

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for the) Docket No.
Blythe Solar Energy Project) 09-AFC-6
by Palo Verde Solar I, LLC)
_____)

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

FRIDAY, JULY 16, 2010
10:00 a.m.

Reported/Transcribed by:
Peter Petty, CER
Ramona Cota, CERT

Contract No. 170-09-002

COMMITTEE MEMBERS PRESENT

Karen Douglas, Chairman and Presiding Member

Robert B. Weisenmiller, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Raoul Renaud, Hearing Officer

Eileen Allen, Advisor to Commissioner Weisenmiller

STAFF AND CONSULTANTS PRESENT

Lisa DeCarlo, Staff Counsel

Alan Solomon, Project Manager

Beverly Bastian

Cliff Ho, PhD (via teleconference)

Mark Johnson

Terrence O'Brien

William Walters (via teleconference)

OFFICE OF THE PUBLIC ADVISER

Jennifer Jennings, Public Adviser

APPLICANT

Scott Galati, Attorney
Robert Gladden, Attorney
Galati and Blek

Alice Harron
Elizabeth Ingram
Solar Millennium, LLC

ALSO PRESENT

Konrad Lanz (via teleconference)

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EXHIBITSFor the Applicant

<u>Number</u>	<u>Description</u>	<u>Identified</u>	<u>Received</u>
52-63	Multiple Exhibits	3	4

For the Staff

<u>Number</u>	<u>Description</u>	<u>Identified</u>	<u>Received</u>
211	Palo Verde Solar I LLC Comments to the Revised Staff Assessment Cultural Resources Conditions of Certification	24	33
212	Settled Conditions and Delineation of Outstanding Issues in Biological Resources	4	6
213	Renewable Energy Development and Common Raven Predation on the Desert Tortoise, 5/2010	5	6
214	Blythe Solar Power Plant Staff Proposed Revised Worker Safety-7, 7/16/10	6	7
215	Conditions of Certification	8	23
216	Declaration of Susan Sanders	5	6

1 you.

2 (A recess was taken.)

3 (On the record at 2:56 p.m.)

4 HEARING OFFICER RENAUD: This is Raoul Renaud, the
5 Hearing Advisor for the Blythe Solar Power Project. This is
6 the second day of evidentiary hearings.

7 We had introductions yesterday. We pretty much
8 have the same people here today. To my right is Chairman
9 Karen Douglas who is the Presiding Member for this Committee
10 and to my left is Commissioner Robert Weisenmiller who is
11 the Associate Member.

12 This proceeding to begin at ten o'clock this
13 morning. The parties began working in a workshop at nine or
14 maybe even earlier and have been working steadily ever
15 since. I understand we are now ready to proceed with
16 further evidentiary hearings and hear the outcome of your
17 labors. So I will leave it to counsel to tell us what you'd
18 like to do.

19 MR. GALATI: What I'd like to do is go ahead and
20 move in the exhibits that I have remaining, which begin at
21 Exhibit 52 on our Exhibit List, through Exhibit 61,
22 identified on our most recent exhibit list.

23 I would like to let the Committee know that -- and
24 Mr. Hearing Officer, I will submit a new exhibit list for
25 you so you don't have to try to keep track of what I'm about

1 to do to that exhibit list. But basically Item 63 stays the
2 same, 64 is now 62.

3 (Applicant's Exhibits 62 and 63 were
4 identified for the record.)

5 HEARING OFFICER RENAUD: And what about the old
6 62?

7 MR. GALATI: Everything else will be deleted.

8 HEARING OFFICER RENAUD: That's the revised
9 cultural conditions.

10 MR. GALATI: Correct. That will be deleted.
11 Staff is now going to be sponsoring our revised conditions
12 so all the conditions will come from staff. And so I have
13 copies of those additional exhibits here.

14 HEARING OFFICER RENAUD: All right.

15 MR. GALATI: From 52 to 62 as revised is what I'd
16 like admitted. Lisa, for you -- Oh yes, I'm sorry. From 52
17 to 63. Lisa, 62 is the Airport Land Use Commission Letter.
18 It was identified as 64, now I'm using it as 62.

19 MS. DeCARLO: Okay.

20 MR. GALATI: So I'd ask that those exhibits be
21 entered into the record.

22 HEARING OFFICER RENAUD: All right, there's a
23 motion. Is that acceptable to the staff?

24 MS. DeCARLO: Yeah, no objection from staff.

25 HEARING OFFICER RENAUD: All right, those will be

1 admitted then, thank you.

2 (Applicant's Exhibits 52-63 were
3 admitted into the record.)

4 MR. GALATI: So we actually -- that concludes the
5 presentation of our evidence.

6 What we had discussed was that staff would then
7 introduce their exhibits and we would make an offer of proof
8 afterwards indicating our agreement with these conditions.

9 HEARING OFFICER RENAUD: Very good.

10 MS. DeCARLO: Yes. And our first exhibit, which I
11 believe you all have up there, it's called Settled
12 Conditions and Delineation of Outstanding Issues in
13 Biological Resources.

14 HEARING OFFICER RENAUD: Yes.

15 MS. DeCARLO: We would like that marked as Exhibit
16 212.

17 (Staff's Exhibit 212 was identified
18 for the record.)

19 HEARING OFFICER RENAUD: Now I don't have a 211
20 yet, I don't think.

21 MS. DeCARLO: Right.

22 HEARING OFFICER RENAUD: Unless I missed it. But
23 you still want 212?

24 MS. DeCARLO: Well this way we're entering them by
25 declaration so I figure get that out of the way.

1 HEARING OFFICER RENAUD: All right.

2 MS. DeCARLO: Unless you want me to do it by
3 number.

4 HEARING OFFICER RENAUD: No, no, that's fine.

5 MS. DeCARLO: Okay.

6 HEARING OFFICER RENAUD: Okay.

7 MS. DeCARLO: And then after that we have the
8 Renewable Energy Development and Common Raven Predation on
9 the Desert Tortoise dated May 2010. We'd like that marked
10 as Exhibit 213.

