table 1
7 where I took the 12.5 million of station costs and then
8 allocated it just to the solar. So if you didn't have at
9 that allocation, it would have to go to something else.

10 COMMISSIONER EGGERT: Gotcha. Okay. That
11 answers my question.

12 Another question. Is there or has there been
13 methodologies developed that can assess the cost of a
14 particular incident? And maybe I'll just use this
15 specific example. So if you had to determine, if somebody
16 asked you to determine what was the fair share costs
17 associated with the SEGS VIII facility fire in 1990 that
18 required a large part of regional resources from
19 San Bernardino, Edwards Air Force Base, CAL FIRE, Kern
20 County to respond to that specific incident, is there --
21 is that a fair question I guess is maybe my first part,
22 and if it is a fair question, what type of a cost would be
23 associated with that response?

24 MR. S. HOFFMAN: Well, one of the issues you're
25 getting at -- I think it's a good question, is not all

1 calls are exactly alike. A call to one of the solar farms
2 would be a much higher cost per call. When we did this
3 allocation to commercial, residential, and traffic, the
4 concept was we were just using that as a proxy for
5 allocation, that some calls would be higher or lower,
6 whereas the call -- go ahead.

7 ASSISTANT CHIEF BRIERTY: Yeah, we have formulas
8 that we use. There's a cost per engine, there's a cost
9 for an ambulance, there's a cost for a battalion chief,
10 there's a cost for a firefighter and other very -- I don't
11 know what you want to call, spartan way of looking at it.
12 You know, we apply those costs and we send them a bill.
13 But there are other types of costs that may be factored
14 in, which would be loss of revenue, loss of jobs, loss of
15 whatever due to the accident occurring, people not going
16 to work.

17 But from a fire department standpoint, we have
18 metrics that we use, and on an hourly rate, and we apply
19 those and we bill people, yes, we do.

20 COMMISSIONER EGGERT: So I don't want to put you
21 on the spot, but if you had to make your best estimate
22 within a factor of -- I mean, you know, give or take --
23 give or take a hundred thousand dollars or however -- or,
24 you know, whatever sort of uncertainty band, you know, a
25 four -- I guess this is four different districts basically

1 responding to what I think was a pretty substantial fire
2 that resulted in, you know, significant damage,
3 approximately what would be the cost for that response?

4 ASSISTANT CHIEF BRIERTY: That's quite the
5 speculation, because we're also looking at, you know, paid
6 call firefighters getting minimum wage versus a
7 professional firefighter showing up, and to shoot that gap
8 would be quite a bit.

9 COMMISSIONER BOYD: We're used to minimum wage.

10 ASSISTANT CHIEF BRIERTY: Minimum wage, okay.

11 I know that we -- I'm sure we have the billing
12 records for what we sent to bill out before, and I
13 would -- I would imagine -- I would be guessing in the
14 tens of thousands of dollars in terms of salaries and
15 equipment.

16 COMMISSIONER EGGERT: Okay.

17 ASSISTANT CHIEF BRIERTY: I'm thinking a hundred
18 people or so. I don't know. Can I -- I can't redirect,
19 but we know how many were there, the number of folks times
20 their salary, times the number of hours we were there,
21 times the equipment cost; so I would say in the tens, low
22 tens of thousands.

23 COMMISSIONER EGGERT: Okay.

24 ASSISTANT CHIEF BRIERTY: My finance manager
25 probably is having a heart attack right now, but --

1 COMMISSIONER EGGERT: I think that is -- well,
2 actually I do want to give, I guess a fair opportunity for
3 Mr. Hoffman of the question that I asked the applicant's
4 witness, which is, you know, given -- I presume you've had
5 a chance to look at their analysis. Can you give sort of
6 a high-level perspective as to the substantial variation
7 and final estimates in terms of the share allocation and
8 kind of your opinion about the methodology that was used
9 by the applicant? Can you -- I know you've spoken to some
10 of it, but --

11 MR. S. HOFFMAN: I think the main -- the main
12 comment I made earlier was that it was -- it was assuming
13 kind of an even share across all population and
14 employment. This particular facility, while it's very
15 large, has a very low employment relative to another
16 development that would be that acreage, so I think it
17 doesn't take into account the location and the uniqueness.
18 I think his method would work better in a more urbanized
19 area for more standard industrial -- you know, if I took
20 the area and made it an industrial park, the same acreage,
21 and gave it employment, it would be far different than the
22 80 employment that's there. And the photovoltaics have no
23 permanent employment on site, so they would get no cost.

