

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 99-AFC-8
BLYTHE ENERGY PROJECT)
)
_____)

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

FRIDAY, NOVEMBER 17, 2000
9:00 A. M.

Reported by:
Valorie Phillips
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBER PRESENT

William Keese, Chairman
Presiding Member

Robert Laurie
Committee Member

STAFF PRESENT

Ed Bouillon, Hearing Officer

Terry O'Brien, Special Adviser to Chairman Keese

Lisa DeCarlo, Staff Counsel

Lance Shaw, Project Manager

REPRESENTING THE APPLICANT

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1 P R O C E E D I N G S

2 PRESIDING MEMBER KEESE: Good morning,
3 we are here today for a prehearing conference
4 conducted by a committee of the California Energy
5 Commission on Blythe Energy's application for
6 certification for the Blythe Energy Power Project.

7 For the record, the docket number
8 assigned to this matter is 99-AFC-8.

9 Before we begin, we are briefly going to
10 introduce the participants. I am Bill Keese,
11 Presiding Member of this Committee. To my far
12 right is Commissioner Bob Laurie, who is second on
13 this Committee. To my immediate right is Ed
14 Bouillon, the Hearing Officer and to my left is my
15 adviser, Terry O'Brien.

16 We are not using amplification. I don't
17 think in this room we should need it. These are
18 recording mikes. All conversation should take
19 place into a recording microphone.

20 Mr. Galati, would you like to introduce
21 your team?

22 MR. GALATI: Yes, thank you. My name is
23 Scott Galati. I represent the Applicant, Blythe
24 Energy Project, and behind us is Sandy Kerry, with
25 my office as well, and Jeff Harvey with Greystone

1 Environmental Consultants, who is the lead
2 environmental consultant to the project, prepared
3 the AFC in responses to data requests.

4 PRESIDING MEMBER KEESE: Fine, Mr. Shaw
5 for the staff.

6 PROJECT MANAGER SHAW: Lance Shaw,
7 Siting Project Manager on the project, and Lisa
8 DeCarlo, Staff Counsel.

9 PRESIDING MEMBER KEESE: Thank you. And
10 Intervenor CURE is not in attendance. Thank you.

11 Carmela Garnica is the only other
12 intervenor. We have a letter from Ms. Garnica,
13 indicating that written statements are being -- as
14 best we can determine, written statements are
15 being translated from her native Spanish into
16 English and will be furnished to us sometime.

17 HEARING OFFICER BOUILLON: The
18 Prehearing Conference statement filed by Ms.
19 Garnica indicates that she would be submitting the
20 declarations on November the 17th, which is today.
21 The next paragraph of her Prehearing Conference
22 statement is somewhat confusing, because it says
23 that declarations will be accompanied by the
24 petitions on the November 27th hearings, and I'm
25 not sure what that means.

1 We'll have to find a way to clear this
2 up with her. I think Mr. Galati has indicated a
3 procedure by which he would waive the immediate
4 filing of that testimony, so long as he had it in
5 sufficient time to review it prior to the
6 hearings, is that correct?

7 MR. GALATI: That is correct, and that
8 sufficient time would be if we received it on
9 Wednesday, November 22nd.

10 HEARING OFFICER BOUILLON: Wednesday of
11 next week?

12 MR. GALATI: Wednesday of next week,
13 November 22nd, if we receive it in our office at
14 that time --

15 HEARING OFFICER BOUILLON: Is that
16 agreeable to the staff also?

17 PRESIDING MEMBER KEESE: Our Public
18 Advisor, Roberta Mendonca, is not present today.
19 We have had no indications from intervenors or any
20 parties that they wish to participate by
21 telephone. We will ask Ms. Mendonca to be in
22 further contact with Ms. Garnica and inform her
23 that we will receive statements in by Wednesday.

24 MR. GALATI: If I could just make one
25 comment. It appears that we have not received

1 this Prehearing Conference statement in our
2 office, although it was docketed. I'm not sure,
3 since this is Ms. Garnica's first filing, whether
4 she understands and/or is serving properly.

5 If I could just make a request that
6 anything that the Commission or staff receives, if
7 they could fax it and/or let me know, and we'll
8 pick it up at my office.

9 HEARING OFFICER BOUILLON: What we have
10 done already, and the order granting her
11 intervenor status, was direct her to deal with the
12 Public Advisor and the Public Advisor has agreed
13 to do all of the proper mailing, and that
14 everything should be filed through the Public
15 Advisor's Office.

16 So I assume one was mailed to you. I
17 received it yesterday, and it may take a day
18 longer to get to your office or something. So,
19 when you get back, you may have it.

20 But she has also been required to E-Mail
21 everything she files. How well that's working, I
22 don't know, because this Prehearing Conference
23 Statement was not on my E-Mail, but I will speak
24 to the Public Advisor about it and emphasize the
25 requirements that she's subject to.

1 MR. GALATI: All right, thank you.

2 PRESIDING MEMBER KEESE: Do we have any
3 agencies present?

4 Seeing none, we are conducting this
5 proceeding jointly with the Western Area Power
6 Administration and they chose not to be present by
7 telephone today.

8 Are there any members of the public who
9 care to identify themselves for the record?

10 Seeing none, that's the introductions.

11 Blythe Energy filed its application for
12 certification in December, 1999. The project is a
13 520-megawatt facility that will be built on a site
14 about five miles west of Blythe.

15 Notice of this hearing was mailed on
16 November 7th, 2000 to all parties adjoining
17 landowners, interested governmental agencies and
18 other individuals. The purpose of the Prehearing
19 Conference is to determine which witnesses will be
20 subject to cross examination in the areas of
21 existing disagreement in the various topics.

22 Applicant, staff and each intervenor
23 should have prepared a Prehearing Conference
24 Statement and brought it to this Prehearing
25 Conference. As I mentioned, we have Carmela

1 Garnica's statement and we have furnished you
2 copies.

3 We have also received the statements of
4 Applicant and staff. Those statements should have
5 identified, to the extent possible, each topic
6 area where disagreement exists and the anticipated
7 length of cross examination of specific witnesses.
8 Applicant, staff and each intervenor should be
9 prepared to fully discuss their respective
10 positions on all issues.

11 This will enable the Committee to
12 conduct the evidentiary hearings in an orderly and
13 effective manner to provide sufficient time to
14 thoroughly examine all controverted issues and to
15 free staff and other witnesses from the obligation
16 to be present if no cross examination is needed.

17 The Commissioners conducting this
18 proceeding will eventually issue a proposed
19 decision containing recommendations on the
20 proposed project. It is important to emphasize
21 that the Committee's proposed decision must, by
22 law, be based solely on the evidence contained in
23 the public record.

24 We are not receiving evidence today.
25 Today we are going to determine the manner in

1 which evidence will be received and the need for
2 cross examination of the various witnesses.

3 The Final Staff Assessment, which we
4 call the FSA was issued on November 14th, 2000 and
5 I believe it covers all the topics. Is that
6 correct, Mr. Galati?

7 MR. GALATI: That is correct.

8 PRESIDING MEMBER KEESE: Applicant filed
9 its written testimony on November 16th, 2000 in
10 one volume. Is that correct, Mr. Galati?

11 MR. GALATI: That is correct. I must
12 make the Committee aware that there may possibly
13 be some supplemental testimony on water that we
14 were unable to get finished. And I can address
15 that now or address it later on in the hearing.

