INFORMATIONAL HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for Certification	)	Docket No.
for the Calico Solar Project	)	08-AFC-13C
Amendment	)	
	)	

HAMPTON INN AND SUITES

JACK RABBIT ROOM

2710 LENWOOD ROAD

BARSTOW, CALIFORNIA

WEDNESDAY, April 20, 2011

3:06 P.M.

Reported and by:
Martha L. Nelson, CERT

APPEARANCES

COMMITTEE MEMBERS

Karen Douglas, Commissioner and Presiding Member

HEARING OFFICER AND ADVISORS

Kourtney Vaccaro, Hearing Officer

Galen Lemei, Advisor to Commissioner Douglas

Eileen Allen, Advisor to Commissioner Weisenmiller

STAFF, CONSULTANTS AND STAFF WITNESSES

Kerry Willis

Craig Hoffman

Stephen Adams

Lynn Sadler

Jared Babula

APPLICANT

Daniel O’Shea

Ella Foley Gannon

Ralph Grutsch

Corinne Lytle Bonine

Bob Therkelsen

APPEARANCES (Continued)

PUBLIC SPEAKERS:

Becky Jones

Bart Brizze

Wayne Weierbach

Robert Seeley

Patrick Jackson

Kevin Emmerick

Tanya Gulesserian

Travis Ritchie

Tom Diaz

Anthony Dominguez

Cynthia Burch

George Linkletter

David Krause

John Coffey

Ted Stimpfel

PROCEEDINGS

3:06 P.M.

COMMISSIONER DOUGLAS: Welcome to the informational hearing for the Calico Solar Project. I am Commissioner Karen Douglas. To my right is my advisor, Galen Lemei. To my left, immediate left, is Kourtney Vaccaro, our hearing officer. And to my far left is Eileen Allen, advisor to Chairman Weisenmiller.

I'd like to ask right now if there are any representatives of state or federal or local agencies here today, if you could identify yourselves. If there are representatives of local or state or federal agencies here today, could you identify yourselves for the record please?

MS. JONES: This is Becky Jones with the California Department of Fish and Game.

COMMISSIONER DOUGLAS: Thank you. Anyone else?

MR. BRIZZE: Bart Brizze from the County of San Bernardino, County Counsel's Office.

COMMISSIONER DOUGLAS: I'm sorry. I don't think we caught your name.

MR. BRIZZE: Bart Brizze, B-r-i-z-z-e --

COMMISSIONER DOUGLAS: Thank you.

MR. BRIZZE: -- with --

COMMISSIONER DOUGLAS: Thank you for calling in. Anybody else from state, federal or local

agencies?

MR. BABULA: This is Jared Babula from the California Energy Commission.

COMMISSIONER DOUGLAS: Thank you, Jared.

Is there anybody in the room? Could you come forward, if you don't mind?

MR. WEIERBACH: Wayne Weierbach from the Newberry Community Services District and the Newberry Springs Fire Department.

COMMISSIONER DOUGLAS: Thank you. Anybody else in the room or on the phone? All right.

Are there any representatives or are there any elected officials here today in the room or on the phone? If you wouldn't mind identifying yourself, we'd appreciate that.

MR. SEELEY: I'm Robert Seeley. I'm a director of the Community Services District in Newberry Springs.

COMMISSIONER DOUGLAS: Thank you. Thanks for being here.

Anybody else? Any other elected officials here today? All right.

I'd like to introduce our Assistant Public Advisor, Lynn Sadler. Lynn, if you could raise your hand. She's in the back of the room. Lynn will give a presentation shortly about the Energy Commission process and

about how the public can take part in this process and those options for the public to take part in this process, in a couple of minutes.

I wanted to ask at this point whether -- if individuals or representatives of entities that have filed a petition to intervene in this proceeding, if -- if you would -- wouldn't mind coming forward and just introducing yourselves for the record.

MR. JACKSON: My name is Patrick Jackson. I was an intervener, and I just petitioned to intervene again.

COMMISSIONER DOUGLAS: Thank you.

