

STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
for the Beacon Solar Energy) 08-AFC-2
Project by Beacon Solar, LLC)
_____)

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

MONDAY, OCTOBER 5, 2009

1:00 p.m.

Reported by:
John Cota
Contract No. 170-07-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Karen Douglas, Presiding Member

Jeffrey D. Byron, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kenneth Celli, Hearing Officer

Kristy Chew, Advisor to Commissioner Byron

Galen Lemei, Advisor to Commissioner Douglas

STAFF AND CONSULTANTS PRESENT

Jared Babula, Senior Staff Counsel

Eileen Allen

RoseMary Avalos

Eric Knight

Eric Solorio

APPLICANT

Jane Luckhardt, Attorney

Downey Brand

Scott Busa

NextEra Energy Resources

Kenneth Stein

NextEra Energy Resources/Beacon Solar

INTERVENOR

Rachel Koss

California Unions for Reliable Energy (CURE)

ALSO PRESENT

Chuck Curtis
Lahontan Regional Water Quality Control Board

Henry Gause
California City Landowners Association (via
telephone)

Dennis LaMoreaux (via telephone)

Julie Ryan (via telephone)

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P R O C E E D I N G S

1:05 p.m.

PRESIDING MEMBER DOUGLAS: Welcome to the Energy Commission. I'm Chairman Karen Douglas, the Presiding Member of the Beacon Siting Committee. With me to my left, Hearing Officer Ken Celli, to his left Commissioner Jeff Byron, to my right Galen Lemei, and to my far left Kristy Chew, Commissioner Byron's advisor and Galen Lemei is my advisor.

Now I will start with my comments. As you know the Energy Commission has a very large number of applications for certification pending.

Many of these present us with complex issues and because of this it's very important for us to pursue resolution of each application as efficiently as possible.

We've asked for this status conference to maximize the efficiency of the presentation of evidence in this matter to make sure that we are on track or work on scheduling issues and obviously with the hope of reaching a final decision as quickly as possible.

We've reviewed Beacon Project Proponent's Application for Certification and it

1 was anticipated when we initially set this status
2 conference that the Final Staff Assessment would
3 be completed.

4 While that's still not before us, hasn't
5 been completed yet, we see value in taking this
6 opportunity to confer with the parties and work on
7 the schedule.

8 One aspect of this project that the
9 Committee would certainly like to hear about is
10 the anticipated use of fresh water. As you all
11 know fresh water is a scarce resource in
12 California.

13 And the Energy Commission has policy
14 related to fresh water use that we have fairly
15 consistently or consistently upheld in siting
16 cases.

17 We very much hope to gain a better
18 understanding of the current positions of the
19 parties, intervenors and any interested members of
20 the public on these and other critical issues.

21 And again, welcome you to the Energy
22 Commission. Commissioner Byron, would you like to
23 make opening remarks --

24 ASSOCIATE MEMBER BYRON: No thank you.

25 PRESIDING MEMBER DOUGLAS: -- for the

1 record.

2 HEARING OFFICER CELLI: Thank you
3 Chairman Douglas. Did we introduce the parties on
4 the record? I think we'd better do that.

5 Starting with the applicant, please,
6 Ms. Luckhardt.

7 MS. LUCKHARDT: Hi, my name is Jane
8 Luckhardt and I am counsel for Beacon Solar and --

9 MR. BUSA: My name is Scott Busa and I
10 am director of the business development group
11 with Beacon Solar, Nextera Energy Resources.

12 MR. STEIN: I'm Kenny Stein,
13 environmental and permitting manager with Beacon
14 Solar.

15 HEARING OFFICER CELLI: And then staff
16 please.

17 MR. BABULA: Yeah, hi, Jared Babula,
18 staff counsel.

19 MR. SOLORIO: Eric Solorio, project
20 manager.

21 MR. KNIGHT: Eric Knight, manager of the
22 Environmental Protection Office.

23 HEARING OFFICER CELLI: Thank you for
24 being here.

25 MR. KNIGHT: You're welcome.

1 HEARING OFFICER CELLI: And CURE.

2 MS. KOSS: Good afternoon, Rachel Koss
3 on behalf of intervenor CURE.

4 HEARING OFFICER CELLI: Thank you very
5 much. Do we have anyone here from the water
6 district or anybody from air districts or any
7 other agencies? Please come to the podium and
8 identify yourself.

9 MR. CURTIS: Hello, my name is Chuck
10 Curtis. I'm a supervising engineer with the
11 Lahontan Regional Water Quality Control Board.

12 HEARING OFFICER CELLI: Thank you for
13 being here. Any other elected officials?

14 Seeing none, I'm going to proceed then.
15 A little background.

16 The Committee scheduled today's status
17 conference on the proposed Beacon Solar Energy
18 Project in a notice dated September 14, 2009. We
19 had put a few out on the table as you came into
20 Hearing Room A.

21 Back in June 18th of 2008 the Beacon
22 Committee issued a schedule that envisioned
23 December 2nd as the Final Staff Assessment due
24 date.

25 The furloughs began on Friday, February

1 6, 2009. They're still in force.

2 The staff published a Preliminary Staff
3 Assessment on April 1, 2009.

4 On June 19, 2009 Beacon submitted a 700
5 page plus Project Design Refinement.

6 On August 25, 2009 Beacon filed a motion
7 requesting the Committee to set the hearing
8 schedule.

9 On August 28th CURE submitted a status
10 report citing 60 instances of incomplete or
11 missing information in the PSA.

12 And on September 14th the Committee
13 issued a hearing schedule which is part of the
14 notice that we put out for you and hopefully you
15 all have.

16 The FSA has not been published and the
17 most recent projected publication date that I've
18 seen shows the FSA coming out around October 14th
19 of 2009 which would have been the same day that
20 the intervenors' testimony was due if we were
21 keeping to the original or the most recent
22 schedule.

23 It's pretty clear that the schedule
24 isn't going to work and so the purpose of today's
25 conference is to hear from the parties regarding

1 the status of the project itself and to discuss a
2 revised schedule.

3 The procedure we will follow is we're
4 going to give the parties an opportunity to
5 summarize their views of the case status, their
6 comments regarding scheduling.

7 And the parties should also comment on
8 any other legal or procedural matters that may
9 affect the timing.

10 The applicant will go first followed by
11 staff then the intervenor. And then after these
12 discussions we will provide an opportunity for
13 general public comment.

14 So to be clear I think the first thing
15 we need to talk about will be the schedule. And
16 we'll hear from the applicant first.

17 MS. LUCKHARDT: Okay in regards to the
18 schedule we have been proceeding under the
19 assumption that our testimony that was scheduled
20 to be filed on Wednesday October 7th is still due
21 on Wednesday October 7th until we are so relieved
22 from that.

23 Therefore we are printing and have been
24 printing for three or four days to get our
25 testimony, our affirmative testimony, out to all

1 the parties in a hard copy per the schedule.