16 HEARING OFFICER BOUILLON: Later, you'll
17 have an opportunity.

18 PRESIDING MEMBER KEESE: Later.

19 I am aware that Ms. Garnica has been
20 having her testimony translated from English into
21 Spanish and intends to file it today, but we may
22 await that.

23 No testimony has been received from any
24 other party, is that correct? Correct.

25 At this time, I will ask Mr. Bouillon to

1 explain the role of the Public Advisor in this
2 process.

3 HEARING OFFICER BOUILLON: As a
4 Committee, the California Energy Commission is
5 interested in hearing from the community on other
6 aspects of the Proposal for Certification. In
7 that regard, the Public Advisor has been up in
8 Blythe several times over the past year, meeting
9 with community groups, community leaders, and
10 individuals and consulting with intervenors and
11 possible intervenors to explain the process to
12 them.

13 From the feedback I have had from the
14 Public Advisor, it appears that there is only
15 going to be one intervenor, although she is
16 supported by a substantial number of community
17 citizens, and there is much concern over the
18 location of the pipeline that I've heard about
19 from Roberta.

20 She also indicates that there seems to
21 be some confusion on the part of the citizenry
22 about which pipeline we have jurisdiction over.
23 There is, I think as everyone here knows, two
24 pipelines. One, being built by PG&E, that, I
25 think, is called the Lower Baja, or something like

1 that, that is going to Mexico, over which we have
2 no jurisdiction. And another one that will be
3 built by the Applicant if certification is
4 received for its gas supply.

5 But I think there is some concern over
6 that, and Ms. Garnica's Prehearing Statement
7 indicates some other disagreements too that I will
8 have to clear up with her.

9 Any time that any member of the public
10 or any intervenor has any question about the
11 process that we conduct or the proceedings, they
12 are free to contact Robert Mendonca by telephone,
13 and her number is readily available. And, if for
14 some reason, anyone feels that they cannot get
15 her, they can always call me and I can contact
16 her, since her office is right next door to mine.

17 I recognize, I think, all of the faces
18 here, so there seems to be no one from the public,
19 so I don't think I need to go into any further
20 detail about what she has done in the community.

21 PRESIDING MEMBER KEESE: Okay, let's
22 discuss the schedule. The Committee recognizes
23 that the Applicant is very concerned about meeting
24 the 12-month process and we recognize that, as
25 currently scheduled, we will miss that period by

1 three months.

2 We are also concerned that the Committee
3 has a complete record available for review at the
4 conclusion of evidentiary hearings later this
5 month. The Committee believes that all topics are
6 complete, other than the submission of some
7 additional material on water and Ms. Garnica's
8 materials.

9 Keep in mind that we have just received
10 some of these Prehearing Conference Statements,
11 have not gone through them in any detail. We will
12 now turn to each party and ask them to discuss
13 each topic area. In your presentations identify
14 those topics that are, in your opinion, in
15 controversy and which topics can be handled by
16 stipulation.

17 We will keep this informal, but we must
18 have some order to enable the court reporter to
19 produce an accurate record of this hearing. So we
20 will attempt not to interrupt any speakers.

21 At this point shall we clarify what our
22 intent is? Commissioner Laurie, would you just
23 state it, please and we'll get concurrence.

24 COMMITTEE MEMBER LAURIE: Thank you.

25 One of the major goals that we would

1 like to seek today, which is going to be
2 challenging without the intervenors present, is by
3 habit or otherwise the way we sometimes conduct
4 our hearings, is even in uncontested proceedings
5 we bring witnesses in and they're sworn and they
6 summarize their testimony and they're made
7 available for cross examination. And there is
8 generally very little cross examination and
9 therefore a lot of unnecessary time is spent and a
10 lot of unnecessary money is spent providing
11 witnesses when it adds nothing to the record.

12 So, one thing the Committee would look
13 for would be in those areas where there is no
14 contest, that all testimony be submitted by
15 declaration and that stipulation be made now.
16 Which means that we're going to have to contact
17 the other parties and achieve that stipulation.
18 In which case, when the issue is called at the
19 hearing, it is simply a matter of stipulation that
20 it is all being done by declaration and no
21 witnesses need to be present or testifying.

22 In those areas of contest, it is
23 desirable to determine the nature and extent of
24 cross examination and the basis of cross
25 examination so that the area of testimony remains

1 focused.

2 Those are my thoughts, Mr. Chairman.

3 PRESIDING MEMBER KEESE: Is that
4 acceptable to the Applicant?

5 MR. GALATI: Yes, that's acceptable.

6 And if I could add something else with regard to
7 actually achieving a stipulation, which may be
8 difficult, certainly impossible today without all
9 the parties present, but what we did in the
10 Sunrise case is we had an agreement with staff,
11 and we had an intervenor in that case, who was
12 active, CURE, and we had a counsel just stipulate
13 on the record at the time that there were areas
14 that were no longer in dispute and we did that
15 stipulation there and we didn't bring witnesses.

16 I understand completely what
17 Commissioner Laurie is saying, without Ms. Garnica
18 we don't know whether or not she would want to
19 cross examine an area in which we may have
20 agreement with staff.

21 I would like to point out, though,
22 according to at least the Prehearing Conference
23 Statement we have in front of us, I think that the
24 areas that we have dispute with staff appear to be
25 areas in which she has some concerns as well. The

1 only area that she has stated that staff and the
2 Applicant are in agreement is the area of facility
3 design and hazardous materials, which we're in
4 agreement, but we are planning to bring our
5 witnesses for that subject to the hearing, so that
6 she can cross examine them, if she'd like.

7 I can't think of any other area that
8 deals with pipeline safety, except those two
9 areas. So, I would hate for staff and for the
10 Applicant to bear the expense of bringing their
11 visual resource witnesses down when there's been
12 no showing by the intervenor that that's not in
13 dispute.

14 So I would like to maybe achieve an
15 agreement today, that that would not have to be
16 the case.

17 PRESIDING MEMBER KEESE: The staff -- is
18 that?

19 PROJECT MANAGER SHAW: I would agree
20 with that with one exception.

21 She mentioned something that, to me,
22 touches on alternatives when she pointed out in a
23 previous statement, which was also docketed that
24 she wanted the facility located out by the
25 prisons.

1 HEARING OFFICER BOUILLON: That is in
2 her Prehearing Conference Statement, actually.

3 PRESIDING MEMBER KEESE: It's in her
4 last sentence, to relocate the proposed gas
5 pipeline -- which we're not sure she understands
6 which one we're talking about, as we previously
7 discussed -- and the electric plant out in the
8 desert. So perhaps, we're correct, that is
9 alternatives.

10 MR. GALATI: From the Applicant's side,
11 we would be bringing the same people who did
12 project alternatives, who also had done an area of
13 dispute, so we think we can handle alternatives
14 there. Unless they bring issues up that the
15 reason that alternative is better is in another,
16 for example, visual resources or noise, which is
17 not contested.

18 PRESIDING MEMBER KEESE: Okay. I
19 believe the Applicant and staff are in concurrence
20 here. It would be our intention to continue this
21 hearing and by conference call attempt to get
22 whatever stipulation we work out when we have
23 completed this process.