11 (Staff's Exhibit 213 was identified
12 for the record.)

13 HEARING OFFICER RENAUD: Okay. Done.

14 MS. DeCARLO: And then lastly for this portion we
15 have the declaration of Susan Sanders. We'd like that
16 marked as Exhibit 216. And that declaration sponsors the
17 previous two exhibits.

18 (Staff's Exhibit 216 was identified
19 for the record.)

20 HEARING OFFICER RENAUD: Sponsoring 212 and 213 in
21 other words.

22 MS. DeCARLO: Yes.

23 HEARING OFFICER RENAUD: Okay, got it.

24 MS. DeCARLO: And with that we conclude our
25 Biological Resources testimony.

1 HEARING OFFICER RENAUD: All right. Is there any
2 objection to these being admitted?

3 MR. GALATI: No objection. And by way of offer of
4 proof the applicant agrees to the conditions in 212. There
5 is one remaining outstanding issue for the Committee to
6 decide. That's in that, which is BIO-21. We're going to
7 continue to work while you are contemplating that. We were
8 unable to settle that issue. We're looking for some costs.
9 There's also a reference to BIO-21 in BIO-13. So we'll
10 continue to work that issue. At this time it's still
11 disputed.

12 HEARING OFFICER RENAUD: All right, thank you for
13 that. We encourage your continued efforts towards
14 resolution of that. Obviously, if you don't come to reach a
15 solution the Committee is going to do it for you. And you
16 might not know what that is until you see it.

17 (Staff's Exhibits 212, 213 and 216
18 were admitted into the record.)

19 HEARING OFFICER RENAUD: All right. Anything
20 else?

21 MS. DeCARLO: We still have a couple more exhibits
22 and then some live testimony. Next up I'd like to mark
23 Blythe Solar Power Plant Staff Proposed Revised Worker
24 Safety 7 dated July 16, 2010. I'd like to mark that as
25 Exhibit 214.

1 (Staff's Exhibit 214 was identified
2 for the record.)

3 HEARING OFFICER RENAUD: Okay, got that.

4 MS. DeCARLO: And this just reflects a change
5 agreed upon by the parties to Worker Safety-7. I don't
6 think we need another declaration on top of that.
7 Dr. Greenberg's declaration is already affixed to his
8 testimony, previously filed testimony.

9 HEARING OFFICER RENAUD: The change is really just
10 to the dollar amount, right? As I recall.

11 MR. GALATI: Yeah. It's certainly from yesterday.
12 But it is a change to the -- there is another mechanism by
13 which you can comply with the letter of credit for
14 securities.

15 HEARING OFFICER RENAUD: All right.

16 MR. GALATI: That was identified and Dr. Greenberg
17 had made that change. So by way of offer of proof, the
18 applicant agrees to that change and therefore that portion
19 of our testimony objecting to Worker Safety-7 is modified by
20 this agreement.

21 HEARING OFFICER RENAUD: All right, very good. So
22 that would be admitted then.

23 MR. GALATI: No objection.

24 (Staff's Exhibit 214 was admitted
25 into the record.)

1 MS. DeCARLO: And the last two items are TRANS-9
2 and TRANS-10, they're conditions of certification. If those
3 could be marked together as Exhibit 215.

4 (Staff's Exhibits 215 were identified
5 for the record.)

6 MS. DeCARLO: And I'd like to swear in my panel of
7 experts on Traffic and Transportation to sponsor these and
8 the Traffic and Transportation testimony.

9 HEARING OFFICER RENAUD: All right, go ahead.

10 MS. DeCARLO: And they are Mark Johnson and on the
11 phone we have Cliff Ho and Will Walters.

12 Whereupon,

13 MARK JOHNSON

14 CLIFF HO

15 WILL WALTERS

16 Were duly sworn.

17 DIRECT EXAMINATION

18 BY MS. De CARLO:

19 Q Mr. Johnson, did you help prepare the testimony
20 titled Traffic and Transportation Aviation Assessment in the
21 Supplemental Staff Assessment, Part 2, Exhibit 207?

22 A Yes I did.

23 Q And are you also sponsoring Transmission 9 and 10,
24 marked as Exhibit 215?

25 A Yes.

1 Q And was a statement of your qualifications
2 attached to your testimony in Exhibit 207?

3 A Yes.

4 Q And do the opinions contained in this testimony
5 you are sponsoring represent your best professional
6 judgment?

7 A Yes.

8 DIRECT EXAMINATION

9 BY MS. De CARLO:

10 Q Mr. Walters, did you help prepare the testimony
11 titled Traffic and Transportation Aviation Assessment and
12 Supplemental Staff Assessment, Part 2, Exhibit 207?

13 A Yes.

14 Q Was a statement of your qualifications included in
15 the Revised Staff Assessment, Exhibit 200?

16 A Yes.

17 Q And do the opinions contained in the testimony you
18 are sponsoring represent your best professional judgment?

19 A They do.

20 DIRECT EXAMINATION

21 BY MS. De CARLO:

22 Q Dr. Ho, did you help prepare the testimony
23 entitled Traffic and Transportation Aviation Assessment in
24 the Supplemental Staff Assessment, Part 2, Exhibit 207?

25 A Yes I did.

1 Q And was a statement of your qualifications
2 attached to this testimony?

3 A Yes.

4 Q And do the opinions contained in the testimony you
5 are sponsoring represent your best professional judgment?

6 A Yes.

7 RESUMED DIRECT EXAMINATION

8 BY MS. De CARLO:

9 Q Mr. Johnson, do the conditions included in Exhibit
10 215, Transmission 9 and 10, do those supersede the
11 conditions provided in the Supplemental Staff Assessment?

12 A Yes, that's my understanding.

13 Q And do these changes change any of your
14 conclusions contained within your written testimony?

15 A No, none of the conclusions within my testimony in
16 a separate report, no.

17 MS. DeCARLO: That concludes staff's direct. The
18 witness is available for any cross or questions from the
19 Committee.