2 So that is in process and proceeding.

3 Recalling that our affirmative testimony is
4 primarily consists of documents that we've already
5 filed in the proceedings.

6 So it's the AFC. It's the data
7 responses. It's our comments on the PSA. It's
8 supplementary information that we have filed.
9 It's the design refinements.

10 And it's all put together as a completed
11 evidence package, testimony package in hard copy.

12 And so we were proceeding to prepare it
13 both in numerical, chronological order as well as
14 in an order by subject matter.

15 There is as is in the schedule an
16 opportunity for all parties to file rebuttal
17 evidence.

18 And obviously we need the FSA to
19 understand what it is that we would be filing as
20 rebuttal evidence.

21 We could make some assumptions based on
22 the PSA but we would absolutely want to see the
23 FSA before creating rebuttal testimony.

24 But our affirmative testimony is the
25 information that we have already provided to you,

1 staff and the other parties to the case in one
2 form or another or filed with the docket unit.

3 So that material is under preparation
4 and is not dependent upon the filing of the FSA.

5 We would also note in this instance that
6 that should, to a certain extent, also apply to
7 other parties because there is an opportunity for
8 rebuttal testimony.

9 So simply because the FSA is not out
10 does not relieve other parties of the obligation
11 to prepare their affirmative testimony.

12 We are extremely concerned about the
13 schedule. We understand that there have been
14 furloughs. We understand that this as far as we
15 can tell is the first solar project to be moving
16 through the Energy Commission.

17 At this point there are a lot of
18 different projects moving at different speeds.

19 It appears to us based on a review of
20 the various projects and their status that this
21 may be the first FSA coming out on a pure, large
22 pure solar project.

23 Nonetheless, this particular project was
24 data adequate on May 5th of 2008. And so we do
25 feel it is important to continue to move the

1 project forward.

2 We have looked at various arrangements
3 to the schedule. We are very concerned about
4 losing the Evidentiary Hearing date on the 16th.

5 Other dates between now and then can
6 definitely float.

7 If the FSA truly is coming out on
8 October 14th that would give plenty of time
9 according to the regulations between the time
10 period of an FSA and the Evidentiary Hearings.

11 In fact, I think it's approximately
12 double, the amount of time.

13 So in our opinion we should be making
14 every effort to hold the hearing dates on the
15 16th.

16 We understand how difficult it is to get
17 hearing dates from two Commissioner who are very
18 busy with other obligations as well as the Hearing
19 Officer who also has yet a third level of
20 obligations.

21 In addition, many of our witnesses, we
22 have quite a few, in this instance because of the
23 detailed analysis that has been done, have been
24 rearranging schedules to hold those days open.

25 And so, if at all possible we really

1 urge the Committee, in this instance, to hold the
2 hearing dates.

3 And like I said we've got a lot of
4 flexibility in between the hearing dates, between
5 when the FSA comes out and when the Evidentiary
6 Hearings actually occur as far as what the time
7 period is for various filing requirements.

8 I think our biggest concern at this
9 point is holding those hearing dates.

10 If there is further information that I
11 can provide on schedule, please let me know.

12 HEARING OFFICER CELLI: Thank you
13 Ms. Luckhardt. I think we need to hear from staff
14 next on the FSA. I'd love to hear about what the
15 status of that is and what's going on with the
16 FSA, please.

17 MR. SOLORIO: In regards to the FSA, we
18 have essentially one section outstanding, the Soil
19 and Water Section. Minor edits due on the
20 Alternatives analysis, which needs to closely
21 track the Soil and Water. That's the only reason
22 it's still outstanding.

23 Other than that all other sections of
24 the FSA are completed. They're formatted, ready
25 to go to print. So we're right there.

1 It's my understanding from the
2 Environmental Office that we will see, at least
3 the Project Manager will see the Soil and Water
4 come to us at the end of this week.

5 And that's with staff working on the
6 furlough day.

7 It takes approximately one week of lead
8 time to actually get it through formatting and
9 repro towards actually ready to publish.

10 So that puts us at next Thursday end of
11 day. So to actually physically get it out in the
12 mail we're, more than likely, looking at October
13 19th, the following Monday.

14 HEARING OFFICER CELLI: The 19th of
15 October is the publication date?

16 MR. SOLORIO: Yes, I'd say that's the
17 most realistic date working off of what I just
18 described. So unless we happen to see the Soil
19 and Water Section come out of the Environmental
20 Office sooner than this Friday that's the date
21 we're looking at.

22 HEARING OFFICER CELLI: Okay, October
23 19th. Anything further on scheduling from staff?

24 MR. BABULA: I agree with Jane and try
25 to keep it to the 16th. And the fact that they've

1 already, their primary --

2 ASSOCIATE MEMBER BYRON: You mean to
3 November 16th?

4 MR. BABULA: Yeah, November 16th. And
5 that their testimony is in the process of being
6 printed and distributed for the October 7th date.

7 I would agree that they can't do any
8 rebuttal until they see the FSA. So possibly
9 floating the FSA rebuttal time would be the most
10 practical thing but allow to keep the original
11 November 16th hearing date.

12 One other note too on issues with
13 scheduling of facilities. Under the Warren-
14 Alquist Act 25521 we don't necessarily have to
15 have it hearing at California City. It can be in
16 LA, which is the nearest city, city nearest to the
17 county where the project is, which could give us
18 more flexibility in location if California City
19 doesn't have any dates on that one facility we
20 needed, their City Council.

21 ASSOCIATE MEMBER BYRON: I have a couple
22 of questions.

23 HEARING OFFICER CELLI: Please,
24 Commissioner Byron, go ahead.

25 ASSOCIATE MEMBER BYRON: Directed to our

1 staff. I missed a couple of things. Maybe these
2 were stated, maybe they're obvious elsewhere. But
3 the first one would be the particular section,
4 Mr. Solorio, you mentioned as not complete or was
5 not complete in the FSA has to do with water.

6 That's one of the key issues in this
7 case. Is there any particular reason why that's
8 late?

9 MR. SOLORIO: There's three consultants
10 involved with writing that section in addition to
11 our own staff internally.

12 And we have, we've seen approximately
13 eight or nine projects were filed recently. And
14 so, you know, according to the regs we have 30
15 days to do the data adequacy and unfortunately we
16 only have approximately four people in the Soil
17 and Water Unit.

18 So we're constantly being pulled off of
19 the projects we're working on even though they're
20 priorities to try to fill the gaps.

21 But, yes you're correct. Soil and Water
22 is the outstanding section.

23 ASSOCIATE MEMBER BYRON: And are there
24 any substantial differences, any differences of
25 note between the FSA and the PSA?

1 MR. SOLORIO: At this time I can't say
2 sir because I'm not altering the section. My
3 understanding is that there should not be any
4 changes to what was in the PSA versus the FSA.
5 But again, I'm not writing the section.