MR. EMMERICK: Hi. It's Kevin Emmerick, and also Laura Cunningham. We're with the Basin and Range Watch. We intervened originally, and we petitioned to intervene again, as well.

COMMISSIONER DOUGLAS: Thank you.

MS. GULESSERIAN: Good afternoon. This is Tanya Gulesserian of Adams, Broadwell, Joseph and Cardozo. We intervened on behalf of California Unions for Reliable Energy.

COMMISSIONER DOUGLAS: Thank you. Anybody else?

MR. RITCHIE: Commissioner Douglas, this is Travis Ritchie on the telephone with Sierra Club.

COMMISSIONER DOUGLAS: Great. Thank you.

MR. WEIERBACH: Wayne Weierbach, Newberry

Community Services District. We petitioned to intervene. We were an intervener in the previous proceedings.

COMMISSIONER DOUGLAS: Okay. Anybody else? Very well. And, of course, we'll talk more about intervening in this proceeding. We intend to act expeditiously on the petitions that we've received.

At this point let me ask parties to identify themselves, beginning with the applicant.

MR. O'SHEA: I'm Dan O'Shea, a vice president with Calico Solar, LLC. I'm the program manager.

MS. FOLEY GANNON: Ella Foley Gannon, counsel to the applicant.

MR. GRUTSCH: I'm Ralph Grutsch, the director of operations for the applicant.

MS. LYTLE BONINE: I'm Corinne Lytle Bonine with URS Corporation, consultant to the applicant. And I also have some colleagues on the phone.

MR. THERKELSEN: And my name is Bob Therkelsen. I'm a regulatory advisor to the applicant.

COMMISSIONER DOUGLAS: Thank you. And, Staff, if you could identify yourselves.

MS. WILLIS: I'm Kerry Willis, senior staff counsel.

MR. HOFFMAN: Craig Hoffman. I'm the project manager for the Calico Project for the Energy Commission.

MR. ADAMS: Steve Adams, staff counsel as well.

COMMISSIONER DOUGLAS: Thank you. At this point I'd like to ask Ms. Vaccaro to provide introductory statements.

HEARING OFFICER VACCARO: Thank you. Again, thank you all for your patience in waiting for this proceeding to begin at three o'clock. I think some of you proceeded out to the site with us at 11 o'clock. Buses left this venue and went out to the site of the approved Calico Solar Project.

The reason we're here today, however, is to hear from the applicant and to hear from Energy Commission staff about a recent petition to amend that was filed by the applicant to modify the approved project. In December 2010 the full commission considered the presiding members proposed decision and approved the Calico Project.

Today what you have before you is one of a two-member committee that will be considering and evaluating through this process that begins today. This is the first of a series of public events where we're going to hear more about the project. The public will be invited to participate by way of comment. The public may also participate, as Ms. Sadler will explain later, by way of intervening. We'll hear from staff and understand what the process is. And there will be several technical documents

that will be published throughout this process.

This two-person committee will ultimately reach a decision. That decision will be submitted to the full commission for consideration.

Everything that we do -- and actually, you know, I have some slides that should be following along with me, but we're still stuck on the very first slide. So if you can maybe move me forward one. Okay. That's good. Thank you.

So what we're going to do today is we're going to get some information that's going to ultimately move us forward in this process. One of the things that will be an outcome of today's proceedings, and we'll discuss this again at the end of the proceedings, is a scheduling order from this committee explaining what the proposed timeline will be in this process. But first we'll hear from staff on that. We'll also hear from the applicant. Members of the public can give their input, as well.

The committee will take all of this into consideration and will fashion an order that describes not only the timeline of what you can expect from this day forward, but also important milestones in the process to allow everybody to gage the progress of the evaluation of this proceeding.

The order of presentation today will be me just giving you some introductory remarks. We'll next hear from

Lynn Sadler at the Public Advisor's Office. We'll hear from the applicant who will more fully explain to us what the differences are between the project that's been approved and what it is that they're proposing in the petition to amend. And then we'll hear from Energy Commission staff advising us of what the process is from staff's perspective and a proposed timeline, as well as issues that staff has already identified that require further evaluation.