24 So that's my major comment, that these are unique
25 facilities, and we've been trying to treat them -- you

1 know, maybe there's some argument about the way we've been
2 trying to treat it, but we've been trying to look at it as
3 kind of a unique facility with a little bit of
4 uncertainty.

5 COMMISSIONER EGGERT: And so again, for somebody
6 who's not -- doesn't have a history in this type of
7 analysis, is it -- is the methodology that you've employed
8 here sort of a new -- I mean, is this kind of -- you're
9 calling it unique. Is this something that's been
10 employed --

11 MR. S. HOFFMAN: Well, I would say, you know, the
12 methodologies used, I've seen approaches like that on
13 more, what I call, standard urban developments. And yes,
14 we were faced with a new type of facility, we're trying to
15 deal with it, because of it's employment, and because it
16 wasn't an employment generator per se, but we felt it had
17 risks. And so that's why we took our approach that we
18 did.

19 And it is -- it is a little different than we've
20 done before. I think the major thing is the risk matrix
21 that Alvin and Peter have put together.

22 COMMISSIONER EGGERT: I'm expecting to see like a
23 journal publication at some point describing your --

24 MR. S. HOFFMAN: Ha.

25 COMMISSIONER EGGERT: Well, this is a new matrix,

1 I assume. Is this kind of a -- is this a new type of a --
2 I mean, I've seen similar type of things, but not
3 specifically in this type of an application.

4 DR. GREENBERG: You're absolutely correct,
5 Commissioner Eggert. It's definitely new. The concept
6 and the weighting factors, although they're based on
7 professional judgment, are not new.

8 I expected some cross-examination questions from
9 the applicant's attorney on how I developed. I guess I'll
10 get that later.

11 But yes, it's the first time we have used it, but
12 we have used it in the other solar power plant
13 proceedings. Most recently in the past week for Blythe
14 and for Genesis, particularly in Genesis. And the
15 applicant's there have accepted very high mitigation fees,
16 850,000 one-time payment, and \$375,000 every year; that
17 would be for Genesis and Blythe.

18 So it is very new, but we are applying it to the
19 best of our professional ability equally to all the solar
20 projects, including the ones that are not using heat
21 transfer fluid.

22 COMMISSIONER EGGERT: Okay. I think that's it.

23 HEARING OFFICER VACCARO: Okay. I think at this
24 point we should probably get as much into the record as we
25 can, just as applicant moved their testimony in evidence,

1 and I think we should go ahead and close out staff's
2 exhibits and testimony on this, which does not mean that
3 the record is closed, because we still have Mr. Ellison's
4 issue to discuss before we leave this evening on the need
5 for further testimony, but let's go ahead and,
6 Ms. Hammond, and identify your exhibits.

7 MS. HAMMOND: There are certain exhibits of which
8 the testimony on worker safety fire protection are part,
9 and I believe are already been moved into the record,
10 including worker safety and fire protection, I'm thinking
11 particularly Exhibit 300.

12 HEARING OFFICER VACCARO: Yes. So why don't we
13 for clarity's sake, because I think we all intended that
14 nothing was moved in on worker safety and fire protection
15 until today, that we did take quite a few things wholesale
16 from the staff assessment and the supplemental, but let's
17 for the purposes of making sure we have a complete and
18 clear record on the topic of worker safety and fire
19 protection, let's just go through it one more time.

20 MS. HAMMOND: Sure. Thank you. I would like to
21 move Exhibits 300, the worker safety and fire protection
22 section; Exhibit 301, the worker safety and fire
23 protection section; Exhibit 313 in its entirety; Exhibits
24 315 through 332. And last night I had circulated the
25 statements of qualification and experience of assistant

1 Chief Brierty and Mr. Hoffman. Those I had marked as
2 Exhibits 333 and 334. I would also like to move those
3 into the record.

4 HEARING OFFICER VACCARO: Applicant, do you have
5 any objections to any of that?

6 MR. ELLISON: No objections.

7 HEARING OFFICER VACCARO: Okay. County?

8 MR. BRIZZEE: No objections.

9 HEARING OFFICER VACCARO: Okay. Then let's
10 consider at this point that we have moved all of the
11 evidence into the record on all topics with the exception
12 of executive summary and we are leaving the record open in
13 part for worker safety and fire.