6 ASSOCIATE MEMBER BYRON: Will we have to
7 wait until the document is out in order to be able
8 to answer that question?

9 MR. SOLORIO: Unless Eric Knight would
10 like to answer it.

11 ASSOCIATE MEMBER BYRON: Mr. Knight, one
12 of the things we try and do is make sure that the
13 public and the intervenors have access to all the
14 issues around these cases.

15 The PSA is an effort to get those out
16 early. But, of course, there could be others that
17 arise. Do we have any other issues of substance
18 that have come up between the PSA and the FSA?

19 MR. KNIGHT: In terms of the Water
20 Section?

21 ASSOCIATE MEMBER BYRON: The entire
22 report.

23 MR. BABULA: I could answer. Well one
24 of the things that did come out is after the PSA
25 we, the staff continued to study alternatives.

1 And one of the alternatives was the
2 higher TDS water source. And so staff in
3 conjunction with some contractors and working with
4 the applicant did some studies out there.

5 And so those studies had to be
6 incorporated into the Local Soil and Water
7 Section. An additional analysis was put regarding
8 the ground water and some additional modelling was
9 done to try to get a better handle on what is a
10 fairly complex ground water system out there.

11 And then finally there's this Rosemont
12 option that was more fully developed post-PSA, the
13 Rosemont, folks at Rosemont presented a proposal
14 which was then incorporated into our analysis
15 regarding the quality, quantity and cost of water
16 and using and getting a pipeline from Rosemont to
17 the project site.

18 So there was a number of developments
19 that happened after the PSA that had to get
20 incorporated into the FSA.

21 And as Eric mentioned the resources were
22 a little stretched. Even when using contractors,
23 they have other things. But primarily it was
24 really incorporating these studies into a fluid
25 document that had a number of authors.

1 ASSOCIATE MEMBER BYRON: Thank you.

2 HEARING OFFICER CELLI: Anything further
3 Commissioner Byron.

4 ASSOCIATE MEMBER BYRON: There may be
5 later but right now it's what I want to understand
6 is where we are, the differences between the FSA
7 and the PSA.

8 HEARING OFFICER CELLI: Okay, and
9 Chairman Douglas did you have any? Please, Mr.
10 Solorio.

11 MR. SOLORIO: Yeah, if I may. I didn't
12 quite understand your question originally. I
13 thought that you were asking if there were changes
14 specifically to Soil and Water.

15 And so just to elaborate on Jared's
16 response. There was an alternative that was, came
17 to light if you will at the PSA workshop based on
18 comments from the public including agencies.

19 And that was essentially the fact that
20 there was non-potable water available from the
21 community of Rosemont as well as from California
22 City.

23 So both of those sources were fully
24 developed in the FSA and we've gone to the extent
25 of having he various staff in different

1 disciplines address those alternatives according
2 to CEQA. So that they are truly viable.

3 HEARING OFFICER CELLI: Thank you.
4 Let's hear from CURE please.

5 MS. KOSS: Thank you.

6 HEARING OFFICER CELLI: Ms. Koss.

7 MS. KOSS: CURE has commented several
8 times that the PSA should be revised and
9 recirculated due to a lack of analysis and
10 mitigation measures. And in fact in numerous
11 resource areas in the PSA staff said that they
12 intended to incorporate further information
13 analysis and mitigation measures in the FSA.

14 So we believe that the schedule set out
15 in the notice is reasonable. The intervals are
16 reasonable and we would like to stick to them.

17 We think that three weeks between
18 publication of the FSA and intervenor testimony
19 due date is proper.

20 Intervenors and the public are going to
21 have to take a lot of time to evaluate the
22 numerous additional information, analysis and
23 mitigation measures in the FSA.

24 So if we could stick to that we'd
25 appreciate it. And everything else, all of the

1 other intervals in the schedule we believe are
2 reasonable.

3 So if we could just push back everything
4 according to the date of release of the FSA. That
5 would be reasonable.

6 HEARING OFFICER CELLI: May I ask if
7 CURE anticipates any sort of motions or anything,
8 I'll tell you why I'm asking this question.

9 I want to make sure that this next
10 schedule we get right, that we follow it, we stick
11 to it, it works for everybody to the extent that
12 we can.

13 And I wanted to know whether any of the
14 parties anticipate any motions or anything that
15 would slow the process down because we have some
16 sort of in limine motion to be heard.

17 MS. KOSS: I don't anticipate any
18 motions. We just look like the time to thoroughly
19 evaluate the FSA due to, you know, the information
20 that is going to be included in it that we have
21 not seen.

22 At this point we don't know what will be
23 in the FSA. There's numerous resource areas that
24 are going to require additional information and
25 analysis and mitigation measures.

1 And we just want the proper amount of
2 time to review that. I don't anticipate anything
3 else.

4 HEARING OFFICER CELLI: Do you think
5 three weeks is adequate?

6 MS. KOSS: Yes.

7 HEARING OFFICER CELLI: Good. With that
8 I wanted to, I'll ask the Commissioners whether, I
9 was going to open it up to the gentleman from the
10 Lahontan Water District. Let him speak.

11 ASSOCIATE MEMBER BYRON: Just a quick
12 question directed towards the applicant. And
13 Ms. Luckhardt, I believe you said earlier that
14 you'd still want to hold the dates and there's no
15 hidden meaning behind my questions. I'm just
16 trying to understand the basics here.

17 You wanted to try to hold the dates for
18 the applicant's testimony being due as given in
19 the schedule. How can we do that if there's
20 substantial changes between the PSA and the FSA
21 and they haven't seen those?

22 MS. LUCKHARDT: Well we wanted to hold
23 in particular was the hearing date. It was the
24 date that we had scheduled for hearing which is
25 November.

1 We held to the October date for a couple
2 of reasons which I mentioned. One is, we haven't
3 been given schedule relief.

4 And so as far as we are concerned we
5 have been operating under the order that was
6 issued by the Committee.

7 And so until we receive schedule relief
8 we are in production to hit the 7th.

9 The second issue is that there is both
10 affirmative testimony and rebuttal testimony.

11 And rebuttal testimony is the
12 opportunity for all parties to review the
13 testimony of the other parties and file their
14 response to it.

15 So we're talking about our initial
16 testimony and our rebuttal testimony. Those are
17 two different things.

18 Rebuttal testimony is in response to
19 that of the other parties. So in order for us to
20 file our rebuttal testimony we must see the FSA.

21 We must see the filing that CURE is
22 going to make, whatever testimony they are going
23 to file. We can't file rebuttal testimony until
24 we can see that.

25 But each party can file, just as staff

1 under the original schedule was to file the FSA
2 before applicant was to file their testimony, each
3 party can file their individual testimony without
4 seeing the testimony of another party.

5 It's the rebuttal testimony which must
6 follow the filing of each party's affirmative,
7 initial testimony.

8 So that is how we are viewing and
9 looking at the schedule. And that's why we held
10 to the date on the 7th. That's one of the reasons
11 we held to the date on the 7th.