Would you go the next slide? Thank you. I think we'll go ahead and skip this one since this is pretty much the beginning of what I said.

I think the next important thing to understand -- and we didn't have an opportunity to fully flesh this out before we got on the buses, but I think some of you might have noticed that Energy Commission staff, the commissioner and the advisors and myself kept some distance from the other parties and the other members on the bus, as well as we've been sort of walking around this hotel room.

And part of the reason for that is enforcing what's called the ex parte rule. What that is a very technical rule simply stated means the committee and the commission should only be deciding this matter based on the evidence that's in the record. That means that there is no one individual, whether it's a member of the public, someone on behalf of the applicant, or even someone on behalf of

staff who should be speaking to any member of the committee or myself or the advisors about the merits of this project. All discussions in that -- in that sanction happen publicly. There should be letters, comments, emails that are docketed with the Energy Commission and made publicly available to everyone.

So what the ex parte rule means is we can answer your scheduling questions, we can answer procedural questions, but we may not engage with you and we'll politely ask you to refrain from engaging with us on anything that has to do with the merits of the project.

And example of that would be please don't come to us and say I think this is a great project, you should approve it, or please conversely don't come to us and say I think this is a very bad project, you shouldn't even consider it. Those are comments that you are certainly welcome to make. We encourage you to make whatever comments you would like. We do ask, though, that you do it in the appropriate forum and do it by the appropriate manner.

I think with that I'm going to turn this over to Lynn Sadler.

But those of you who are here and want to speak, we will have an opportunity for you at the end of today's presentations to come up to the podium and speak to the committee and let us understand what it is that your

thoughts are presently about the project and what it is that you'd like to learn in this process.

Ms. Sadler?

MS. SADLER: I'm Lynn Sadler. I'm the assistant public advisor. The public advisor is Jennifer Jennings. And our office is tasked with helping the public understand and move through this particular process. So the public advisor is an independently appointed attorney and can't -- can not represent you as an attorney but can advise you and help you with some of the more complicated aspects of this process.

Prior to this -- the beginning of this hearing we noticed the public through a number of different ways, as did other staff and applicant. So that the attempt is to make as many people as possible aware of this process and make it possible for people to participate if they would like to.

So there's two ways that the public can participate. The first one is the easiest, and that is informal -- excuse me. I'm having trouble looking to the side and not stepping on the speaker.

The first is informally which is with comments that you can make at this particular hearing, for example. We ask that you fill out a blue card, it looks like this, hand it to me, and I will give it to the hearing officer,

and she will call on you during the public comment portion of this proceeding. And you can also send written comments. And if you want you can give those to me and I will see that they are submitted, or you can submit them through the website, whichever works best for you, or you can -- you can email them or mail them, however that works best for you.

The -- the things that you should know about the informal participation or public comments is that they are considered by the commissioners and they are part of the record. However, they are not considered evidence and they can not be the sole basis of a decision.

If you would like what you present to reach that level then you would want to participate in a more formal way, which is called intervening. And anyone may file a petition to intervene in any commission proceeding. Then, as Ms. Vaccaro said, it is considered by the committee and, if approved, you become a party to this proceeding. And that means as an intervener you have the same rights and responsibilities as any other party in this proceeding, and the other parties are the applicant and staff.

You don’t have to be an attorney to intervene, and you don’t have to be represented by an attorney to intervene. It might make it a little easier for you, but that’s what the public advisor is here to do, to help you through that on some of the -- the more complicated parts of

that.

We would note that if you want to intervene you want to do that as early in the process as possible, and obviously before the deadline that will be presented for that.

So I would encourage all of you to sign up to receive notice of upcoming events. And many of you signed up back there. Many of you are on the list serve. And you may also attend any publicly noticed events. And that means that if you get a notice that it's a public even you can come to it either I person, by WebEx or by conference call.

If you do not speak English and you need an interpreter please let us know. And if you need accommodations for disabilities please let us know and we will work to accommodate you so that you can fully participate.