20 HEARING OFFICER RENAUD: Questions from applicant?

21 MR. GALATI: No, no cross examination.

22 MS. DeCARLO: If the Committee wishes we can give
23 a summary of the proposed changes. I don't know if you also
24 want a summary of the issues we have been grappling with or
25 the conclusions we reached.

1 HEARING OFFICER RENAUD: I think that would be
2 helpful to the Committee because we don't really know what
3 you have been doing other than talking about airport issues.

4 MS. DeCARLO: Okay.

5 HEARING OFFICER RENAUD: So if you could we'd
6 appreciate that.

7 BY MS. DeCARLO:

8 Q Mr. Johnson, can you please summarize your
9 analysis of the traffic and transportation aviation
10 assessment and the conclusions you reached.

11 A The analysis that I undertook was focused on the
12 relationship of the proposed project to the airport land use
13 compatibility plan for Blythe Airport. And one of the --
14 there are basically four attributes of the proposed project
15 that we looked at, two of which are of some concern, the
16 other two kind of shook out as not terribly critical. There
17 are actually five, I'm sorry, five. Two critical, the other
18 three resolvable.

19 Those issues are thermal plumes caused by the air-
20 cool condensers on the plant, the potential for glint and
21 glare from the mirrors. Those were the two of the more
22 serious. The other issues that are relatively easily
23 resolvable are the potential air space implications of the
24 transmission towers themselves. That has been resolved and
25 is not an issue I don't think we need to talk about here.

1 The other thing was the potential for bird attraction that
2 the evaporation ponds might cause. Again resolved, not a
3 serious issue.

4 And finally the implications of the heat transfer
5 fluid, the Therminol, at being a highly flammable substance.

6 What potential that might have as a hazard in connection
7 with any aircraft accidents that might occur in the site.

8 I won't go into detail on those three other issues
9 that were resolved and don't appear to be significant
10 issues.

11 With respect to the thermal plumes the proposal
12 here is simply to -- that's an issue -- let me back up. The
13 thermal plumes have the potential to cause control problems
14 for aircraft flying at low altitude. And those altitudes
15 would range up to approximately 1600, 1700 feet above the
16 ground. There is the potential for aircraft to be flying at
17 altitudes that low entering the traffic pattern for Runway
18 35, the runway in it's northern -- the cross runway in its
19 northern configuration are used in this northern direction.

20 There is also the potential if the runway, if the
21 Runway 26 traffic pattern is shifted to the north side there
22 could be a problem as was a condition of approval for the
23 Blythe 2 plant.

24 Fortunately, most of the traffic in and out of
25 Blythe Airport -- we don't have hard data on this but just

1 given the nature of the settlement pattern in the greater
2 region in Southern California most of the traffic is likely
3 to be coming due east and west, from the Phoenix area and
4 the LA area. Not a lot coming from the north. Hence the
5 propensity of low-altitude overflights of the plant is
6 fairly low. Nevertheless it is a potential hazard. In my
7 opinion, by definition it's a constraint on the operation of
8 the airport. So that's the thermal plume situation.

9 The condition with respect to the thermal plumes
10 is to public notice of the existence of the plant and the
11 potential for thermal plumes so pilots can be, you know,
12 self-informed and make appropriate decisions.

13 Now with respect to the glare, that's where we
14 spent our time today and yesterday. The nature of the
15 problems posed by glare to pilots is -- it's twofold. First
16 of all there's the potential, particularly during the winter
17 when the sun is low in the southern, relatively low in the
18 southern horizon, for what's called the spill reflection off
19 the north edge of the trough, north edge of the troughs.
20 Because the sun is so low, you know, the troughs can't
21 capture the full value of the sun, there's a little bit of
22 reflection off the end of the troughs. It's spillage.

23 The potential for glare from that source could
24 affect the pilots flying north of the airport in making
25 final long, final extended approaches to Runway 17 from the

1 north to the -- yeah, from the north to the south. There's
2 the potential.

3 Now we talked that through at considerable length.
4 Despite the potential which definitely exists, the
5 likelihood of significant numbers of aircraft to be subject,
6 to be exposed to that glare is fairly small given the
7 location of the plant with respect to the airport. Very
8 seldom are pilots going to be making long approaches and be
9 exposed to that glare given the configuration of the
10 airport.

11 Let's leave it at that. There's a lot more detail
12 there but that's the bottom line. So not terribly concerned
13 about it although we recognize there is that potential.
14 Somebody will be subject to it at some time but it's not
15 going to be a regular thing, no.

16 The other kind of problem that is a concern is
17 with glare or glint. And glint is sort of the momentary
18 flash and glare is the steady, you know, the steady flash of
19 light that endures. Now there's a potential to be caused
20 also by the parabolic mirrors, the troughs, if they're off-
21 center with respect to the focal point. You know, ---

22 There is always a certain amount of glare from
23 these mirror surfaces. But when they are focused and
24 aligned correctly with that heat transfer tubing the really
25 intense glare is directed, as it should be, on the tubing.

1 What the pilots over-flying are going to see is not
2 particularly troubling. There's definitely going to be
3 brightness down there but it's not going to be that
4 penetrating flash of light.

5 Now if these troughs gets off focus either due to
6 malfunction or due to a need to take them off-line to dump
7 power, so to speak, if they're approaching overload say on a
8 hot summer midday and they need to e brought off-line. Or
9 if, you know. That operation by virtue of unfocusing the
10 mirror on the heat transfer piping will cause that very
11 bright flash of focused light to go off, you know, and
12 potentially cause glare in the eyes of pilots.

13 Now when we get down to specifics we'll look at
14 the specific geometry of the situation and the orientation
15 of the airport and the flight patterns. That situation is
16 most likely to be problematic in the mornings because the
17 airport is east, generally, of the plant and in the mornings
18 the light would be coming from the east and reflected back
19 to the east. So the problem in the mornings.