12 And that's one of the reasons why we
13 feel that all the parties can file their
14 affirmative testimony without seeing the testimony
15 of the other parties.

16 Not to mention that they have, you know,
17 CURE has been involved in this case since the
18 beginning. They're a knowledgeable intervenor.
19 They understand the process.

20 And they have seen virtually all of our
21 testimony. It's either in the docket or it's
22 already been filed.

23 And they at least have the benefit of
24 the PSA even though the FSA won't look exactly
25 like the PSA.

1 And there are often changes between an
2 FSA and a PSA. And I don't see this case as being
3 that different.

4 ASSOCIATE MEMBER BYRON: Of course the
5 last date to file petitions to intervene as
6 currently scheduled is October 5th. I believe
7 that is today.

8 But that was based upon, you know, the
9 FSA being out two weeks ago. So I don't know that
10 we would anticipate any other intervenors in this
11 case. But there is always that possibility, isn't
12 there?

13 MS. LUCKHARDT: There is always that
14 possibility. Although intervenors when filing as
15 late as the final date to intervene are required
16 to accept the status of the record that it is in
17 at the point in which they intervene.

18 So if they choose to intervene late in
19 the process they have to live with the schedule,
20 the information and the documents that have been
21 filed to date.

22 They cannot go back without showing of
23 good cause and reopen issues that have already
24 been dealt with.

25 HEARING OFFICER CELLI: Yes, before we

1 get to that I just wanted to, I happen to have a
2 calendar here. And by my calculations if the FSA
3 doesn't come out until the 19th of October, and
4 for the people on the phone I'm just holding up
5 your standard calendar.

6 The 19th knocks everything up about five
7 weeks. So that, in other words, if everything is
8 pushed forward five weeks that means that we
9 couldn't even, we could not preserve the November
10 16th and 17th hearing date because on the 18th
11 CURE's testimony would be due.

12 So we will have to rework the schedule.

13 MS. LUCKHARDT: Well, I think again,
14 CURE's affirmative testimony does not need to wait
15 for the FSA. That's the opportunity for rebuttal
16 testimony not for the affirmative testimony.

17 So I guess I'm having difficulty
18 understanding why CURE gets to wait for the FSA to
19 file their testimony when there is an opportunity
20 to rebuttal testimony for all parties.

21 HEARING OFFICER CELLI: CURE, go ahead.

22 MS. KOSS: But generally, the FSA is
23 published before any testimony is due. And we're
24 going to base our testimony on what is in the FSA.

25 And there's a point to having opening

1 testimony and rebuttal testimony subsequent to the
2 release of the FSA.

3 The PSA and the FSA are going to be very
4 different due to the lack of information and
5 analysis and mitigation measures.

6 And all we're asking for is a reasonable
7 opportunity to review that new information before
8 we testify to anything.

9 MS. LUCKHARDT: In that case I don't
10 understand why CURE needs then another opportunity
11 to file rebuttal testimony because they will have
12 seen staff's testimony. They will have seen our
13 affirmative testimony.

14 So what are they filing rebuttal
15 testimony on?

16 HEARING OFFICER CELLI: Actually that's
17 all parties rebuttal testimony. The way that we
18 have set it up here is that once the intervenor
19 files then the following week all parties
20 rebuttals is due.

21 And whether CURE chooses to file
22 rebuttal or not because, actually, as an
23 intervenor they're testimony really is rebuttal
24 testimony in itself.

25 So if the FSA comes out and they're in

1 opposition to the FSA well then that's essentially
2 rebuttal testimony.

3 If they want to file more rebuttal
4 testimony the week later, they're welcomed to.
5 But they won't have anything new to base it on.

6 The only people who will be empowered
7 with new information would be the applicant's
8 staff who'd been waiting to get the intervenor's
9 testimony.

10 So that would be the flow of the
11 argument.

12 MS. LUCKHARDT: You know I understand
13 that to a point. Although I've also often argued
14 that all parties' testimony should be filed at the
15 same point. And then all parties rebuttal should
16 be due at the same point.

17 Are we inherently giving CURE an
18 advantage here by having them file twice after all
19 other parties filed?

20 HEARING OFFICER CELLI: Well actually,
21 the applicant's work is pretty much always done
22 right up front with the AFC for the most part.

23 Yes, there's additions as you go along
24 but all of that, the front end work is really the
25 testimony of the applicant and so --

1 MS. LUCKHARDT: In this record I think
2 you will find that there's a substantial amount of
3 work that has been done since the AFC.

4 HEARING OFFICER CELLI: Yeah, I'm aware
5 of that including the 700 pages of design
6 refinements. But I don't think it's unreasonable
7 to give any intervenor opportunity to deal with
8 the FSA.

9 And I don't think three weeks is
10 unreasonable. Actually it cuts it down because I
11 thought I gave them a full month.

12 So what I think is going to happen, I
13 think it's an impossibility for us to keep the
14 current schedule as we have it just because if we
15 do then the day the FSA comes out intervenors'
16 testimony is due. And I don't think that's fair.

17 So what we're going to have to do is
18 issue a new scheduling order. And that would come
19 out this week as quickly as I can get one put
20 together.

21 Well actually the problem, you know I
22 just want all the parties to know, we don't pull
23 those dates out of the air. I've been in
24 communication with staff to get dates and I have
25 good-faith estimates of dates from staff on

1 several occasions.

2 And when I created this particular
3 schedule I had padded it for three weeks out from
4 their outermost date.

5 Now I understand events have occurred
6 and things happened that made it impossible for
7 them to meet those dates.

8 But the point is it's like the boy who
9 cried wolf at this point. I'm a little hesitant
10 to start creating a schedule date right now until
11 I have more of a sense that the FSA really is
12 going to come out on October 19th. I'm a little
13 gun shy at this point. So I don't think that's
14 unreasonable either.

15 So I'll put it out to the parties and
16 hear what you all have to say about the
17 possibility of getting a schedule out in light of
18 the fact that I've got squishy dates for an FSA.

19 MS. LUCKHARDT: Yeah, I understand that.
20 We actually have been and I put it together and
21 not in any way to attack staff.

22 But I put together a list of dates on
23 when they initially they anticipated they'd be
24 able to get the FSA out.

25 And so I understand your concern. It is

1 also ours.

2 HEARING OFFICER CELLI: Yes.

3 MS. LUCKHARDT: We have also requested
4 that staff bifurcate it. And so that they'd put
5 out that portion of the FSA that's available now.

6 So that CURE and the other parties have
7 an opportunity to look at it. That portion of the
8 FSA has been available for some time.

9 I understand staff is reluctant to do
10 that and has been recently. And they may still
11 be. But that was one way of getting a large
12 majority of the document out.