24 Mr. Bouillon will proceed with the rest
25 of the hearing.

1 HEARING OFFICER BOUILLON: I'm going to
2 start with Mr. Galati and ask him to go briefly
3 through his Prehearing Conference Statement. And
4 I'd like Mr. Shaw to pay close attention to this,
5 to make sure that when he says we agree, that, in
6 fact, you do agree and if you can relate your
7 Prehearing Conference Statement to the one filed
8 by Ms. Garnica and expand upon your comment about
9 the need for supplemental testimony on water.

10 Before you begin, I'd like to caution
11 Mr. Shaw that I'm going to be asking you for your
12 comments on his need for supplemental testimony on
13 the water topic, if you have any.

14 MR. GALATI: I'll go through, starting
15 on page three of the Applicant's Prehearing
16 Conference Statement, there is a table. The first
17 topic area of Project Description, we believe can
18 be on declaration. Project Objectives and Demand
19 Conformance, we believe can be on declaration.

20 Compliance and Closure, we believe can
21 be on declaration. Project Alternatives we
22 believe can be on declaration. However, we will
23 have a witness present to address the potential
24 raised by Ms. Garnica of moving the proposed gas
25 pipeline and electric plant out in the desert.

1 We also believe we are agreement with
2 staff on Facility Design Powerplant, Reliability
3 and Powerplant Efficiency, and we could proceed on
4 declaration. However, we will also have those
5 witnesses available at the hearing on the 27th and
6 28th to -- available for cross examination from
7 the intervenor. That is based on the concern of
8 environmental safety and previous concerns raised
9 in public workshops about the pipeline
10 construction and/or safety.

11 Transmission System Engineering, we are
12 in agreement with staff and believe we can proceed
13 on declaration. Transmission Line Safety and
14 Nuisance, we are in agreement with staff and
15 believe we can proceed on declaration.

16 Air Quality, we are largely in agreement
17 with staff. We have one very minor dispute in
18 verifications of, I think, about five conditions,
19 there is a statement that the Applicant should
20 make its site available for inspection to the
21 Energy Commission, to the District, to USEPA and
22 CARB. And we wanted to be clear that CARB does
23 not have the right and authority to inspect. We
24 wanted their name deleted, just so we don't
25 establish a precedence that CARB has inspection

1 authority over the project, that is the other
2 three agencies.

3 That's the only dispute over air
4 quality. We have made a change in our testimony.
5 There were a couple of numbers in Air Quality
6 Table Seven in the FSA that needed some revision.
7 They used some data that had been updated and
8 that's in our testimony. We don't think staff
9 would disagree with that.

10 But that's the only area that we would
11 have, and I'm not even sure that that is an area
12 of dispute. I'll wait until Mr. Shaw and Ms.
13 DeCarlo comment on that. Again, we still think we
14 can address that very quickly.

15 Public health, we are in agreement with
16 staff and can proceed on declaration, but we will
17 have our witnesses available, as well, for public
18 health in case the Prehearing Conference Statement
19 of environmental safety deals with public health.
20 We don't think that it does, but in case it does,
21 those witnesses will be present as well.

22 The next, on page five, is Hazardous
23 Materials Management. Again we are in agreement
24 with staff and believe we can proceed on
25 declaration. However, we will have our witnesses

1 available for that area as well at the hearing in
2 case Ms. Garnica wants to cross examine them with
3 regard to either pipeline safety or the term
4 environmental safety in her Prehearing Conference
5 Statement.

6 Biological Resources, we are not in
7 agreement with staff and this largely deals with
8 specific language that is contained in six
9 conditions. One appears to be duplicative and
10 handled in the soil and water testimony, that is
11 Bio 15.

12 The other five deal with various
13 timelines and clarification of responsibilities.
14 We have proposed changes to those conditions and
15 from staff's Prehearing Conference Statement, it
16 appears that is still in dispute.

17 We believe that we can handle our direct
18 testimony, assuming that the dispute still exists,
19 in 20 minutes or less and we believe that we can
20 do cross examination in 30 minutes or less.

21 We would also point out in this area --

22 PRESIDING MEMBER KEESE: Excuse me,
23 you're dealing with biological?

24 MR. GALATI: Yes.

25 PRESIDING MEMBER KEESE: We sort of

1 skipped Worker Safety and Fire Protection, I
2 think.

3 MR. GALATI: I'm sorry, Worker Safety
4 and Fire Protection, we indicated on our
5 Prehearing Conference Statement that we had a
6 dispute. It appears from staff's Prehearing
7 Conference Statement that they have accepted the
8 recommendations filed in our testimony, so we
9 believe there's no dispute on Worker Safety and
10 Fire Protection and believe we can proceed on
11 declaration.

12 I would also note for the record that
13 that same witness will also be available for cross
14 examination should the intervenor need to.

15 PRESIDING MEMBER KEESE: Okay.

16 MR. GALATI: Back to Biology, I just
17 wanted to, for the purposes of timing, for the
18 Committee to be aware that we think that the U. S.
19 Fish and Wildlife Service and the California
20 Department of Fish and Game representatives will
21 be present either by telephone or physically
22 present to update the Committee on the status of
23 their various permits. So if you could leave a
24 small amount of time for that.

25 Cultural Resources, we have a minor

1 dispute involving the timing of verification
2 submittals. Geological and Paleontological
3 resources, there's no dispute with staff nor
4 anything appearing to be raised in the Prehearing
5 Conference Statement by the intervenor, Carmela
6 Garnica, so we think we can proceed on declaration
7 for that area.

8 Soil Resources, that is the same, we are
9 in agreement with staff. I would point out that
10 Soil Resources is combined in staff's as Soil and
11 Water. We have broken them out, so if they have a
12 witness on just soil with staff, we don't think
13 that that witness needs to be present. We don't
14 have any issues with soils.

15 Water Resources, this appears to be the
16 largest dispute that we have with staff. We think
17 that it deals with a misunderstanding. However,
18 because the law of the Colorado River can be
19 somewhat confusing, we've allotted 30 minutes for
20 direct testimony and we've anticipated an hour of
21 cross examination of staff's witnesses on that
22 matter.

23 With respect to the Supplemental
24 Testimony, in the final staff assessment, the
25 staff had reevaluated and presented a different

1 modeling scenario of well draw down modeling and
2 what the impacts would be. We had not discussed
3 that in any of the PSA workshops. This is the
4 first time we've seen those numbers and
5 unfortunately our expert was unavailable, we did
6 the best we could. But we need to file
7 supplemental testimony on that particular modeling
8 that staff did.

9 We anticipate that we can do that no
10 later than Tuesday and we're hoping, shooting for
11 Monday, if we can get that prepared today. That's
12 the area that we were unable to respond in in the
13 short time before we file testimony.

14 COMMITTEE MEMBER LAURIE: Mr. Chairman,
15 let me ask you and Mr. Bouillon whether it's your
16 desire to seek input and testimony on the issue of
17 dry cooling comparisons? Perhaps I missed it, but
18 I haven't seen anything on dry cooling. Is there
19 testimony?

20 STAFF COUNSEL DE CARLO: I do believe
21 there is some testimony regarding dry cooling in
22 the staff assessment.

23 COMMITTEE MEMBER LAURIE: This project
24 is in Blythe. I would suggest that the issue of
25 dry cooling is a very relevant issue and I would

1 suggest that you give thought to what we all think
2 the rules are regarding use of dry cooling versus
3 wet cooling and be prepared to talk about it.