20 And when we look at the geometry of the flight
21 patterns the potential mode of operation, airport operation
22 that is going to be most subject to, potentially subject to
23 problem, is if traffic is operating on Runway 17, the north-
24 south runway oriented, being used in its southerly
25 direction.

1 Now that mode of operation, that configuration is
2 not used very often, largely owing to the nature of the
3 airfield. It's a very advantageous way to operate given the
4 wind but the airfield lacks the taxiways, that runway is
5 shorter than the other, the primary east/west runway. Hence
6 the recommendations to have certain operating procedures to
7 minimize the potential for glare to be problematic when the
8 system is brought off-line.

9 Let me pause at that point and see if there might
10 be any questions, clarifying questions that I might answer.

11 ASSOCIATE MEMBER WEISENMILLER: Okay. A couple of
12 questions. One is in terms of usage of the airport. What's
13 been the recent trends?

14 MR. JOHNSON: Well, this is an airport where there
15 is not a lot of good data. It doesn't have an air traffic
16 control tower to monitor the operations.

17 According to the FAA's terminal area forecast,
18 which is the best source of information, which includes
19 information reported by the airport itself, operations have
20 been flat. They are not going up, they are not going down.

21 The long-term forecast -- by operations I mean take offs
22 and landings. The long-term forecast is for some growth at
23 the airport.

24 ASSOCIATE MEMBER WEISENMILLER: And the other
25 question, in terms of the notice. To the extent there are a

1 number of facilities there I'm assuming then -- who
2 identified the various facilities as opposed to something
3 saying, there is a plant here.

4 MR. GALATI: I unfortunately let my experts go but
5 I can answer that question. Yes, there will be a NOTAM or a
6 remark that is specific to the Blythe Solar Power Project.
7 They generally included locational directions so this will
8 probably be in respect to one sentence as opposed to the
9 Blythe Project, which are related to Runway 26. So that's
10 my expectation.

11 ASSOCIATE MEMBER WEISENMILLER: Okay. Because it
12 does seem like we need to make sure that we're covering both
13 the individual impacts and what occurs as most cumulative as
14 we look at number of facilities in that area.

15 HEARING OFFICER RENAUD: I have one. I take it
16 the only concerns about glint and glare pertain to aircraft,
17 right? There are no other potential persons, facilities,
18 whatever, that might be impacted by it?

19 MS. DeCARLO: Correct. That was, that was
20 analyzed in the Visual Resources section, the potential for
21 glint and glare's impact ground level. Either persons using
22 I-10 or perhaps hikers in the McCoy Mountains or offroad
23 vehicles. And our consultant after discussing the potential
24 for glint and glare with Dr. Ho concluded that there is
25 little potential for there to be a significant impact

1 resulting from glint and glare in the project. And we have
2 some conditions of certification that address the potential.

3 HEARING OFFICER RENAUD: Okay, thank you.

4 ADVISOR ALLEN: How would you characterize the
5 level of aviation activity at the Blythe Airport compared to
6 other airports in the region? I think that there's one in
7 Nevada or Arizona called Bullhead/Laughlin. So how would
8 you compare?

9 MR. JOHNSON: There are -- we did a bit of an
10 analysis of that in our report. I would characterize --
11 well, Blythe Airport is a general aviation airport, meaning
12 it does not serve commercial aviation. It's primarily
13 private aviation business and private recreational pilots.

14 The Laughlin/Bullhead City Airport is a commercial
15 service airport as is Yuma Airport further to the south. As
16 we go -- I would characterize -- by the standards of the
17 desert region in which Blythe is located it's a fairly
18 significant general aviation airport. It has a service area
19 -- if you estimate a service area and that service area lies
20 with the Thermal Airport on the west with -- Blythe would
21 not encroach into that area. Phoenix on the east and Blythe
22 would certainly not encroach into the -- anywhere near the
23 Phoenix area.

24 There is still a population within the Blythe
25 capture area of perhaps 18,000 to 20,000 people or so. And

1 Blythe's operation level at about 25,000 is, by the
2 standards of the desert airports, you know, it's fairly
3 sizable. Much smaller though than Laughlin/Bullhead, much
4 smaller than Yuma and much smaller than Thermal, it's true.

5 ADVISOR ALLEN: Okay. My other question is on a
6 somewhat different topic. Staff's testimony had a reference
7 to student pilots. Is there any concern that is specific to
8 student pilots that are being trained at the Blythe Airport
9 regarding glint and glare impacts or is this a general
10 aviation safety issue?

11 MR. JOHNSON: In our view the concerns about glare
12 are, apply across the board to all pilots. Clearly pilots
13 with less experience, you know, have less problems. But
14 it's across the board.

15 ADVISOR ALLEN: Thank you.

16 MR. JOHNSON: Did I say pilots with less
17 experience have less problems? I mean pilots with less
18 experience potentially could have a greater problem coping.

19 ADVISOR ALLEN: I understood what you meant.

20 MR. JOHNSON: Okay.

21 MR. GALATI: Mr. Renaud, I don't know if staff's
22 done yet but when staff is I would like to at least
23 summarize for you our perspective and how we came to be
24 where we are. So I don't know if staff's done yet.

25 MS. DeCARLO: I would just like to ask if Dr. Ho

1 or Mr. Walters has anything to add to Mr. Johnson's
2 summarization of the analysis?

3 DR. HO: No, I concur with what Mark said. This
4 is Cliff Ho.

5 MR. WALTERS: This is William Walters. If staff
6 has agreed to conditions to NOTAM I have no further
7 testimony.

8 MS. DeCARLO: Yes, that was the first condition of
9 certification for Trans. I believe the numbering is
10 different, I think it might be TRANS-7. But that included,
11 that requires the applicant to obtain a NOTAM notice as well
12 as a notice in the airport facility's directory for the
13 project.