13 My understanding is that this document
14 is a thousand pages or so. So if it is truly that
15 large it would make sense to give parties an
16 opportunity to see those portions of it that are
17 available.

18 And I understand the hesitancy to that.
19 But, you know, we're, as long as this schedule
20 continues to slide we are looking at a two year
21 siting process for this case.

22 And, you know, that gives us great
23 concern on the pressure that it puts on this
24 particular project but also going forward on
25 future projects.

1 So, you know, I just want to make
2 everyone aware of that. And I'm not saying that
3 in any way to assume that staff hasn't been
4 working hard. I think they have. They're very
5 diligent and hard-working folks.

6 It's just taken a long time. It's a
7 very, very long siting process.

8 HEARING OFFICER CELLI: Staff did you
9 have, what can you offer into this? What I'm
10 trying to figure out is how am I supposed to put
11 together a scheduling order when if we etch in
12 stone again another date for an FSA and everything
13 spring boards from the FSA publication date and
14 then that slides again. What do you have in mind?

15 MR. SOLORIO: Let me offer a few
16 thoughts here. We did float the idea of
17 bifurcating publication of the document.

18 As I mentioned, 95 percent of it is
19 ready right now to go to print. Part of the
20 problem with that is in order to file something
21 and make it available to the public we need to
22 serve the POS list.

23 HEARING OFFICER CELLI: Twice.

24 MR. SOLORIO: Exactly. And so therefore
25 we've got to send to repro and any other evidence

1 and there is a two and a half lag time, et cetera.

2 HEARING OFFICER CELLI: Bifurcation. I
3 have some experience with bifurcation in the
4 Sentinel Case and I'm not a fan of bifurcation
5 because of a whole lot of things happen between
6 the one and the other.

7 And I would rather see it come out as a
8 single document. But what I'm trying to figure
9 out is when we will have a date certain?

10 MR. SOLORIO: Mr. Celli, unfortunately I
11 don't have any authority in this process
12 (laughter). I'm responsible for everything but.

13 HEARING OFFICER CELLI: Mr. Knight.

14 MR. KNIGHT: Mr. Celli we'll do our
15 best, in other words, you know, commit to making
16 the date or completing the Water and Soil Section
17 this week. So that means staff will be working on
18 this Friday.

19 But we're going to get it done this
20 week. It's been a complicated analysis and as you
21 know that the Committee sent us pretty early on a
22 directive that, you know, fresh water use for
23 cooling, we're very concerned about that.

24 So it's probably a 250 page section
25 alone and it does analyze the various

1 alternatives. So it's a complicated undertaking
2 but we'll get it done.

3 HEARING OFFICER CELLI: Well, I know you
4 will. What I want to know is, Mr. Solorio
5 mentioned October 19th. It seemed like a pretty
6 adequate amount of time.

7 What are the odds (laughter)?

8 MR. KNIGHT: Well, you know, once it
9 leaves our hands, I mean it's going to go back
10 over to the Siting Office. It's been there once
11 in a draft form.

12 So it won't be like they're reviewing
13 this section, you know, 250 pages from scratch.
14 So it's going to go over there and then it's going
15 to get, you know, reviewed by Eric, the attorney
16 and management in Siting.

17 And then there's the production end of
18 it. I mean it's a big document. It's got some
19 formatting issues. So who knows what happened
20 there.

21 HEARING OFFICER CELLI: But if it gets
22 to production that means we've got a final
23 iteration which could electronically be served on
24 all the parties.

25 MR. KNIGHT: Sure, yeah. I mean it

1 doesn't, I mean this always becomes an issue for
2 the POS. That is if you say you are positive
3 something in the station mail, if we can alter the
4 POS list to actually reflect what we're doing then
5 that's an electronic filing only.

6 HEARING OFFICER CELLI: Well I'm not
7 necessarily suggesting you deviate but what I am
8 trying to do is give the parties a chance to get
9 to work on the FSA.

10 MR. KNIGHT: Sure.

11 HEARING OFFICER CELLI: And so if at
12 least you know that it will be out and ready for
13 publication by X date the rest of it however long
14 it takes for publication then we don't really have
15 to worry about.

16 It'll come out. It'll be published and
17 the public will see it. But really it's a
18 question of when is it going to be docketable.

19 MR. KNIGHT: I think I heard that
20 actually that would be the Thursday, we have a
21 calendar here, October 15?

22 MR. SOLORIO: The bottom line is we need
23 five days from the time that reaches me, assuming
24 that it's in perfect shape. And Jared and I have
25 done our best to, we've actually reviewed it three

1 different times as it's been drafted.

2 Part of the document includes language
3 that was provided by the Water Board. There's a
4 number of things built into that section,
5 streambed alteration agreements, waste discharge
6 requirements, things that we don't normally do but
7 are under our authority.

8 Nevertheless, assuming that it's in
9 perfect shape when it gets to me we still need
10 five days before it actually gets out in the mail.

11 HEARING OFFICER CELLI: So what if it's
12 not in perfect shape?

13 MR. SOLORIO: Then it has to go back for
14 revisions.

15 HEARING OFFICER CELLI: Isn't that the
16 condition that we've been in?

17 MR. SOLORIO: Yes, that, that, well
18 essentially that loop, again, Jared and I have
19 been doing informal reviews as it's being put
20 together to try to cut back on what the final form
21 in terms of any revisions that need to be done.

22 HEARING OFFICER CELLI: Ms. Allen, I see
23 Eileen Allen is here. I wonder if you would like
24 to weigh in on this. We're having a hard time
25 putting together a schedule that we can count on.

1 That's what we're talking about.

2 MS. ALLEN: I'm not going to add a lot
3 but --

4 THE REPORTER: Would you please identify
5 yourself for the record, please.

6 MS. ALLEN: Eileen Allen. I'm the
7 Manager of the Siting Compliance Office. So as
8 I'm listening to the question marks associated
9 with the time needed for production once the
10 hopefully perfect analysis comes over.

11 We're also dealing with the unknowns. A
12 key person involved in the production process
13 being sick or having to be out for some other
14 reason. So ideally I'd add another week in there
15 as a contingency.

16 HEARING OFFICER CELLI: So the date that
17 staff believes it was October 15th as, it's ready,
18 it's perfect, it's ready to go, we're going to
19 carry it down to reproduction. If I add a week to
20 that that's October 22nd.

21 What's your feeling about that Mr.
22 Knight, Mr. Solorio? Is that, if I make that day
23 the FSA publication date, October 22nd, because
24 you had said October 19th, gives you a little
25 extra time.

1 MR. KNIGHT: I told you that.

2 HEARING OFFICER CELLI: Can I get a
3 commitment (laughter)?

4 MR. KNIGHT: Yes sir.

5 HEARING OFFICER CELLI: Okay. October
6 22nd then is, and I will, so I think the official,
7 let me just confer if I can for a moment with the
8 Commissioners.