4 MR. GALATI: We will certainly be
5 prepared to talk about it. If I could direct your
6 attention, we responded to several data requests
7 as well as the staff assessment, we believe does
8 an analysis. We agree with the staff assessment
9 that dry cooling is not a relevant option on this
10 project for various reasons listed in the staff
11 assessment, as well as in our -- we did not
12 address it specifically in our testimony because
13 we didn't see it as a dispute. We agreed with
14 staff on that point.

15 PRESIDING MEMBER KEESE: Are we still
16 using the brackish --

17 MR. GALATI: Yes, we are still using --

18 PRESIDING MEMBER KEESE: The well water
19 was, in our workshop, was indicated as a thousand
20 parts per million and unacceptable for any
21 purpose, irrigation or use.

22 MR. GALATI: Actually I do need to
23 correct you there. It is appropriate for
24 irrigation. However, it meets the criteria of a
25 thousand TDS or more and that criteria is what the

1 Policy 7558 of that deals with the Inland Cooling
2 Policy, as well as the applicable water codes that
3 deal with the availability of recycled water.
4 That has been analyzed both by the Applicant and
5 staff.

6 There is no available recycled water, so
7 we think that dry cooling is not -- as well as,
8 there is an issue of our water conservation offset
9 program, but it hasn't been raised in the context
10 that it's an improper use of water and therefore
11 should be a possibility of dry cooling. That
12 Water Conservation Offset Program has not been
13 raised in that context, but we are prepared to
14 talk about that at the hearing.

15 PRESIDING MEMBER KEESE: We should have
16 some testimony on that.

17 HEARING OFFICER BOUILLON: Mr. Galati,
18 is the witness that you need for the supplemental
19 testimony one of the same witnesses you have
20 listed here --

21 MR. GALATI: Yes, I put his name on
22 there. His name is Marc Snyder from Greystone
23 Environmental, because I knew who we were going to
24 use. I didn't know exactly what we were going to
25 be able to say, though.

1 So, I can elaborate more on that again.
2 It deals with only the issue of the modeling that
3 we've seen, which was a correction of our modeling
4 and we haven't been able to have that expert in
5 the short period of time since we've seen that, to
6 take a look and say does he agree with that or
7 not.

8 We have put in our testimony that we
9 disagree just to raise it that there's a potential
10 dispute, but it may be that we agree with that
11 modeling and as soon as I am able to get that
12 statement from the expert, we'll file it as
13 supplemental testimony.

14 HEARING OFFICER BOUILLON: We'll defer
15 that until we've heard from Mr. Shaw.

16 MR. GALATI: The next issue is Waste
17 Management, and Waste Management, we have no
18 disputes with staff, nor does it appear that there
19 is any dispute raised by Ms. Garnica. We think
20 that we can proceed on declaration on that area.

21 The next area is Land Use, again this is
22 page eight of our Prehearing Conference Statement.
23 This dispute is very much linked to the Water
24 Conservation Offset Program. What we would
25 recommend and we think would be helpful is if the

1 land use in water resources sections could be
2 taken as a panel, because if the Water
3 Conservation Offset Program is interpreted under
4 land use concerns, there is a potential for
5 conditions that preclude its use on water
6 concerns.

7 And then if you talked about it in
8 water, the potential condition precludes its use
9 under land use concerns. And we think that,
10 together as a panel, that should be addressed.

11 Again, the dispute revolves around the
12 timing of verification submittals. We believe
13 there is a repetition of a condition in land use
14 that is also handled in traffic and transportation
15 which deals with the Airport Land Use Commission's
16 decision on October 19th that the project is
17 consistent with the Blythe Airport Master Plan,
18 with the incorporation of certain conditions.

19 Those conditions have been incorporated
20 in traffic and transportation and there's one
21 portion of it that's been repeated in land use.
22 We think that that's our issue, and again the
23 Water Conservation Offset Program.

24 We've allotted 15 minutes for direct
25 testimony and 30 minutes for cross examination on

1 that issue.

2 The next topic area is Noise and we are
3 in agreement with staff and we believe that can
4 proceed on declaration. It doesn't appear to be
5 raised in Ms. Garnica's Prehearing Conference
6 Statement or in any of the workshops in which she
7 has participated.

8 The next area is Socioeconomics. Again
9 we are in agreement with staff. It appears that
10 there is a sentence in Ms. Garnica's Prehearing
11 Conference Statement that says "Expert Social
12 Economic Impact Declarations will be submitted."
13 So it appears that that may be an issue and we
14 will have that person available.

15 HEARING OFFICER BOUILLON: Let me
16 interrupt you, Mr. Galati. A minute ago I was
17 handed a package by a person from the Public
18 Advisor's Office. It appears to be the
19 declarations you just spoke of. I have what
20 appears to be a package for each of us, which I'll
21 hand you. I'll hand one to staff and one to you,
22 Mr. Galati.

23 I would suggest, maybe what we should do
24 is to take maybe a five-minute recess so we can go
25 over this, each of us, and then maybe we can

1 incorporate the contents of those declarations in
2 our discussion here today.

3 Is that agreeable, Mr. Chairman?

4 PRESIDING MEMBER KEESE: Yes. Let's
5 take a five-minute break here.

6 (Thereupon a recess was taken.)

7 HEARING OFFICER BOUILLON: After
8 reviewing this packet of declarations, which is
9 approximately ten, it appears that a number of
10 citizens have submitted declarations addressing
11 the socioeconomic and environmental impact on farm
12 workers in the area.

13 The petitions look at casual grants to
14 be identical and I think that will prove to be the
15 case. My review of Ms. Garnica's Prehearing
16 Conference Statement indicated that she was going
17 to be submitting, quote, "Expert social economic
18 impact declarations after translation," unquote,
19 and I believe this to be them, this packet.

20 They are not by any stretch of the
21 imagination expert witness declarations. She also
22 indicates that that packet would eliminate direct
23 testimony. I would propose that the parties
24 stipulate to the admission of that testimony at
25 the hearing and eliminate the need for any of

1 those persons to be present at the hearing to
2 testify, unless you see the need for cross
3 examination of those witnesses. And I'll give
4 each of you a chance to address that when you
5 resume your statements.

6 And I think, given that testimony, the
7 concerns of Ms. Garnica, other than moving it out
8 into the desert, may be somewhat changed from what
9 Mr. Galati has already said, so I'll give you a
10 chance to revise anything you've previously said.
11 So, go from there.

12 MR. GALATI: We agree to allow those
13 declarations submitted to be taken into evidence,
14 without objection, and those witnesses do not need
15 to be present. We don't intend to cross examine
16 them.

17 With respect to Socioeconomics, we think
18 we can then take the rest of the matter on
19 declaration. We are in agreement with staff.

20 I would like to point out that I have
21 made a mistake on the name of the witness who will
22 be testifying on socioeconomics in my Prehearing
23 Conference Statement. The name of the witnesses
24 will be Sally Zeff and Jeff Harvey, who will also
25 be present on other matters at the hearing in case

1 there are questions that arise from the public.

2 HEARING OFFICER BOUILLON: I'm sorry,
3 what was the name of that first witness again,
4 Sally --

5 MR. GALATI: Sally Zeff, Z-e-f-f, and
6 Jeff Harvey, sitting to my right, H-a-r-v-e-y,
7 both from Greystone Environmental Consultants.