14 MR. WALTERS: Thank you.

15 MS. DeCARLO: That concludes staff's direct
16 testimony.

17 HEARING OFFICER RENAUD: All right. Yes,
18 Mr. Galati.

19 MR. GALATI: As settlements often occur, there is
20 significant disagreement beforehand. And I didn't want the
21 Committee to lose sight of the fact that this applicant has
22 agreed to these conditions of certification even though they
23 do not agree with the analysis and have filed testimony and
24 brought witnesses here today to be able to litigate some of
25 the summarization and assertions that were just made.

1 We did not believe nor do we believe that the air-
2 cool condenser poses any threat to the airport. Both we do
3 not agree with the model nor do we agree that planes fly
4 over at an altitude where they will feel affected, and we
5 had a pilot test that.

6 We also didn't agree that the glint and glare,
7 while you can see it, would interfere with a pilots ability
8 to land either at Runway 26 or at Runway 17 under all
9 conditions, including a flash.

10 So I just wanted to make sure that the Committee
11 didn't get the impression that the applicant had sited a
12 power plant and had disregarded what we believe to be where
13 we were in relation to the airport or that we would agree to
14 conditions of certification believing we had a risk to that
15 airport.

16 What we have done is we have agreed to the
17 conditions of certifications so that we are not here for
18 several hours putting on mind-numbing testimony on how you
19 model upward movement to plumes and angles of the sun. As
20 well as we believe that staff -- we respect and acknowledge
21 that staff has a concern in this area. But I didn't want
22 the Committee to believe that we didn't spend the last
23 several hours in workshops just working on condition
24 language. We had some serious disagreements.

25 We believe that the condition language we have

1 will reduce glint and glare. We believe that the condition
2 we have will notify pilots if they choose not to fly over
3 the facility. We don't believe they need to. I didn't want
4 to give the impression too that we are further constraining
5 airspace like has happened in other cases in order to site
6 this plant. With that in mind we think the conditions of
7 certification are acceptable to us and we think the
8 conditions of certification will certainly minimize the risk
9 if it were there.

10 HEARING OFFICER RENAUD: Well, that's good. We
11 appreciate that, thank you. I think you have filled us in
12 enough to understand the issues and the resolution.

13 ASSOCIATE MEMBER WEISENMILLER: And again,
14 certainly we appreciate the applicant and the staff's time
15 to work through these issues. We certainly appreciate
16 having this issue settled. We realize that a settlement
17 represents a resolution of differing opinions. And I think
18 we wanted to probe the issue enough to make sure that we
19 were comfortable with stuff. But obviously we are very
20 happy to see the settlement. Again, thank the applicant and
21 the staff for their hard work today.

22 HEARING OFFICER RENAUD: All right, good.
23 Anything to add before we move on?

24 MS. DeCARLO: Just something before we released
25 Dr. Ho and Mr. Walters. I really wanted to extend my thanks

1 to Dr. Ho. He's employed by Sandia Laboratories. He's
2 worked for free for us. Really helped us understand the
3 technical, very technical aspects of glint and glare
4 emanating from these solar arrays and their potential
5 problems. Dr. Ho, on behalf of the Commission I just really
6 want to thank you for your help over these past few months.

7 DR. HO: Thanks Lisa, I appreciate that.

8 MR. GALATI: If I may jump in. Just because we
9 are being recorded and I don't want anyone to say that I
10 will not swallow my own words. But I would like to
11 apologize to Dr. Ho and Mr. Johnson and the staff today
12 because I lost my temper and snapped like a madman. So I'd
13 like to apologize for that as well as to inform the
14 Commission that we accept the conditions as modified by way
15 of offer of proof. We accept those conditions.

16 HEARING OFFICER RENAUD: All right, thank you.
17 Thank you for all that, appreciate that.

18 MS. DeCARLO: So if we could move staff's Traffic
19 and Transportation testimony and Exhibit 215 into the record
20 at this point.

21 HEARING OFFICER RENAUD: Yes. I think we already
22 did.

23 MS. DeCARLO: Okay.

24 HEARING OFFICER RENAUD: But in case we didn't
25 they're admitted.

1 (Staff's Exhibit 215 was admitted
2 into the record.)

3 MR. GALATI: No objection.

4 HEARING OFFICER RENAUD: Okay, good.

5 MS. DeCARLO: Okay, thanks Dr. Ho and Will, you're
6 free to go.

7 DR. HO: All right, thank you very much.

8 MR. WALTERS: Thank you.

9 MS. DeCARLO: And next up we have Cultural
10 Resources and we have Beverly Bastian as our staff witness.
11 And we have a document with the heading Palo Verde Solar I
12 LLC Comments to the Revised Staff Assessment Cultural
13 Resources Conditions of Certification. I'd like to mark
14 that as Exhibit 211. And we will provide the Committee with
15 a cleaned up version of this. Just a lot of changes at the
16 last minute.

17 (Staff's Exhibit 211 was identified
18 for the record.)

19 Whereupon,

20 BEVERLY BASTIAN

21 Was duly sworn.

22 THE REPORTER: Please state and spell your name
23 for the record.

24 MS. BASTIAN: I am Beverly Bastian, B-E-V-E-R-L-Y,
25 B-A-S-T-I-A-N, with the Energy Commission.

1 THE REPORTER: Thank you so much.

2 DIRECT EXAMINATION

3 BY MS. De CARLO:

4 Q Ms. Bastian, did you prepare the testimony
5 entitled Cultural Resources in the Revised Staff Assessment,
6 Part 2, Exhibit 203?

7 A I did.

8 Q And was a statement of your qualifications
9 attached to this testimony?

10 A Yes.

11 Q And did you also prepare Exhibit 211, which
12 contains Cultural Resources Conditions of Certification 1
13 through 19?

14 A Yes I did.

15 Q And do the opinions contained in the testimony you
16 are sponsoring today represent your best professional
17 judgment?

18 A Yes they do.

19 Q Can you please briefly summarize your analysis and
20 the mitigation you are proposing.

21 A Yes. For the Blythe project the applicant's
22 consultants identified 201 archaeological sites within the
23 proposed project boundaries, one -- excuse me, and three
24 built environment resources, though not within the plant
25 boundaries within one mile or so. And potentially at that

1 distance subject to impacts to their integrity of setting
2 from the project.