9 Thank you we're back on the record, oh,
10 now we're not. Now we're back on the record.

11 And so, Ms. Luckhardt we're going to
12 vacate the current schedule and I will put out a
13 new schedule based on this October 22nd date this
14 week.

15 I pretty much based as close as I can
16 because I'm sort of at the mercy of the
17 Commissioners' schedules because I need to get two
18 Commissioners at the same hearing, at the same
19 place, at the same time.

20 And I know that Commissioner Douglas is
21 going to be out of the country from the 19th?

22 PRESIDING MEMBER DOUGLAS: Uh-hmm.

23 HEARING OFFICER CELLI: Of December.

24 PRESIDING MEMBER DOUGLAS: December?

25 HEARING OFFICER CELLI: December. I'm

1 hoping we're not going to be going in after but,
2 from the 19th until the 7th of January.

3 So depending on the availability of
4 hearing space. And I'm not really sure we would
5 go anywhere else than to California City because
6 that's where the people who are affected live.

7 Then everything would bump up ideally
8 four weeks. And it's really just a question of
9 being able to get the space, get the room and have
10 two Commissioners who aren't committed to
11 something else on those dates.

12 So what we're looking at is a Prehearing
13 Conference in December. So since our Prehearing
14 Conference is in December the likelihood is that
15 our Evidentiary Hearings will be in January, which
16 will give Ms. Koss an opportunity to have her
17 baby.

18 MS. KOSS: Thank you.

19 HEARING OFFICER CELLI: Sure. But
20 that's realistically what we're looking at now.

21 ASSOCIATE MEMBER BYRON: These are
22 expanded powers of this Commission it seems now
23 (laughter).

24 MS. LUCKHARDT: I guess, you know, we
25 just need a second to kind of look at that and

1 look at the schedule and adjust.

2 I mean what you have essentially done
3 now is given us a two month delay in this project.

4 And so I'd just like to be able to
5 confer with my folks before I provide any response
6 since I wasn't anticipating a two month delay.

7 HEARING OFFICER CELLI: Certainly.
8 We'll go off the record.

9 (Off the record)

10 MS. LUCKHARDT: Okay. I would like to
11 propose a different schedule for your
12 consideration.

13 CURE just indicated that they need three
14 weeks from the publication of the FSA to filing
15 their testimony.

16 If the FSA comes out on the 22nd, three
17 weeks from the 22nd is November 12th. In your
18 original schedule you had a week between
19 intervenor's testimony and all parties' rebuttal
20 testimony.

21 So that would mean all parties' rebuttal
22 testimony would be due November 19th.

23 HEARING OFFICER CELLI: Correct.

24 MS. LUCKHARDT: Assuming that, you know,
25 not knowing whether or not parties would be

1 amenable to the two days before the Thanksgiving
2 holiday for a Prehearing Conference, we were
3 thinking that on the long side you could hold a
4 Prehearing Conference the week of December 1st and
5 you could have hearings the second week of
6 December.

7 This is essentially a month's slide in
8 staff's FSA. And so we think it makes more sense
9 to do a month's slide in the schedule as opposed
10 to a two month slide in the schedule.

11 We don't know if the week of November
12 8th is possible but that seems like a potentially
13 viable hearing week. I'm sorry, December 8th.

14 HEARING OFFICER CELLI: Okay, we're back
15 on the record. And I appreciate that, you know,
16 so all parties heard the proposal which was to
17 have the intervenors' testimony.

18 So assuming on October 22nd that the FSA
19 comes out, the applicant's testimony would be due
20 on the 29th.

21 The intervenors' testimony would be out
22 on the 12th.

23 All parties' rebuttal would be due on
24 the 19th of November.

25 Now the 26th and the 27th are

1 Thanksgiving. If we could pick a Prehearing date
2 sometime the first week of December what we're
3 left with is the possibility of one or the other
4 of those next two weeks to start the Evidentiary
5 Hearing.

6 I don't know how long we'll go. And
7 we'll have more of a sense of that at the
8 Prehearing Conference, But if it's going to go
9 more than a couple of days we're now going into
10 January, you understand, because there's a break
11 there due to the holidays.

12 So what we'll do is this. I will take
13 this back and put out a new scheduling order. The
14 Committee has now vacated the existing scheduling
15 order and we will put out a new one.

16 And we intend to get it out sooner than
17 the end of this week. And with that let me just
18 ask.

19 Before I close out the scheduling
20 conversation, anything from staff on what I've
21 just described in general terms?

22 MR. BABULA: That sounds fine. I don't
23 have any problem with that.

24 HEARING OFFICER CELLI: Ms. Koss.

25 MS. KOSS: I don't think we have any

1 problem with that. I think we would prefer not to
2 have multiple weeks between hearing dates if
3 possible, ideally.

4 HEARING OFFICER CELLI: Well you know
5 that's all a function of how well the parties
6 communicate with each other and how much they can
7 get done in the meanwhile so that if we limit
8 witnesses and cross-examination we can really
9 streamline this thing. And I'm a big fan of that.

10 MS. KOSS: Sounds good.

11 HEARING OFFICER CELLI: Yes.

12 MS. KOSS: We'll do our best.

13 HEARING OFFICER CELLI: Great. So I'll
14 do my best to come up with something that
15 accommodates everybody here.

16 Anything else on scheduling before we
17 move on? Seeing none, Commissioner Byron.

18 ASSOCIATE MEMBER BYRON: If I may,
19 Hearing Officer Celli. You know in these
20 conferences we deal with schedule and process to a
21 great extent. This would be maybe a good
22 opportunity to get into, although it's not an
23 Evidentiary Hearing, but get into some of these
24 issues just to a little bit greater extent because
25 this is the only time the Commissioners can do

1 this really in a public setting.

2 And again, I realize this is not
3 evidence. This is not what we're going to be
4 basing our decision upon. But it is helpful to
5 understand these issues a little bit more as it
6 informs scheduling, as it informs the issues that
7 will be before us.

8 And the Chairman mentioned this, I
9 believe, in her opening remarks to some extent as
10 well.

11 So without any bias, clearly the use of
12 groundwater is a major issue in this case. And I
13 guess I direct my question towards the applicant.

14 I assume that you're aware that it's
15 been the policy of this Commission since, I think
16 2003, that we don't use groundwater, or surface
17 water for that matter, in the cooling of power
18 plants. Are you aware of that?

19 MS. LUCKHARDT: We are aware of the
20 Commission's policy. We are aware of the State
21 Board's policy.

22 I think that we have a substantial or a
23 substantive disagreement as far as what is a
24 feasible alternative and what is feasible from the
25 perspective of when you're dealing with a solar

1 project.

2 When you're dealing with a combined-
3 cycle project you're dealing with a different,
4 completely different capacity factor.