8 I'll move on to Traffic and
9 Transportation. While we're in the mode of
10 handling corrections, I have to add a witness that
11 is on the testimony that didn't make it into our
12 Prehearing Conference Statement. The witness
13 listed is O. Leon Crain, which is correct. And
14 there is also Robert -- oh, he is there. I'm
15 sorry, I apologize. I did that one right.

16 Traffic and Transportation, we have a
17 minor dispute involving changes to conditions
18 Trans Six and Trans Seven from the staff
19 assessment. This has to do with the Airport Land
20 Use Commission's approval of finding that the
21 project is consistent with the incorporation of
22 conditions. We believe that the staff assessment
23 summarized the conditions in a way that's
24 inconsistent with the record of decision.

25 We have proposed modifications and

1 changes to that which haven't been agreed to yet,
2 so we think that that is something that needs to
3 be taken up by the Committee and cannot be
4 submitted on declaration. However, we think it is
5 a very short matter. We've only allotted five
6 minutes for direct testimony to explain that and
7 we think we need less than ten minutes for cross
8 examination.

9 Visual Resources, the staff has agreed
10 with the recommendations that we suggested. One
11 small minor change to three, they've stated so in
12 their Prehearing Conference Statement and so there
13 are no disputes on Visual Resources and we think
14 we can go forward on declaration for Visual
15 Resources.

16 Again, I need to substitute O. Leon
17 Crain, who is listed as direct testimony on the
18 Prehearing Conference Statement, with Sally Zeff,
19 Z-e-f-f and Jeff Harvey.

20 In summary, Mr. Bouillon, we will still
21 have our witnesses available in those areas that I
22 indicated earlier, prior to these declarations.
23 In case the public has comments that need to be
24 addressed, those witnesses are coming down to the
25 hearings for other matters that are in dispute

1 with staff and we will make them available for
2 those other areas as I indicated earlier.

3 HEARING OFFICER BOUILLON: Thank you,
4 Mr. Galati.

5 Ms. DeCarlo, are you or Mr. Shaw going
6 to make your presentation?

7 STAFF COUNSEL DE CARLO: Yes, I will, I
8 will give the presentation and I will follow the
9 same format that the Applicant did and just go
10 through their list.

11 Project Description we can do by
12 declaration. Compliance --

13 PRESIDING MEMBER KEESE: May I just ask
14 a question here?

15 HEARING OFFICER BOUILLON: Certainly.

16 PRESIDING MEMBER KEESE: At the hearing,
17 are we going to start with the Project Description
18 for the audience?

19 HEARING OFFICER BOUILLON: I think
20 Project Description should be where we start, so
21 that everybody at the hearing understands where we
22 are, even if we take the evidence by stipulation.

23 One of the things, I'm not sure if we
24 covered it in our notice, one of the things we're
25 going to do that's out of the ordinary is we're

1 going to take stipulations last rather than first.
2 We will note the areas that will be covered by
3 stipulation, but at the beginning of the taking of
4 evidence, we will not receive those stipulations
5 in the interest of saving time, because we're only
6 going to have roughly a long day and then an
7 additional half day in Blythe. And we have
8 reserved the 30th of November in Sacramento for an
9 additional day, if needed.

10 And I hope that nothing more would be
11 needed on that additional day other than the
12 receiving of those stipulations if we can't get to
13 them on the second day of hearings.

14 COMMITTEE MEMBER LAURIE: As to project
15 description, Mr. Chairman, would you want to
16 consider a nontestimonial presentation at the
17 beginning of the --

18 PRESIDING MEMBER KEESE: That was my
19 point. I think we can stipulate we don't need
20 testimony on the project description, but I would
21 like to make sure we leave time for a project
22 description as we start. And perhaps -- we're
23 going to do an afternoon hearing and then we're
24 going to do an evening hearing?

25 HEARING OFFICER BOUILLON: Yes.

1 PRESIDING MEMBER KEESE: It may be that
2 we have to do a brief project description twice.

3 MR. GALATI: We'll be prepared to give a
4 15, 20-minute presentation on the project,
5 including all of its components, describing them.

6 HEARING OFFICER BOUILLON: I think that
7 would be appropriate. If you can put it in the
8 context of a normal court proceeding, it would be
9 like an opening statement, you could cover the
10 project description and the order in which you
11 intend to call witnesses.

12 PRESIDING MEMBER KEESE: Okay. I do
13 that just so -- when we're done here, I'd like to
14 look at our timing. So, we'll put 20 minutes for
15 that? Fifteen minutes for that?

16 HEARING OFFICER BOUILLON: As needed.

17 PRESIDING MEMBER KEESE: All right. I'm
18 putting 20 minutes.

19 STAFF COUNSEL DE CARLO: Compliance we
20 can do by declaration, that's sufficient.

21 Project Alternatives, we can also do by
22 declaration, although we can have someone
23 available from staff if the intervenor would like
24 to cross examine staff on that.

25 Facility Design, we can do by

1 declaration, but I understand that Ms. Garnica has
2 issues with the gas pipeline safety, so we can
3 have Mr. Kisabuli, I believe, is responsible for
4 that portion of testimony. We can have him
5 available for cross examination.

6 Transmission System Engineering, we can
7 do by declaration, as well as Transmission Line
8 Safety and Nuisance.

9 Air Quality, we still have some dispute
10 over the Applicant's request to eliminate CARB
11 from the conditions and verifications. As we
12 stand now we would like to have CARB remain in the
13 verification portion. It is standard, we have
14 done that on other cases, such as High Desert, so
15 we believe that it's necessary to leave them in.
16 So we would have some testimony on air quality
17 regarding that.

18 SPECIAL ADVISOR O'BRIEN: Mr. Bouillon,
19 could I just ask a question about that?

20 HEARING OFFICER BOUILLON: Certainly.

21 SPECIAL ADVISOR O'BRIEN: It pertains to
22 a couple of the technical areas where there appear
23 to be very very minor differences between the
24 staff and the Applicant. And I'm wondering if on
25 a couple of these areas where the disputes are so

1 minor whether or not it's within the discretion of
2 the Committee to have both parties submit in
3 writing a very brief description of the dispute
4 and then the rationale for their position. So
5 that we might, if this is appropriate, spare the
6 parties, particularly the staff, given the siting
7 workload we have, having to go down to Blythe and
8 appear before the Committee on a very minor issue
9 for about five minutes.

10 So I just raise that issue for the
11 Committee's consideration.

12 HEARING OFFICER BOUILLON: It would
13 appear that the parties have a dispute, but
14 they're quite capable of putting it in -- it
15 should be covered by their direct testimony. That
16 should have already been done.

17 The question is whether or not either
18 party or those present here needs any cross
19 examination of the other's witness on that topic.
20 If it's a legal issue, if the Applicant is worried
21 about setting a precedent on a legal basis, that's
22 more an issue to be briefed by the attorneys
23 involved rather than dealt with by cross
24 examination. If you're going to be asking the
25 witness for some legal conclusions or something,

1 I'm not going to allow those questions anyway.

2 So I would -- Ms. DeCarlo, I'll ask you
3 first, do you think you need any cross examination
4 of the Applicant's witness on both this issue with
5 regard to CARB or some of these other minor
6 details?