3 Staff in its subsequent analysis identified one
4 prehistoric archaeological district. We've called it the
5 prehistoric quarries archeological district. And it
6 consists of two areas that are identified, previously
7 identified as tool stone quarries, what the applicant's
8 consultant called thermal cobble features. But for your
9 purposes would be considered -- think of them as kind of
10 conglomerations of rock that show the effects of fire. In
11 other words some sort of gathering of rocks and activity
12 associated with perhaps food preparation, perhaps other uses
13 where they applied fire.

14 Staff additionally identified two cultural
15 landscapes and these are, in fact, recognized as going
16 across the entire region of the Palo Verde Mesa and the
17 Chuckwalla Valley. And in the process of this analysis and
18 others, the one for Palen and the one for Genesis, these two
19 cultural landscapes were recognized as potentially impacted
20 by all of these projects.

21 One of these cultural landscapes is -- we've
22 called the Prehistoric Trails Network Cultural Landscape.
23 It consists of known trails and known and presumed other
24 resources that the trails were connected, used by Native
25 Americans over a considerable period of time. They would

1 have gone to things like petroglyph sites, resource areas
2 such as the quarry sites that I mentioned areas where there
3 may have been food. And certainly the water sources would
4 have been crucial aspects of this network.

5 The historic period cultural landscape that we
6 recognized is limited just to the activities that were
7 associated with the use of the entire region by the US Army
8 early in World War II for the training of soldiers who were
9 anticipated to go into the invasion in North Africa. So
10 there's an association with what was called the Desert
11 Training and General George S. Patton.

12 The staff's analysis then determined that of the
13 projects that, these projects that -- excuse me. The
14 resources of the project would possibly impact directly.
15 There were 151 archaeological sites that the staff -- had
16 previously been defined as eligible or that staff identified
17 as eligible for the California Register. And these
18 consisted of 133 historic period sites, all of them
19 associated with the Desert Training Center cultural
20 landscape, 18 prehistoric sites, individual prehistoric
21 sites that were identified with the Prehistoric Trails
22 Network cultural landscape, and one prehistoric
23 archaeological district of the quarries district that I had
24 described earlier. And itself probably eligible
25 individually but also recognized as a contributor to the

1 Prehistoric Trails Network cultural landscape.

2 Of the three built environment resources only one
3 was potentially eligible on the recommendation of the
4 applicant's consultant. But staff interpreted the project's
5 potential impact to that resource as not significant.

6 With respect to the two cultural landscapes staff
7 identified, we did determine that the project would have a
8 cumulatively considerable, considering the other projects in
9 the area as well that are proposed or are foreseeable or
10 have already been built, needed then to recommend cumulative
11 -- excuse me, some mitigation for that cumulative impact.

12 So in total staff has recommendation in the
13 conditions of certification for 32 historic sites. Those
14 are all associated with the Desert Training Center cultural
15 landscape. The other eligible historic sites deemed were
16 sufficiently -- the impacts to them were mitigated
17 sufficiently by the recordation that the applicant had
18 already conducted. But 32 of these, staff has recommended
19 additional mitigation in the form of excavation for data
20 recovery. And the 18 individual prehistoric sites,
21 similarly staff is recommending excavation for data
22 recovery. And the prehistoric archeological district,
23 similarly staff is recommending the excavation for data
24 recovery.

25 For the cumulative impacts to the two cultural

1 landscapes staff is recommending a program that sort of is
2 region-wide to document these landscapes and to possibly
3 nominate them to the National Register. The mechanism for
4 doing this, something that the Energy Commission has not
5 undertaken before, is to have each of the projects that is
6 contributing to this cumulative impact contribute to a fund
7 to basically pay for this research and to then have it fed
8 into their individual project mitigations the results or the
9 most important of the results of these studies.

10 Q And in your written testimony you indicated a
11 potential problem resulting from erosion. Have you updated
12 your analysis on that area?

13 A I did. I had provided some mitigation for sites
14 in the quarries district that I thought could be affected by
15 the outflow from the applicant's diffusers in one area. And
16 subsequently I spoke with the Soils and Water people on
17 Energy Commission staff and the information they provided me
18 reassured me this was not going to be a likely impact. And
19 on the basis of that, although I am not really revising
20 testimony, I did revise the conditions basically deleting
21 the need to mitigate the specific sites for which I had had
22 that concern.

23 Q And does that conclude your testimony?

24 A Yes.

25 MS. DeCARLO: The witness is available for cross

1 or any questions.

2 HEARING OFFICER RENAUD: Mr. Galati.

3 MR. GALATI: No cross examination at this time.

4 HEARING OFFICER RENAUD: All right. Any Committee
5 questions?

6 PRESIDING MEMBER DOUGLAS: None.

7 HEARING OFFICER RENAUD: Let's see. I have one or
8 two here. In Exhibit 203 you discussed with CULTURAL-1 and
9 -2 that those would reduce the significance of the project's
10 cumulative impact to the greatest extent possible but the
11 impacts would still be cumulatively considerable. Is that
12 still your opinion?

13 MS. BASTIAN: That's correct.

14 HEARING OFFICER RENAUD: All right. Is there any
15 -- well, I guess by saying to the greatest extent possible
16 you're saying that there isn't anything more that could be
17 done to reduce the cumulative impact to below a level of
18 significance.

19 MS. BASTIAN: That's correct. And the key thing
20 to understand why that's the case is that as -- this is
21 primarily about the impacts to the archaeological resources
22 that are contributors to these cultural landscapes. The
23 archaeological data recovery that is commonly done is not a
24 100 percent portion of what's there. By and large it's a
25 sample and often a very small sample.

1 And when you're talking about a project that may
2 impact 40 acres and a couple of minor sites, even though on
3 a region-wide basis that's -- here and there does not
4 constitute something considerable. But on the scale of
5 these projects and the number of sites involved and in a
6 region where there is conceptually these larger cultural
7 resource types, these cultural landscapes, that residual
8 data, if you will, that is not collected, is not understood.