14 (Staff's Exhibits 300, 301, 313, 315 through 334
15 were received into evidence.)

16 HEARING OFFICER VACCARO: Let's just turn to
17 executive summary again briefly. We did have something on
18 the table earlier today, which is that subject to
19 recognizing that we still have to work through worker
20 safety and fire, that the applicant would be willing to
21 accept what staff currently has with the exception that it
22 might require modification on that specific topical area.

23 Do you still maintain that position, Mr. Ellison?

24 MR. ELLISON: We have no objection to the
25 admission of the staff's executive summary subject to the

1 understanding it reflects the staff's position and the
2 staff's evidence and it doesn't constitute -- it's a
3 summary of the staff's case and not an augmentation of it.

4 HEARING OFFICER VACCARO: Okay. With that,
5 Ms. Hammond, do you think that you're in a position to go
6 ahead and move in your testimony and evidence with respect
7 to executive summary?

8 MS. HAMMOND: I am. I'd like to move into the
9 record to be received as evidence Exhibit 303, the section
10 entitled "executive summary."

11 HEARING OFFICER VACCARO: Okay. We've already
12 heard there is no objection from applicant.

13 Mr. Brizzee, for the county?

14 MR. BRIZZEE: No objection.

15 (Staff's Exhibit 303 was received into evidence.)

16 HEARING OFFICER VACCARO: Okay. So now I think
17 we just have the last order of business, which is to
18 briefly discuss the next steps and the direction of the
19 committee in terms of what we'll do next, and I'll leave
20 that to Commissioner Eggert to address.

21 COMMISSIONER EGGERT: Thank you, Kourtney.

22 I guess maybe just a couple of summary comments.
23 I think this has been for me personally a very useful six
24 and a half hours. I think we sort of expected that it
25 might take a little while, but I think it was worthwhile,

1 the whole six and a half hours was worthwhile to hear from
2 both sides. I think I certainly have a much better
3 understanding of the basis of the analysis, including the
4 analysis that's coming from the applicant, but also a much
5 better understanding for what's been done and has been
6 provided by the staff.

7 I think, you know, again, just kind of as a
8 general comment, I also appreciate the assistant chief
9 coming up to share his perspective and all of the work
10 that's been done. You know, recognizing that
11 San Bernardino County is challenged with respect to
12 financial conditions and situations; you know, it's not
13 surprising that you're looking for ways to make sure that
14 you're not further disadvantaged because of additional
15 costs that might be incurred.

16 At the same time, I think, you know, hearing from
17 the statements from the applicant, you know, we have I
18 think a situation in here -- a situation in front of us
19 which does present some really tough choices, which is
20 trying to balance the need to adequately address the issue
21 of worker safety and the sort of need for expediency with
22 respect to considering this case because of some of the
23 economic impacts that it will have for both the project
24 and for the state as a whole. Certainly we see that the
25 impacts coming from the stimulus program can sort of

1 accrue, not just to the project developers but also to
2 rate payers and others, and the economic activity that
3 comes with these projects, of course, has further
4 spill-over benefits.

5 So trying to balance all that and making sure
6 that we're staying true to our mission within the context
7 of evaluating these cases fairly and expeditiously, I
8 think we -- my sense is that we -- we have some
9 discussion, myself and Commissioner Boyd to try to work
10 through this to figure out what the best course is.

11 The one thing that I will commit to is that we
12 will do so very quickly. And I think my sense is that I
13 think we have enough information in front of us to make
14 that decision, but not right here at this table right now.

15 And so the one last question I might ask if I'm
16 able to, is it appropriate to characterize the additional
17 time that's been requested, you spoke to this earlier, but
18 now that we've gone through this cross and redirect, is it
19 primarily your intent to focus on further evaluation of
20 what's been brought forth by the staff in terms of the
21 additional time that you would need to provide further
22 evidence? Is that still kind of your characterization of
23 the --

24 MR. ELLISON: Yeah, it is. It's focused on the
25 staff's new method, the matrix, and the assumptions that

1 go into it and the method.

2 Dr. Greenberg is right, he didn't get any
3 questions today on the matrix, and that is because we're
4 not ready to do that. But it's not just the matrix.
5 We've frankly, you know, been scrambling. We worked the
6 weekend, we found Mr. Nickell, and we've done it the best
7 we can in the time that was given to us to make as
8 complete a record as we can.