7 STAFF COUNSEL DE CARLO: No, no, we
8 don't anticipate any cross examination on air
9 quality.

10 HEARING OFFICER BOUILLON: And Mr.
11 Galati?

12 MR. GALATI: Yes and, as I indicated, we
13 didn't think we needed cross examination either on
14 those witnesses. What I would propose is we've
15 had a chance to see that that is included. This
16 is the first time that staff has seen that we've
17 had a discrepancy with that. We would have no
18 problem with supplemental filing from staff and
19 we'll just handle it in our brief.

20 STAFF COUNSEL DE CARLO: My only
21 concern, Mr. Bouillon, would be with the public,
22 if they would want a synopsis of our testimony on
23 air quality, since it tends to be a very
24 interesting issue to the public.

25 HEARING OFFICER BOUILLON: The only --

1 other than the two of you and with the possible
2 exception of CURE who may or may not have retained
3 any rights by failing to participate in the
4 process so far, would be Ms. Garnica. And I don't
5 see anything specifically with regard to air
6 quality in her prehearing conference statement, so
7 I don't believe there's anyone who can cross
8 examine either of your witnesses on air quality.

9 Mr. Shaw, you have a comment?

10 PROJECT MANAGER SHAW: I do have one
11 question, that is the farm workers mentioned
12 working in the lemon grove which adjacent to the
13 plant. I don't know if air is a concern.

14 COMMITTEE MEMBER LAURIE: Well, let me -
15 - I'd like to know, Mr. Chairman, a couple of
16 things. One, you don't need agreement as to all
17 facts or terms and conditions in order to accept
18 testimony by stipulation. That is the Committee
19 can be handed the disagreement by stipulation and
20 you don't need witnesses, unless, as noted, there
21 is cross examination necessary.

22 As to the question of the interest of
23 the public I'm not sure that you need the expert
24 witnesses there to give a presentation or have a
25 discussion and respond to public comments on

1 specific items. The Project Manager should be
2 summarize those issues.

3 So unless something is to be gained by
4 cross examination, and we would want to have that
5 spelled out in advance, I don't see any reason to
6 have witnesses.

7 MR. GALATI: And again, we would not
8 object to staff filing supplemental testimony on
9 -- rebuttal testimony on that one point of CARB to
10 inform the Committee, we would allow that in by
11 declaration and we will handle the issue in our
12 brief.

13 PRESIDING MEMBER KEESE: I concur with
14 Commissioner Laurie, I think we should be able to
15 handle this by stipulated statements. So we're
16 going to close that one off, right?

17 HEARING OFFICER BOUILLON: We'll take
18 that by declaration.

19 PRESIDING MEMBER KEESE: By declaration.

20 HEARING OFFICER BOUILLON: Including
21 supplemental testimony if staff cares to file any
22 and briefed arguments to be submitted at the
23 conclusion of the hearings -- on the second day of
24 hearings, let's say.

25 PRESIDING MEMBER KEESE: And just as a

1 comment I would think that in the opening
2 statement on project description that we should
3 have some comment on the air.

4 STAFF COUNSEL DE CARLO: Public Health,
5 we can do by declaration. I'm not sure if our
6 staff would be able to address the pipeline issue
7 in public health. I think that's mainly Facility
8 Design and Hazardous Materials, so I'm not sure
9 that they would be needed for the Intervenor.

10 Hazardous Materials, we agree with
11 Applicant's testimony. However, we can have
12 someone available, Mr. Alan Greenberg, for
13 Intervenor cross examination.

14 Worker Safety and Fire Protection, we do
15 agree to Applicant's recommendations, so there's
16 no dispute there, so we can do that by
17 declaration.

18 Biological Resources, there remains some
19 dispute with Applicant and I would like to reserve
20 about 30 minutes for cross examination on the
21 areas of dispute. And we are attempting to get
22 Fish and Wildlife and Fish and Game to be present
23 at the hearing, and I believe the 28th is the best
24 day for all parties in regard to that.

25 HEARING OFFICER BOUILLON: The 28th?

1 STAFF COUNSEL DE CARLO: Yes.

2 COMMITTEE MEMBER LAURIE: And, Mr.
3 Chairman, is it your intent to, in developing the
4 schedule, would it be your intent to assign
5 specific topics to specific days so that the
6 parties would know when to have their witnesses
7 present?

8 PRESIDING MEMBER KEESE: Yes, as soon as
9 we've completed this, yes, that would be our idea.
10 And our idea is actually to deal with the issues
11 that would affect, for instance, our farm workers
12 in the evening portion of the first day. So,
13 specifically, we're trying to get those and what
14 the public might be most likely to be interested
15 in at that time.

16 And, as we said, we'll take the
17 stipulations last, hopefully on the second day,
18 and complete them. But if we have to roll over,
19 we'll roll the stipulations over.

20 STAFF COUNSEL DE CARLO: Cultural
21 Resources, we do still have the disputed issue of
22 verification, but we can do that by stipulation
23 and rebuttal testimony.

24 MR. GALATI: Yes, we agree and we agree
25 that staff can file rebuttal testimony to the

1 verifications and we will handle it in our brief.

2 HEARING OFFICER BOUILLON: Mr. Shaw, do
3 you see any need for supplemental testimony?

4 PROJECT MANAGER SHAW: No.

5 STAFF COUNSEL DE CARLO: Geology and
6 Paleontology, we can handle by declaration. We
7 have one staff that does Soil and Water Resources,
8 so we do that as one section.

9 We do have a dispute, I believe the
10 Applicant intends to file a detailed Water
11 Conservation Offset Plan and I believe that that
12 will resolve some of the issues staff has. But we
13 still have an issue with the well drawdown.

14 MR. GALATI: Just a correction there.
15 We already have the Water Conservation Offset
16 Program. What we're filing is what we're calling
17 a long-term irrigation rights agreement and it was
18 reached with the City of Blythe for us to retire
19 certain lands under the Water Conservation Offset
20 Program. And, quite frankly, that's being Fed
21 Exed to us today. It's probably at my office now
22 and we will file it today, this afternoon, and
23 also make sure that the Project Manager gets
24 enough copies to distribute to staff.

25 But, not the Water Conservation Offset

1 Program, it's the Irrigation Lands Agreement.

2 STAFF COUNSEL DE CARLO: And staff would
3 like to reserve about 30 minutes for cross
4 examination.

5 Waste Management we can handle by
6 declaration --

7 PRESIDING MEMBER KEESE: Excuse me, did
8 we say Soil Resources is okay?

9 STAFF COUNSEL DE CARLO: No, we'll be
10 having a witness.

11 PRESIDING MEMBER KEESE: You'll be doing
12 both of them together?

13 STAFF COUNSEL DE CARLO: Yes.

14 PRESIDING MEMBER KEESE: Okay.

15 STAFF COUNSEL DE CARLO: I mean we'll be
16 focusing on purely the Water Resources, but we
17 handle it as one section.

18 Waste Management we can handle by
19 declaration.

20 Land Use, some of the issues may be
21 resolved by submittal of the irrigation plan, but
22 there might be still other outstanding issues. We
23 do agree with the repetition of the condition and
24 we will amend our testimony on that. I don't
25 anticipate needing any cross examination time for

1 Land Use.

2 Noise, we can handle by declaration.

3 SPECIAL ADVISOR O'BRIEN: If we could go
4 back to Land Use for just a second.

5 HEARING OFFICER BOUILLON: Certainly.

6 SPECIAL ADVISOR O'BRIEN: One point I
7 wanted to make for staff was that in reading the
8 FSA, staff's testimony on Land Use, one issue I
9 think that the Committee may have questions on is
10 this issue of the water conservation program, and
11 why staff believes that if the Applicant is going
12 to take certain types of agricultural land out of
13 production why staff believes that is, indeed, a
14 significant impact. Whether that is based upon
15 CEQA or based upon other factors or issues, I
16 think that is an issue that may need to be
17 clarified in the hearings if that is still a
18 disputed issue between the parties.