9 And where indeed when they're gone they're gone. It's not
10 like you can say with Biology, there are some other
11 tortoises somewhere else. These are in some respects unique
12 and when they're gone they're gone. So that's the basis of
13 that determination.

14 HEARING OFFICER RENAUD: Okay. And I have another
15 question. In your testimony you have written the following.

16 I'll just read you the sentence. "The reason these
17 cumulative impacts cannot be mitigated to a less-than
18 significant level is because these resources will be changed
19 permanently." Are they changed permanently because they
20 will be recovered as opposed to being left where they are?

21 MS. BASTIAN: They will be changed permanently
22 because they will be destroyed. The archeological resources
23 will be destroyed.

24 HEARING OFFICER RENAUD: In the process of
25 destruction though won't some knowledge be gained about the

1 resource, the data recovery?

2 MS. BASTIAN: Yes, but again, the consideration is
3 it's a small sample of the data and doubtless -- this is not
4 something terribly quantifiable. But on a larger, in a
5 larger sense there is some redundancy from one site to the
6 next but on the other hand there are aspects of each site
7 that are unique. And if it does not happen that the sample
8 taken indeed represents that or accesses it then we have to
9 think there will be a permanent loss of information that is,
10 again, cumulatively problematic.

11 HEARING OFFICER RENAUD: Okay, I think I
12 understand. And on the geoglyphs. I notice there is a
13 discussion of the -- let's see if I can get these names
14 right. Two of them, the Kokopelli and Cicimiti geoglyphs
15 were determined to be --

16 MS. BASTIAN: Yes.

17 HEARING OFFICER RENAUD: -- not old enough to be
18 eligible.

19 MS. BASTIAN: That's correct.

20 HEARING OFFICER RENAUD: Are there any on the site
21 or in the area affected by the project that were determined
22 to be eligible?

23 MS. BASTIAN: No geoglyphs.

24 HEARING OFFICER RENAUD: All right, good. I think
25 that's all the questions I had.

1 Anything else?

2 All right, thank you.

3 MS. BASTIAN: Thank you.

4 MS. DeCARLO: Have we already moved staff's
5 Cultural Resources testimony into the record?

6 HEARING OFFICER RENAUD: Well, if you didn't I
7 will take that as your motion. Is there any objection?

8 MR. GALATI: No objection.

9 HEARING OFFICER RENAUD: All right, it's admitted.
10 (Staff's Exhibit 211 was admitted
11 into the record.)

12 MS. DeCARLO: And our last witness today is Terry
13 O'Brien. And he needs to be sworn.

14 Whereupon,

15 TERRENCE O'BRIEN

16 Was duly sworn.

17 THE REPORTER: Please state and spell your name
18 for the record.

19 MR. O'BRIEN: My name is Terrence O'Brien, T-E,
20 double R, E-N-C-E, O-apostrophe-B-R-I-E-N.

21 DIRECT EXAMINATION

22 BY MS. De CARLO:

23 Q Mr. O'Brien, did you prepare the testimony titled
24 Comments Regarding a Possible Energy Commission Finding of
25 Overriding Considerations in the Supplemental Staff

1 Assessment, Exhibit 202?

2 A Yes.

3 Q And do the opinions within this testimony you are
4 sponsoring represent your best professional judgment?

5 A Yes they do.

6 Q And would this testimony also apply to a potential
7 finding of significant adverse cumulative impact to Cultural
8 Resources?

9 A Yes it would.

10 Q Does that conclude your testimony?

11 A Yes.

12 MS. DeCARLO: The witness is available for
13 questions or cross.

14 HEARING OFFICER RENAUD: Any cross examination?

15 MR. GALATI: While I would really love to take
16 this opportunity to cross Mr. O'Brien I am going to waive
17 cross at this time and just say that with that qualification
18 that the override recommendation would apply to Cultural
19 Resources we agree to the conditions of certification that
20 were just admitted.

21 HEARING OFFICER RENAUD: Just glancing at your
22 comments, which I did read a long time ago but a lot has
23 been read since, right at the beginning you mentioned that
24 staff identified unmitigable impacts in Land Use and Visual
25 Resources. Do you intend by that to limit your

1 recommendation to those two areas?

2 MR. O'BRIEN: No, I believe that Ms. DeCarlo asked
3 me if Cultural Resources would be included in that and I
4 responded in the affirmative.

5 HEARING OFFICER RENAUD: Would it apply to any
6 other topic areas as to which the Committee might recommend
7 a finding of unmitigable impacts?

8 MR. O'BRIEN: You mean if the Committee reached a
9 conclusion that was different from staff in terms of the
10 significance of the resources?

11 HEARING OFFICER RENAUD: Just hypothetically?

12 MR. O'BRIEN: Yes, I don't believe that that would
13 change the recommendation I have, given, you know, the
14 opinions of staff in those other technical areas.

15 HEARING OFFICER RENAUD: Good. That's good to
16 know, thank you.

17 No further questions, thank you.

18 MS. DeCARLO: And could we move that testimony
19 into the record? I don't know if -- it wasn't one of the
20 itemized subject areas that we had previously moved by
21 declaration.

22 HEARING OFFICER RENAUD: It is Exhibit 202 though.

23 MS. DeCARLO: Yes.

24 HEARING OFFICER RENAUD: That's been admitted.

25 MS. DeCARLO: Okay.

1 HEARING OFFICER RENAUD: All right. What else?

2 MR. GALATI: You know, I'd like to give an
3 opportunity for Ms. Harron to address the Committee. I
4 think we're done taking evidence?

5 MS. DeCARLO: Yes.

6 HEARING OFFICER RENAUD: Please.

7 ASSOCIATE MEMBER WEISENMILLER: With the exception
8 of potentially a declaration or evidence on the Phase 2
9 study.

10 MR. GALATI: That's correct. And I think what we
11 had decided was to leave the record open and keep our
12 fingers crossed.