But the most important thing I think -- this can be a little bit confusing -- the most important thing to know is that is the website that's there. It's www.energy.ca.gov. And as you look down the page you will see a blue tab across that says "Information." And then there's one that talks about "Power Plants Under Review." That's the tab you want. And under that you will see "Calico." That's where you want to click. And when you get to that page you will see on the left something that says

"Notices."

When you go there, that tells you what -- you can look there to see what kinds of things are coming up. And you might see that some document is made available. And then right under where it says "Notices" it will say "Documents." You can click on that and find that document and look at it. For example, the -- the transcript from today will be made publicly available, and that's where you can go to find it.

And on the right-hand side of that particular page you will see something that says -- which I can't see from here -- but it basically says sign up here for the list serve. And if you do that you will be notified of any new documents or notices that have come out so that you don't even have to go check the page. You'll just be notified and know to go look. That is, to me, the most -- that's where I go to find out what's going on. It's an excellent resource for you.

And you'll also notice on the left side of that page is something that says "Public Advisor's Office." And you can click there to see a page that tells you how to get a hold of us. There is a toll free number that you can call, or you can call us directly, or you can email us, or you can snail mail us, and we will get back to you as soon as we get the information. And -- but also on that website

are things like the *Guide to Public Participation*, and other kinds of guidebooks that might be useful to you.

So we encourage you to use our office. That's what it's for. And we thank you for participating.

HEARING OFFICER VACCARO: Thank you. At this point we'd like to hear from the applicant. If you can make your presentation.

But before you do I do have an admonition for those of you who are listening in on the phone through WebEx. It's very important that you not put us on hold, if for whatever reason you need to leave your phone. What we'd prefer that you do, please, is hit the mute button. And, indeed, that's a good course of conduct throughout this proceeding anyhow. Otherwise we can hear all of your background noise and side conversations. But once you put the hold button on that causes problems with us in terms of the use of our technology. So again, if you could please use your mute button and please do not use your hold button we would greatly appreciate it.

MR. O'SHEA: Thank you. My name is Dan O'Shea. I'm the vice president of development of Calico Solar. And I'm here to represent Calico Solar in the informational hearing.

MS. SADLER: We're having trouble with the feed. I apologize. Let's move this here.

(Microphone relocated.)

MR. O'SHEA: Okay. Close to me?

MS. SADLER: Yes.

MR. O'SHEA: Is this better? Okay. Irene, could you flip to the first slide, please?

This is the general location map of the Calico Solar site. As you mentioned before, Calico Solar was permitted on December 1st, 2010. The entity was later sold to K Road Power for whom I work, as well. And that happened at the end of December in 2010. And then we filed an amendment with respect to the project on March 22nd, 2011.

Just a brief description of the site, for those of you who were on the bus tour you may remember some of these. There's -- on the eastern edge of the site there's a transmission corridor. You can see it as the dash line there. The southern boundary of the site is I-40. And then there is a railroad line, the BNSF rail line that runs through the middle of the site.

I'm here primarily to provide information on Calico's petition for amendment. Some of the topics I'll be going through today are, first, to provide information on the new owner of the project. I'll describe the modifications to the approved project and the need for the amendment. I'll describe the impacts of the amendment. And I'll discuss our proposed schedule, as well.

First the ownership. As I mentioned before, K Road purchased Calico Solar, LLC. And it's -- Calico Solar, LLC is the project entity. And Calico Solar, LLC still owns the Calico Project. It is the applicant. It remains the applicant. It is the party that is petitioning for the amendment, as well. So nothing has changed with respect to -- to that portion of this project.

This is a little bit about K Road. K Road is an independent power developer. We've got a 25-year history of owning and developing conventional -- conventional and renewable power assets, over 15,000 megawatts of -- of power assets over time. We are currently focused on utility scale solar projects in the southwest United States. And by utility scale, I mean 50 megawatts or more. We're -- we're very excited to have the Calico Project now as part of our portfolio. And we look forward to working with you to -- to make it a reality.

Do you have any -- any questions on K Road that you'd like to hear more about or -- I'll move on.