5 I'll let my client kick me if I'm wrong.
6 I'm guessing, we're talking about a 20 --

7 MR. STEIN: Twenty-six.

8 MS. LUCKHARDT: -- about a 26 percent
9 capacity factor out of a solar thermal facility --

10 ASSOCIATE MEMBER BYRON: For this
11 project.

12 MS. LUCKHARDT: -- for this project. So
13 we aren't talking about capacity factors in the
14 50, 60, 70, 80 percent like you are with a
15 combined-cycle gas-fired power plant where the
16 Commission has set a policy that if you can't find
17 a degraded water source or a reclaimed water
18 source, essentially a dry-cooling option is a
19 competitive and effective option that is both
20 commercially available and economically viable for
21 a project.

22 In this instance we're talking about a
23 project that has a much reduced capacity factor
24 that is in some ways more akin to a large or
25 heavily operated peaker.

1 So we're talking about a very different
2 situation. We're talking about a pipeline that's,
3 these guys will correct me if I'm wrong, I think
4 it's around 40 miles long.

5 ASSOCIATE MEMBER BYRON: And this is one
6 of the alternatives.

7 MS. LUCKHARDT: One of the alternatives
8 for reclaimed water is essentially a 40 mile
9 pipeline.

10 The amount of water that they may or may
11 not have, we're talking about not only a 40 mile
12 pipeline but a large storage reservoir because the
13 water that would be required for the peak months
14 is insufficient.

15 And so there has to be a very large
16 storage facility in order to store the water to be
17 able to handle the requirements of the project.

18 And if you're talking about the
19 California City option which is a lot closer and,
20 in fact, the project proposed initially, running a
21 line to California City and taking whatever
22 reclaimed water they have available.

23 Now in order for that city to be able to
24 provide all of the water for the project they
25 would need to hook up, they have many residences

1 and businesses on septic systems. So they'd have
2 to run lines down streets to individual houses and
3 hook up individual additional septic systems in
4 order to get enough flow to supply the project.

5 So, you know, whether that is truly a
6 feasible alternative to what the project has
7 proposed we think is in question.

8 There has been some investigation of
9 degraded groundwater options. That's what staff
10 was talking about. In fact, the project applicant
11 funded the additional work that was done on the
12 degraded water options.

13 So in addition to that in the analysis
14 from the applicant's perspective the ability to
15 permit, and not only that, when the project was
16 originally proposed these other water options were
17 not available.

18 The folks at Rosemont did not propose
19 providing water to the project. And in fact the
20 project did check with these entities.

21 With the permitting process at this time
22 the efforts of staff some additional proposals
23 have come forward.

24 Permitting a 40 mile linear is a
25 difficult task especially when you're outside of

1 the time periods where you have to do protocol
2 surveys.

3 The amount of additional analysis has
4 been required. Now we understand that staff has
5 been doing quite bit of work.

6 That they have been out there and done
7 some biological analysis. They've done a variety
8 of other levels of analysis and that that will be
9 included in the FSA.

10 And we are interested in seeing that as
11 well as all the other parties to see what they
12 have been able to find and the cooperation that
13 they have been able to get from Fish and Wildlife
14 and Fish and Game and other entities.

15 But we still have concerns about whether
16 there truly is a financiable, viable, water source
17 that the project can finance so that this project
18 can actually get built and go forward.

19 So there have been a series of
20 disagreements between the applicant looking at,
21 here's our project, here's, you know, where the
22 power market is.

23 They are out there discussing what they
24 can actually sell for and what works and at this
25 point it's the project's position that it is not a

1 viable alternative.

2 You know, ultimately you all may be
3 placed in the position of having to determine
4 that.

5 But at this point the project's position
6 is looking at those other options and those other
7 alternatives that none of them are truly viable
8 and provide a truly alternative water source
9 option for this project.

10 ASSOCIATE MEMBER BYRON: Well,
11 Ms. Luckhardt you've always give thorough answers.
12 I'll take that as a yes (laughter). And I just
13 want to let you know that this is going to be a
14 high bar for this Commissioner with regard to this
15 case.

16 And I think the applicant is going to
17 need a very good showing when it comes time in our
18 Evidentiary Hearing looking at these alternatives.

19 Because I know that I'm quite concerned
20 about this and although I never speak for my
21 fellow Commissioners I suspect you may get some
22 serious concern elsewhere.

23 Mr. Celli maybe there's others that
24 would like to speak on this but I got the answer
25 to my question.

1 And I just want to make sure that the
2 applicant knows the bar will be very high.

3 HEARING OFFICER CELLI: Thank you
4 Commissioner Byron. Chuck Curtis is here from
5 Lahontan Water District and I wonder if he
6 wouldn't mind, sir, coming to the podium and
7 addressing the Commissioners I think since you're
8 in the best position to talk about water, so,
9 please.

10 MR. CURTIS: Chuck Curtis with the
11 Regional Water Control Board. My agency doesn't
12 deal with water quantity, for example, groundwater
13 use. That is solely the authority of the State
14 Water Resources Control Board not the Regional
15 Water Quality Control Board.

16 But we do agree with the State Water
17 Board's policy of using other sources than fresh
18 groundwater, potable water when that water is
19 available.

20 For use of recycled water which the
21 Water Board, the Regional Water Board as well as
22 the State Water Board are very much in favor of
23 and we support that wholeheartedly.

24 If Rosemont or California City were
25 identified as the source of water, recycled water

1 for this project there would be permitting that
2 would be required. It's not trivial but the Water
3 Board certainly would entertain granting a permit
4 for those uses just as we have for similar uses
5 for other producers.

6 And, in fact, California City has a
7 permit right now for use of recycled water for a
8 golf course.

9 But they would need to file a new
10 application. We would consider that, draft new
11 requirements and then our Board much the same as
12 the Commission here would act to consider that and
13 approve such water recycling requirements.

14 I'm pleased that the current schedule
15 has been vacated. I had put the Water Board in a
16 uneasy situation. We've been working with your
17 staff closely on the water part of the conditions
18 for certification.

19 And we anticipate that those water
20 quality based conditions would essentially
21 substitute for a Water Board permit which is the
22 design of this act to consolidate those.

23 But since we haven't seen that document,
24 the Final Staff Assessment, there is some unease
25 there with the Water Board.

1 And we did consider filing as an
2 intervenor this morning which we needed to do that
3 by one o'clock today in order, according to your
4 schedule.

5 We did not do that. But I know that it
6 will make my Executive Officer much more
7 comfortable knowing if we, that we'll have an
8 opportunity to see the document, to review that
9 and consider whether there's a need to intervene.

10 We don't expect that that will be the
11 case because we, of the indications from staff
12 that our requirements are essentially being rolled
13 into those conditions of certification.

14 HEARING OFFICER CELLI: Well you'd
15 certainly be welcomed to intervene. And because
16 we vacated the dates we will have to calculate a
17 new deadline for petition to intervene probably
18 about the same, about two weeks after the FSA
19 comes out.