13 MS. DeCARLO: Yes. And staff will submit their
14 testimony by declaration as soon as we can get hold of the
15 Phase 2 and conclude our testimony.

16 ASSOCIATE MEMBER WEISENMILLER: I was going to
17 encourage you to call the CAISO this afternoon.

18 MR. GALATI: Okay.

19 ASSOCIATE MEMBER WEISENMILLER: Thank you.

20 MR. GALATI: Thanks.

21 MS. HARRON: I'm Alice Harron, senior director of
22 development. I do appreciate the Committee's time to let me
23 make a statement, I think this is somewhat unusual. But
24 it's unusual circumstances.

25 I want to say that, for the record, Palo Verde

1 Solar I and its affiliate, Solar Millennium, lost Ray
2 Dracker, our senior vice president of engineering on June
3 25th. I wanted to say that Ray was here from the beginning.

4 It really saddens us that he is not here at the cusp of
5 seeing the Blythe Solar Power Plant come to fruition.

6 He was a nuclear engineer by training but he was
7 one of the visionaries of bringing large-scale utility solar
8 projects to California. He was the backbone of the design,
9 development, transmission, and as he said, well, everything,
10 to get this and our other projects designed, developed and
11 permitted.

12 As our CEO has said, this solar power plant will
13 be dedicated to Ray Dracker. Hopefully assuming the
14 regulatory process continues to pace both here and at the
15 BLM, we have invited his wife and his three children to the
16 dedication ceremony.

17 HEARING OFFICER RENAUD: Very good, thank you.

18 MR. GALATI: Thank you. We have nothing else to
19 add.

20 HEARING OFFICER RENAUD: All right, thank you.

21 Anything else from the staff? No, all right.

22 I am going to ask if there is anyone who like to
23 make a public comment at this time.

24 Is there anyone on the phone who would like to
25 make a comment, address us here?

1 No? Okay, hearing none I believe we're --

2 MR. LANZ: Maybe a very quick one?

3 HEARING OFFICER RENAUD: I'm sorry, hello. Who is
4 that?

5 MR. LANZ: Can I make a very quick comment, public
6 comment?

7 HEARING OFFICER RENAUD: Yes.

8 MR. LANZ: Let me say that from a very far
9 distance I have been following all your work.

10 HEARING OFFICER RENAUD: Give us your name. Give
11 us your name, please.

12 MR. LANZ: My name is Konrad Lanz from Austria and
13 I'm following this from a very far distance. And I'm
14 impressed with all your work. Let me just say that, thank
15 you.

16 HEARING OFFICER RENAUD: Sir, if you're still
17 there could you just spell your name for us so we can get
18 you into the record.

19 Maybe he dropped out, lost the signal.

20 All right, is there anyone else on the phone --

21 MR. LANZ: Can you hear me again?

22 HEARING OFFICER RENAUD: -- who would like to make
23 a comment?

24 MR. LANZ: Can you hear me again?

25 HEARING OFFICER RENAUD: Yes. Could you spell

1 your name for us.

2 MR. LANZ: Okay. It's K-O-N-R-A-D.

3 HEARING OFFICER RENAUD: Yes.

4 MR. LANZ: And then space and Lanz, L-A-N-Z.

5 HEARING OFFICER RENAUD: All right.

6 MR. LANZ: Okay. And I just want to say I'm
7 impressed with all your work you're doing and I think that's
8 the right thing for this planet. Bye-bye.

9 HEARING OFFICER RENAUD: Okay, thank you very much
10 for phoning in.

11 Anyone else on the phone who would like to make a
12 comment?

13 All right, thank you. Do the parties have any
14 objection to the record, the evidentiary record being closed
15 at this time, subject to TSE evidence coming in?

16 MR. GALATI: No objection other than we are still
17 working on BIO-21.

18 HEARING OFFICER RENAUD: Yes. And that, we can
19 close the record but still take that in, either by reopening
20 or as an errata, so I'm not concerned about that.

21 MS. DeCARLO: Or we could just leave it open
22 subject to a stipulated submittal.

23 HEARING OFFICER RENAUD: That's fine. Since it's
24 just you two I don't really have a concern about whether or
25 not we close the record but at some point we need to.

1 MR. GALATI: Yeah, whatever the Committee's
2 pleasure is. I would recommend I see no need for briefs at
3 this stage.

4 MS. DeCARLO: No.

5 HEARING OFFICER RENAUD: Thanks for bringing that
6 up. Okay. I don't either, honestly. If I did I would
7 certainly tell you. All right.

8 So I think we'll deem the record closed subject to
9 the admission of evidence on the study, Phase 2 study, and
10 your efforts on BIO-21. And we'll address how to get those
11 into the record when the need arises. All right? Thank you
12 very much.

13 MS. DeCARLO: Okay, thank you.

14 HEARING OFFICER RENAUD: Any concluding comments?

15 PRESIDING MEMBER DOUGLAS: Very briefly. You've
16 had a long day, two long days in a row. I'd like to thank
17 both staff and applicant for really working hard these two
18 days. And not only that but for the months over which
19 you've been working on this process and this project.

20 I am very, very pleased to see how far we have
21 come and to see that you were able to work out most if not
22 all of the outstanding issues. The Committee is committed
23 to moving forward as rapidly as we can to take our next step
24 here and to move this process along. So thank you very
25 much.

1 ASSOCIATE MEMBER WEISENMILLER: Again, thanks
2 everyone for the effort on this. I encourage you to go for
3 the perfect game and let's settle that last issue.

4 (Laughter.)

5 ASSOCIATE MEMBER WEISENMILLER: Thanks.

6 HEARING OFFICER RENAUD: All right, thank you.
7 The ball is in our court then. We'll be getting
8 your PMPD out as soon as we can. We're adjourned.

9 (Whereupon, at 3:43 p.m. the
10 Evidentiary Hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary Hearing; 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 outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of July, 2010.

PETER PETTY, CER**D-493

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

RAMONA COTA, CERT**478

July 21, 2010