9 But I would emphasize again that we've -- and I'm
10 not trying to cast aspersions on the staff or the county
11 here in terms of their motivation or whatever, but the
12 fact of the matter is that we were presented with
13 mitigation that was seven times higher than had been
14 previously put forward by the staff and was dramatically
15 higher than we had seen in any other case, so this was a
16 big surprise, and it was not a cost that I think any
17 reasonable applicant would have anticipated based upon the
18 history of commission decisions and staff positions up
19 till now.

20 So we have -- and, you know, as I've said
21 earlier, because of that and other factors, it's -- it's a
22 cost that is a fundamental threat to the viability of the
23 project. So we feel as long as that number's on the
24 table, or anything like it, we went to the project to do a
25 full, you know, effort at, you know, presenting all the

1 infirmities that we think exist, and we've only presented
2 some.

3 That being said, again, we could -- it is our
4 position that there's no impact here to mitigate, okay?
5 And so even the Colusa conditions imply that there is a
6 condition to mitigate, and we're going to have to
7 negotiate with the county and come up with mitigation, and
8 so we view that as a compromise, but it's a compromise
9 that we can do and we can make and we will. And we think
10 that that's the solution to this problem that keeps to the
11 schedule, is consistent with what's in the record, and
12 allows us to work with the county, which we want to do.
13 And the county has expressed a reciprocal interest to see
14 if we can't come to a solution of this problem.

15 But if that's not the course, if the committee
16 doesn't wasn't to go in that direction, then, you know,
17 we'll -- we've got more testimony to present, probably a
18 workshop with the staff to conduct -- you know, to find
19 out, you know, just where the matrix came from, and to
20 resolve some of these -- there was a whole series of
21 questions you heard today about much more precise
22 assumptions that could be made about property tax and
23 about fees and all sorts of things that could go into
24 this.

25 And this is the problem with the 11th hour

1 information, is that it stops the process, and you don't
2 understand what the staff is saying, but you can't ignore
3 information. But at some point in the proceeding, you do
4 have to say, okay, time's up. And for good reasons or
5 not, we are in a situation in this proceeding where we've
6 not done that. We have very, very, significant
7 information that's coming very, very late, and we have to
8 deal with it.

9 COMMISSIONER EGGERT: So I think -- so I guess
10 maybe the last point I'd make is, you know, with
11 Commissioner Boyd's concurrence, a commitment to come to a
12 decision about the next step expeditiously, perhaps, you
13 know, certainly within the next couple of days if -- I'm
14 looking for -- to see if there's any shock on the face of
15 my fellow commissioner.

16 COMMISSIONER BOYD: Well, you'll be with me again
17 all day tomorrow.

18 COMMISSIONER EGGERT: This is right, this is
19 true. We will have an opportunity.

20 And recognizing that that leaves a little bit of
21 uncertainty about schedule and timeline; but again, I
22 think given where we're at, I really don't see any other
23 alternative.

24 COMMISSIONER BOYD: Well, I would just say we --
25 I appreciate all the work that all of you put into this

1 under these different and difficult for some
2 circumstances. This has been very interesting quite
3 frankly, and helpful, and you could obviously understand
4 the need for us to ponder this a little bit and take into
5 account -- take measure of everything that has been put
6 into the record today and discussed; and yes, I think, you
7 know, we feel we owe you an answer pretty quickly on the
8 many, many questions that are left on the table.

9 So we'll get back at it asap, because we're
10 interested in dealing with all the cases we have in front
11 of us, a historical record in the 30-plus years of the
12 energy commission, and we want to deal with them as
13 rapidly as we can. We want to address all of our energy
14 needs, our renewable energy needs, and take advantage of
15 all the financial and funding sources that have been made
16 available all of us to deal with these.

17 Enough said, have a good evening.

18 Turn it back to you, Commissioner.

19 COMMISSIONER EGGERT: I think that's a good
20 closing unless there's --

21 COMMISSIONER BOYD: You were very generous with
22 your closing, by the way.

23 COMMISSIONER EGGERT: Yeah, I mean unless there's
24 any questions, I think we're done. I think it's time for
25 dinner.

1 HEARING OFFICER VACCARO: Thank you, everyone.

2 Thank you.

3 (Thereupon the hearing adjourned at 7:46 p.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Evidentiary Hearing Before the California Energy Resources Conservation and Development Commission, that I thereafter had it transcribed under my direction.

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

I WITNESS WHEREOF, I have hereunto set my hand this 20th day of July 2010.

JOHN COTA