The project objectives, just as reflected in the original application and the commission decision, as well as in our amendment, our petition for amendment, the project objectives remain the same in this case. Some of them are to be constructed at 663.5 megawatt solar project and to support the California RPS mandate, and contribute to the 33

percent renewable goal. But the point here is the project objectives have remained the same. The project is changing but the objectives are the same. Okay.

The next slide please. This is -- this is a map of the approved project or the layout of the approved project. It may be difficult to see, but I'll point out some of the features here.

This is the main services complex in the approved project. Right next to it in this not-a-part area is the water source. There's also a substation here. The approved project was proposed to be done in phases. Phase one north of the railroad, and phase two which was primarily south of the railroad, with a couple of spots north of the railroad as well.

This is the modified project. And as you'll see, many aspects of the modified project are exactly the same as they are in the -- in the approved project. For instance, the size of the project, the acreage is exactly the same. The boundaries of the footprint is -- is the same. We still intend to produce 663.5 megawatts of electricity. The interconnection point will be the same. There's the same main access road point and same water source. And finally, the permanent ground disturbance will be the same, just to point out a few features of modified project.

Let's see, the -- the project -- the modified

project is going to be phased differently, and so there's -- there's two phases as well. But the first phase is going to be built south of the railroad, and that necessitates moving some of the main project features, like the -- the main services complex is no longer north of the railroad, it's right here, south of the railroad. The substation is now south of the railroad down here, and it's adjacent to the existing Pisgah Substation, which makes the transmission line a lot shorter there. Here's the main access road. That remains the same. The water source, still right there, remains the same, although the water line now goes south underneath the railroad tracks into the main services complex.

One other difference here is this access to parcel -- the parcel out in section eight here. The original project contemplated access along the BNSF right of way right here. And we have learned that that's no longer a possibility. So what we are doing, and we're in the process of -- of analyzing this, is to have the -- the access road across this private land here. There's an existing road there and we can access section eight along this existing road, via this existing road.

The changes here, let me say -- and then the phase two will be all north of the railroad. And phase two will -- will consist of SunCatchers in this area, and then

PV throughout the rest of the entire site.

MS. SADLER: One second. We have a small technical issue with the -- the mike. So give us a second and we'll get that checked out.

HEARING OFFICER VACCARO: Why don't we go off the record for just a moment, until that issue is resolved. Thank you.

(Off the Record From 3:32 P.M., Until 3:33 P.M.)

HEARING OFFICER VACCARO: Okay. Back on the record please. Thank you.

MR. O'SHEA: Okay. And let me -- let me go back to the modified project slide for a minute, or finish up here. The -- the project changes here are really necessitated by -- by two issues. The first was an access issue. And access over the BNSF railroad tracks to the north parcel has -- we haven't -- we haven't been able to agree access yet. And we are working with BNSF to -- to come to a resolution on access to the north side of the parcel. So that's why we decided to phase on the -- phase one on the south side first, and phase two on the north side after that.

The second change, the second major change to the modified project is the addition of PV technology. And the first phase all down here would be 275 megawatts of PV technology. The second phase of the project up here is a

mix of PV technology, photovoltaic technology in its SunCatchers. And you can see this block right here, this orange block represents the SunCatchers, and that's a 100.5 megawatts of SunCatcher technology.

And we tried to site this to -- to do two things, to minimize glint and glare effects with respect to the railroad in particular, and secondly to -- to ameliorate edge effects, as well, from noise associated with the SunCatchers. So that's why they weren't -- this wasn't pushed up into one corner. We wanted to -- to try to mitigate some of those potential effects. Okay.

I think we can go to the next slide. Can we go to the next slide, Irene, do you think?

HEARING OFFICER VACCARO: We'll go off the record.

(Off the Record From 3:32 P.M., Until 3:33 P.M.)

HEARING OFFICER VACCARO: Back on the record. Thank you.

MR. O'SHEA: Now we'll talk a little bit about the technology that we're proposing for the site.