20 So we invite you to do so.

21 MR. CURTIS: Well we, we would only do
22 so, you know, in a rare case where we thought that
23 the conditions for certification that staff was
24 putting forward were not protective of water
25 quality.

1 HEARING OFFICER CELLI: Which is why we
2 do it after the FSA comes out (laughter). So as
3 you can see staff, the FSA is, many things are
4 dependent on the FSA.

5 ASSOCIATE MEMBER BYRON: I'm glad to
6 hear that Mr. Curtis. I think staff does a very
7 thorough job on these and --

8 MR. CURTIS: Yeah and I can tell you --

9 ASSOCIATE MEMBER BYRON: We do welcome
10 your review of their work.

11 MR. CURTIS: -- I can tell you that, you
12 know, the staff has been very good working with my
13 staff. And, you know, it's partly due to delays
14 in receiving information from the Water Board that
15 has caused delays of your staff being able to get
16 this FSA out. So I wanted to let you know that.

17 And talking to Ms. Luckhardt's opening
18 comment about this delay and how that might impact
19 future projects, I'll let you know that from the
20 Water Board's standpoint we've learned a lot here.

21 This is our first time doing this
22 combined in lieu of permitting. And we are
23 already working from the early stages on the new
24 applications and even before applications come out
25 working on other solar projects so that your staff

1 and the public know what the Water Board
2 expectations will be.

3 HEARING OFFICER CELLI: Thank you very
4 much. Any questions?

5 MR. CURTIS: Any questions?

6 MR. SOLORIO: I'd like to just offer a
7 comment. We have been working very closely with
8 Richard Guzman of the Lahontan Office and they've
9 been extremely cooperative.

10 And we've actually relied on them to
11 provide us with the language for the waste
12 discharge requirements. And staff has
13 incorporated that language verbatim. We made very
14 minor changes just to adjust to our format.

15 And we'll be glad to send a draft copy
16 of the Soil and Water Section over to Richard and
17 his team so they can look at it, get more
18 comfortable with staff adopting the suggested
19 language if that will help.

20 HEARING OFFICER CELLI: Ms. Koss any
21 questions of Mr. Curtis?

22 MS. KOSS: No. If we're all done with
23 Mr. Curtis I have something else to address.

24 HEARING OFFICER CELLI: Ms. Luckhardt,
25 anything further since we have Mr. Curtis here.

1 MS. LUCKHARDT: No.

2 HEARING OFFICER CELLI: Thank you very
3 much for coming, we greatly appreciate it. With
4 that --

5 MR. BABULA: I'd like to make a few
6 comments --

7 HEARING OFFICER CELLI: Yes.

8 MR. BABULA: -- that we forgot to make.
9 This is just that in response to what
10 Ms. Luckhardt said. I agree that the real and
11 fundamental crux here is the water usage.

12 And staff has gone through a lot to put
13 together alternatives that we believe will show
14 that it is both environmentally superior and
15 economically feasible to do these alternatives,

16 The pipeline has been analyzed. I also
17 just to kind of mention what Mr. Curtis said,
18 actually we think the pipeline is part of the
19 Energy Project and that permitting would be in
20 lieu of so it wouldn't be a separate permit that
21 they would have to get from the Water Board. It
22 would be incorporated into our Conditions of
23 Certification.

24 But really it does come down to the
25 financial component. And the staff is going to

1 work on that to try to show that the feasibility
2 is there.

3 And that's in the end what it's going to
4 be, we believe dry cooling. The Rosemont, Cal
5 City alternatives are all viable.

6 HEARING OFFICER CELLI: Thank you. Now
7 before we open it up to public comment I just
8 wanted to hear from the parties. Ms. Koss you're
9 indicating you'd like to speak so please go ahead.

10 MS. KOSS: Thank you. Jared just
11 mentioned dry cooling. And I'd just like to point
12 out that CURE thinks that is a truly alternative,
13 truly viable alternative as shown by other large
14 solar projects that are proposing the use of dry
15 cooling that are currently going through the CEC
16 permitting process.

17 I urge, I know staff is doing a thorough
18 job of evaluating it and I urge the Committee to
19 take a hard look at this alternative.

20 Dry cooling would eliminate numerous
21 environmental impacts including, for example,
22 biological impacts from evaporation ponds.

23 So I just want to urge the Committee to
24 take a hard look at it. I believe that staff's
25 analysis will show it's economically viable.

1 And it's certainly the environmentally
2 superior alternative.

3 HEARING OFFICER CELLI: Thank you. That
4 leaves you Ms. Luckhardt. Any further questions
5 or comments? This is your opportunity to address
6 the Committee on anything. This is a status
7 conference.

8 MS. LUCKHARDT: I guess I'll just take a
9 second to see. I think that's all we have. We
10 also are interested to see what all staff has been
11 able to do on the alternatives and we have not had
12 an opportunity to see that yet.

13 So, we're also waiting and looking at
14 what they've been able to pull together on that.

15 HEARING OFFICER CELLI: Thank you. At
16 this time then we will open up this hearing to
17 public comment. Is there anyone who is here
18 presently in person, in Hearing Room A who wanted
19 to address the Committee who is a visitor?

20 Member of the public? Seeing none then
21 we'll just go to the phones then, RoseMary, in the
22 order. Is it Denise LaMoreaux? Denise --

23 MR. LAMOREAUX: I have no comment at
24 this time.

25 HEARING OFFICER CELLI: Oh, Dennis

1 LaMoreaux, I'm sorry. No comment. Thank you.

2 Elizabeth McCarthy?

3 MS. AVALOS: She's not on the phone.

4 HEARING OFFICER CELLI: She's not on,
5 oh, because there's no phone icon. I see that.

6 Henry Gause? Henry Gause are you there?

7 MR. GAUSE: Yes I am.

8 HEARING OFFICER CELLI: Could you please
9 speak up and make your comment please.

10 MR. GAUSE: Yes sir I am. I'm President
11 of the California City Landowners Association.

12 I'm somewhat concerned about the water use too.

13 We have several thousand property owners
14 that really have long-term investments. Their
15 property would no longer be viable if there wasn't
16 adequate water supply in California City.

17 HEARING OFFICER CELLI: Thank you.

18 Anything further?

19 MR. GAUSE: No sir.

20 HEARING OFFICER CELLI: Thank you for
21 your comment.

22 Julie Ryan.

23 MS. RYAN: No comment.

24 HEARING OFFICER CELLI: Well I think
25 that's it. Is there anyone else who would like to

1 make a comment before we adjourn? Hearing none,
2 Commissioner Douglas do you have comments that you
3 want, the status of the contract?

4 PRESIDING MEMBER DOUGLAS: Well thank
5 you to everybody. We look forward to moving
6 forward with a new scheduling order as soon as
7 possible. And with that we're adjourned.

8 (Whereupon, at 2:15 p.m., the
9 Status Conference was adjourned.)

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter and transcriber, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that I thereafter transcribed it into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 2009.