19 MR. GALATI: If I may interrupt I can
20 update the Committee on the land irrigation
21 agreement, which was for lands owned by the City
22 of Blythe near the airport. These were previously
23 irrigated lands, but they're not currently in
24 production.

25 So if those are the lands that are

1 retired, it should meet the concerns raised by
2 land use and the farm land production issue will
3 go away, taking lands out of current agricultural
4 production. And then the focus becomes on water,
5 and we'll wait for staff's evaluation of that. I
6 just wanted to provide that update.

7 STAFF COUNSEL DE CARLO: I believe staff
8 will analyze the Applicant's submittal and we will
9 file supplemental testimony with regards to that.

10 HEARING OFFICER BOUILLON: And when do
11 you think you could file that?

12 STAFF COUNSEL DE CARLO: Considering the
13 holidays, would the 22nd be too late?

14 MR. GALATI: We will not object to the
15 staff bringing the testimony to the hearing on the
16 27th, as long as we're given a few minutes to look
17 at it ahead of time. We think the testimony will
18 be favorable and not make additional disputes.
19 Plus, we will already have those individuals
20 available to be able to testify on that matter at
21 the hearing.

22 HEARING OFFICER BOUILLON: I think that
23 if you can get it done by the 22nd, I think that
24 would be best, because I don't want to speak for
25 Ms. Garnica, but I don't want to set a precedent

1 by people bringing direct testimony to the hearing
2 and having to deal with it at that time on the
3 part of other people.

4 STAFF COUNSEL DE CARLO: I will have to
5 consult with staff with that to ensure that we do
6 have that timeframe, because we will not receive
7 the supplemental testimony from Applicant until
8 Monday or Tuesday.

9 HEARING OFFICER BOUILLON: The
10 difference between filing it on the 22nd and
11 bringing it to the hearing is working over
12 Thanksgiving holiday. I don't know how many
13 people on the staff you're going to find wanting
14 to work on Thanksgiving.

15 STAFF COUNSEL DE CARLO: We will try to
16 file it on the 22nd.

17 We are in agreement with Applicant on
18 Socioeconomics. However, we can bring staff to
19 the hearing if the Committee believes that it's
20 necessary to address Intervenor concerns.

21 HEARING OFFICER BOUILLON: I believe
22 that would be appropriate.

23 STAFF COUNSEL DE CARLO: Okay.

24 Traffic and Transportation, we still
25 have a few minor disputes with the Applicant, but

1 we can dispose of those with stipulation and
2 rebuttal testimony.

3 Visual Resources, we have resolved our
4 issues with Applicant, so we can do that by
5 declaration.

6 And I believe that's all.

7 HEARING OFFICER BOUILLON: All right.

8 Now that we've both had an opportunity to do that,
9 I would ask Mr. Galati first and then Ms. DeCarlo
10 to go back over the list, keeping in mind the
11 comments of both the Chairman and Commissioner
12 Laurie with regard to what should be included in
13 the taking of evidence, and if you could each make
14 a proposal as to the order in which you would like
15 to put the topics on, given the times that we've
16 already scheduled. And then, Ms. DeCarlo, if you
17 could comment on his proposal, maybe we can work
18 that schedule out as we sit there.

19 COMMITTEE MEMBER LAURIE: I would note,
20 Mr. Bouillon, that the proposed timeframes listed
21 in the statement are really conservative. And it
22 takes five minutes to drag somebody up off their
23 chairs and to state their names, so you may want
24 to double the time, if you're going to be
25 practical about it.

1 MR. GALATI: We'll begin with a project
2 description comment, which we think we can do in
3 20 minutes.

4 We would then propose that Water and
5 Land Use be taken up together since that doesn't
6 appear to be significant issues that the
7 Intervenor is interested in. Oh, actually she has
8 raised that. I was trying to see which one she
9 has not raised to take in the afternoon session
10 and leave the ones which she has raised to the
11 evening session.

12 The areas where we actually need live
13 testimony are Water Resources, Land Use, Biology
14 and the rest have now been agreed to testimony by
15 declaration. Although I think that we will have
16 people available in case there's questions from
17 the public, but it wouldn't be in the form of
18 testimony.

19 So, if Biology Resources, the best day
20 is the 28th to handle Biological Resources because
21 the U. S. Fish and Wildlife and CDFG are
22 available, that leaves doing either Land Use or
23 Water Resources on the first day and preferring to
24 do Facility Design in the evening with respect to
25 the pipeline.

1 So, again, I would recommend that we do
2 Water and Land together as a panel in the
3 afternoon. And then in the evening we schedule
4 the Facility Design, without precluding the
5 ability for the Intervenor to raise water related
6 issues, and then take Biology on the next day.

7 The only change to that would be whether
8 or not we will have our Hazardous Materials people
9 available there in the evening as well, if there's
10 a cross over.

11 Other than that, everything else can be
12 submitted upon declaration, which we can do at the
13 end of the day or on either session if we complete
14 early.

15 HEARING OFFICER BOUILLON: Ms. DeCarlo?

16 STAFF COUNSEL DE CARLO: That sounds
17 fine with me.

18 I just want to clarify what staff
19 members the Committee would like to have present
20 for the Intervenors. I have here Socioeconomics,
21 Alternatives, and reading over the declarations by
22 Intervenor I think Public Health might be
23 necessary as well to deal with the farm worker
24 concern, working near the power plant.

25 HEARING OFFICER BOUILLON: I agree. I

1 think the main thrust of the comments by the
2 Intervenor is Public Health for the farm workers
3 and probably the safety of the gasline design and
4 construction and maintenance.

5 STAFF COUNSEL DE CARLO: So I believe
6 those can be handled at the evening session.

7 HEARING OFFICER BOUILLON: Yes.

8 COMMITTEE MEMBER LAURIE: Mr. Bouillon,
9 what would be your plan for handling those issues?
10 If there are not matters in dispute, but it is
11 felt for public information there should be some
12 discussion, would you want to go through the
13 formality of having these folks sworn and then
14 talk about what their testimony is? Or would you
15 suggest that it be handled in a more informal
16 nontestimonial fashion?

17 HEARING OFFICER BOUILLON: I think it
18 should be handled in a more formal fashion in
19 swearing the witnesses in and having them
20 summarize their direct testimony and giving Ms.
21 Garnica a chance to cross examine them if she
22 wishes. Although their summary can be relatively
23 brief and be confined to the areas that appear to
24 be of concern to the local citizenry. And that
25 should be true of both the witnesses for the staff

1 and the witnesses for the Applicant.

2 COMMITTEE MEMBER LAURIE: My only
3 comment is that -- and I don't have any problem
4 with that, but when we go through the formality of
5 having somebody summarize their formal testimony,
6 then, as a matter of practice, their comments are
7 very stilted and formal, and the public doesn't
8 pick it up very well.