On the upper right part of the slide here is a photograph of the SunCatcher technology. It's a parabolic dish technology. And just to give you some idea of scale, the -- the dishes are 38 feet in diameter and about 2 feet off the ground, so that's about a 40-foot span there for the dish.

We're also contemplating using photovoltaic technology here, PV panels, PV modules. And in contrast to the height of the SunCatcher, PV panels themselves are about six to six-and-a-half feet long. And they're usually around three feet off the ground. And -- and so this top edge of a PV panels would be somewhere in the average of nine-foot range, eight- to nine-foot range off the ground.

A little bit more on the technology, and this is -- this is how they're laid out, you'll notice that both PV technology and the SunCatcher technology, they're -- they're -- they're modular technologies. They're arranged in rows on a grid throughout the plant. And they're -- they're also similar in the way that you -- you place your -- your access points with each of them.

There are access roads between every other row, alternating rows of the PV modules. And it's the same with the SunCatchers, it's every other row. So it will -- it will be an alternating access road or access point and then undisturbed ground, and then another access road. So that allows you to reach either side and be able to service or wash or whatever it is, either the PV technology or the SunCatcher technology.

Here's a simple slide on -- on the PV technology. Photovoltaic technology is -- it's -- it's proven. It's commercially available. It's a well-established technology,

which is one of the things that -- that draws us to it. We think it's -- it's ready for installation on the site. And I order to -- to move quickly and gain the benefits associated with this project we think we -- we needed that sort of technology in -- in our mix of technologies.

The SunCatcher is a bit of a newer technology. It's, as I discussed before, it's a parabolic dish technology. It's -- it's a mirror dish that focuses the sun's rays on a power conversion unit to produce electricity.

This is a slide about installation of -- of PV. Photovoltaic modules are installed by mounting them on -- on poles that are hydraulically driven into the ground. It's similar to the SunCatcher technology which we'll talk about in the next slide.

Contrary to some PV projects where you see that the ground has been leveled, that's not going to be the case for our installation of PV on this site. By varying the -- the pole heights, and that's what this slide is intended to show, by varying the heights of the poles you can still come to the same -- the same end result, having the panels on a level surface. It's just the pole height may -- may vary. So you don't need to -- you can minimize grading, essentially. We will minimize grading on the site by -- by utilizing this method of -- of putting in the PV technology.

The SunCatchers, although this isn't as dramatic a slide as the last one, it's again similar to -- to the PV technology. There's a hydraulically driven pole into the ground that the PV -- or, excuse me, that the SunCatcher is affixed to. And again, that accommodates topography changes. So there's not as much grading as -- as might be involved in other projects.

Does anybody have any questions on technology that we're using on the site?

COMMISSIONER DOUGLAS: I have a quick question. How do you see the PV technology and the SunCatchers working together? Are there -- are there areas where there's integration or are they, you know, modular and it's almost indifferent as to whether it's PV versus SunCatcher actually plugged in there?

MR. O'SHEA: I think -- well, and I'm not an electrical expert. But from what I understand, the -- electrically they'll be integrated at the substation because SunCatchers produce power by use of an engine, and that produces alternating current. So there will be a separate collection system for the SunCatchers, and that will go into the substation and be combined at that point with the power that comes from the PV panels which produce direct current. And that needs to be, again, modified into alternating current with some invertors on the site. And so they --

they really -- there is some independence in the electrical operation of them.

COMMISSIONER DOUGLAS: Okay. Thank you.

MR. O'SHEA: Okay. Project phase; we talked a little bit about this before but I'll give you some more detail on the -- on the phases. So this is the amended project.

Phase one is primarily south of the railroad. And the reason we say primarily south of the railroad is because the water source is north of the railroad. So with respect to phase one the only piece that we need to work on north of the railroad really is the water -- getting the water line down to the main services complex.

But other than that, phase one is -- is similar in a lot of respects to the phase one from the approved project. It includes the main access road. It includes the main services complex. It includes the substation and a transmission line to get to the interconnect point. The water well and the water line. And in our phase one it's 275 megawatts of -- of PV modules.