9 As opposed to the staff member standing
10 up and pointing to a map and just discussing the
11 issue, which is much more informative to the
12 public. So, it depends on what the goal is.

13 If these are issues that there will be
14 cross examination on, well, fine. I understand
15 that. If the witnesses are being brought solely
16 for the purpose of informing the public, and it's
17 not anticipated that there is cross examination,
18 then perhaps a staff presentation similar to the
19 project description is more helpful to the public.
20 So it really depends on what the goal is here.

21 HEARING OFFICER BOUILLON: I think that
22 has to await a discussion with Ms. Garnica about
23 whether or not there's going to be any cross
24 examination.

25 COMMITTEE MEMBER LAURIE: I concur.

1 HEARING OFFICER BOUILLON: And we'll try
2 to resolve that rather quickly by way of
3 conference call, and we'll issue an order that is
4 appropriate based upon her comments.

5 Is that acceptable?

6 COMMITTEE MEMBER LAURIE: Sure.

7 MR. GALATI: So we're looking at Water
8 and Land Use in the afternoon, number one; Public
9 Health Facility and Design in the evening; and the
10 Biology on the morning of day number two, as
11 the --

12 PRESIDING MEMBER KEESE: I'm sorry, what
13 did you say on the second day?

14 MR. GALATI: Biology.

15 PRESIDING MEMBER KEESE: The second day
16 is definitely Biology. I'm sorry, the -- right,
17 and I am --

18 HEARING OFFICER BOUILLON: I'm sorry,
19 would you repeat what you just said? My notes are
20 confused.

21 MR. GALATI: Water and Land Use on
22 afternoon one for testimony. Evening would be
23 Public Health and Facility Design testimony. And
24 day number two would be Biology testimony. And
25 again, just to clarify, we will give a quick

1 project description overview in -- nontestimonial
2 project description overview in each session if
3 you would like, considering that each session may
4 draw different members of the public.

5 PRESIDING MEMBER KEESE: I'm listing
6 here -- the major ones are Soil, Water and Land
7 Use, and that goes the first day after the
8 description.

9 On the second day we'll deal with
10 Biological Resources and then stipulations at the
11 end of it. And that left me putting for the
12 evening an informal project description again.
13 And I have four topics here that may or may not
14 informally or formally be included, and that is
15 Project Alternatives, Public Health,
16 Socioeconomics and Facility Design.

17 STAFF COUNSEL DE CARLO: I would also
18 like to add Hazardous Materials.

19 PRESIDING MEMBER KEESE: And Hazardous
20 Materials.

21 MR. GALATI: I think what I was trying
22 to address was that the only -- again it depends
23 on whether Ms. Garnica wants to cross examine,
24 because if there is going to be no cross
25 examination by the Intervenor all of those can be

1 taken on declaration and the entire session in the
2 evening can be an informal nontestimonial session.

3 PRESIDING MEMBER KEESE: And that's what
4 I would -- that would be very nice.

5 MR. GALATI: Okay.

6 PROJECT MANAGER SHAW: Mr. Bouillon, I
7 do have one comment, if this is an appropriate
8 time to mention it.

9 According to Ms. Garnica's statement,
10 there might be a need to translate back and forth
11 English to Spanish, so do bear that in mind.

12 HEARING OFFICER BOUILLON: We do bear
13 that in mind and we'll discuss that through the
14 Public Advisor's Office and determine whether that
15 needs to be done. And I'm sure the Applicant can
16 arrange for a translator if needed.

17 Can the Applicant arrange for a
18 translator?

19 MR. GALATI: I'll have to check into
20 that, we had not thought about doing that. I'm
21 sure we can, but is there a process through the
22 Energy Commission which that has been done, like
23 in Otay --

24 HEARING OFFICER BOUILLON: I'm sure
25 there is, and I don't know what it is.

1 MR. GALATI: Okay.

2 HEARING OFFICER BOUILLON: But we can
3 discuss that outside the confines of this room.

4 COMMITTEE MEMBER LAURIE: I don't know
5 -- well, I would suggest, first of all, does Ms.
6 Garnica speak English?

7 HEARING OFFICER BOUILLON: She does.

8 COMMITTEE MEMBER LAURIE: Okay, so this
9 is a question of the audience, is that right? And
10 so there is an expectation that much of the
11 audience is not English speaking, is that right?

12 MR. GALATI: I think that expectation is
13 raised by her Prehearing Conference Statement
14 about these particular declarations. But the
15 people who have participated in the workshops have
16 not expressed the need for interpreters, to date.

17 PRESIDING MEMBER KEESE: I would concur
18 in that. In reading her letter, these were
19 waiting for translation.

20 COMMITTEE MEMBER LAURIE: If, through
21 the Public Advisor's Office, a determination is
22 made that the audience would require it, then, Ms.
23 DeCarlo, you have experience in the Otay case?

24 STAFF COUNSEL DE CARLO: Yes.

25 COMMITTEE MEMBER LAURIE: We used

1 interpreters in the Otay case. We can find out
2 how that was done.

3 STAFF COUNSEL DE CARLO: I can look into
4 that.

5 HEARING OFFICER BOUILLON: And since
6 it's for the benefit of the audience and not for
7 the benefit of testimony, it would not have to be
8 any sort of court certified reporter and it can be
9 handled on a pretty informal basis, I would think,
10 which would give us a much wider selection in
11 securing an interpreter. In fact it's possible
12 that Ms. Garnica herself could do the
13 interpreting, I don't know.

14 COMMITTEE MEMBER LAURIE: No, I wouldn't
15 suggest -- if you're going to do it, then you hire
16 somebody to do instantaneous interpretation and
17 have the earphones available, otherwise you'll
18 never be able to get through the proceeding.

19 PRESIDING MEMBER KEESE: Okay. And just
20 for my notes here, the only one that -- we
21 indicated that we would do Air Quality in the
22 project description. We didn't incorporate
23 informal conversation about Air Quality into the
24 project description?

25 MR. GALATI: Our presentation will

1 include a description of the Air Quality features
2 of the project and the mitigation incorporated,
3 both by the conditions and already incorporated
4 into the project.

5 PRESIDING MEMBER KEESE: So the two
6 substantive issues we have are Soil and Water and
7 Land Use the first day; Biological Resources the
8 second day; and if we finish the first day
9 promptly, we'll do stipulations right then,
10 because we're not going to go into Biological
11 Resources.

12 So we'll leave stipulations on both
13 first and second day. If we have some time, we'll
14 crank out the stipulations the first day and if we
15 don't, we'll finish them up the second day.

16 I don't have any closing comments.

17 HEARING OFFICER BOUILLON: Do either of
18 the parties have any closing comments?

19 STAFF COUNSEL DE CARLO: No.

20 MR. GALATI: No, thank you.

21 PRESIDING MEMBER KEESE: Thank you.

22 HEARING OFFICER BOUILLON: We will put
23 out a formal schedule and I will try to set up a
24 conference call with Ms. Garnica. I'll try to
25 make some arrangements.

1 PRESIDING MEMBER KEESE: So we are
2 recessing this and it is going to be continued as
3 a conference call. This hearing will continue as
4 a conference call.

5 (Thereupon the California
6 Energy Commission Prehearing
7 Conference on Blythe was
8 recessed at 10:35 a.m.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Prehearing Conference; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of November, 2000.

VALORIE PHILLIPS

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