In phase two, that's all north of the railroad. And we intend to build a bridge over the railroad for access to the north side. There will be 100.5 megawatts of SunCatchers in the intended hydrogen generation required with the respect to the SunCatchers. And there will also be

PV technology of 288 megawatts.

The necessity of the amendment; really two issues drove the need for an amendment in the Calico Solar case. The first was the commercial availability of the SunCatcher. SES, the maker of the SunCatcher system, had been experiencing some -- some difficulties financing -- with their financing of the -- the SunCatcher. And so in order to -- that was our reason for adding a commercially established PV technology. We want to be able to meet the renewable energy demand sooner. That's available. SunCatchers are -- are going to be available in -- in the near future but not right away. And so that's the first -- first point we'd make here for the necessity of amendment.

The second is the access point we've talked about. We haven't been able to agree access across the railroad yet to the northern part of the site with BNSF. We're currently in discussions with them. We have been for several months now. And this is the reason for the changing of the phasing that we just talked about. And, well, that -- that should, we think, gain us enough time to come to a resolution with respect to BNSF over our access issues.

The amendment impacts here; we believe we've -- we've designed the project such that it -- the modified project such that it will overall have the same or few impacts on the environment than the approved project did.

And these are some of the -- the areas that we've -- we've done a review of and air quality, biological resources. There's a detailed analysis in the petition for amendment on these resource areas and all resource areas. And -- and we'd -- we'd point people to the petition for amendment for more information with respect to those areas.

There's a visual simulation of the project, the built project. I pointed out a few features to people on the tour today. Well, there's no PV panels out at the site. You may recognize Route 66 here in the foreground. We're looking toward the north and a little bit east here. And let's see, this is I-40 right here, a major highway right in front of the site.

You can see some long white structures here. These are the SunCatcher assembly buildings. Those are temporary structures for the assembly of the SunCatchers. And once the -- all the SunCatchers on the site are assembled those buildings would be dismantled.

The main services complex is right -- also right next to the SunCatcher assembly buildings. This would all be phase one, PV technology here. This, and it's difficult to see on this slide, but there is a bridge, our representation of a bridge that crosses the BNSF tracks to get to phase two, the north side of the site. And then there would be PV technology. And -- and back here there

would be SunCatcher technology.

There's another visual simulation. This is from the side of I-40, and it's looking north. And what you see here is just a representation of the rows of PV modules.

And the -- the benefits of the modified project; these -- these benefits are the very same benefits that are set forth in the CEC decision of December 1st. The benefits from the -- the modified project are the same. We're producing the same amount of renewable power, and we're contributing to the RPS goals, for instance, which have recently changed. They've changed since the decision and now there's a 33 percent renewable goal in California. We're diversifying the energy supply, etcetera. But the -- the -- none of the benefits from the -- the decision have been reduced or eliminated with the -- the amended project.

Our proposed schedule; we have filed a petition to amend. We did that in March. We hoped in the third quarter to have the amendment approved. The DT clearance surveys and translocation are really the critical path item for us. And our primary goal is to get into construction in 2011. And -- and we think that -- that, you know, along with a goal of the amendment, being able to meet the DT clearance survey and translocation window is very important to us. And -- and we're working with the various state and federal agencies to -- to consider how we -- how we make that

happen.

Thank you for your time. Any -- any questions?

HEARING OFFICER VACCARO: No, we don't have any at this time. Thank you.

MR. O'SHEA: Thank you.

HEARING OFFICER VACCARO: I think this is a good time to hear from staff.

And just to segue into Staff's presentation, before today's proceeding the committee issued a notice that specifically asked Staff to identify in writing what it perceives some of the key issues to be at this point in time. Again, we're very early in the evaluation process. But even based on what's already been filed Staff has sufficient information to flag and identify for the committee, as well as members of the public and the applicant, some of the key areas that are going to involve particular and further evaluation. That's one of the things we're going to be hearing from Staff.

And just as the applicant gave us a sense of time, the committee also asked Staff specifically to address what Staff perceives as the timing for its evaluation of this amendment and how staff perceives this getting presented to the committee, for the committee to then present a decision to the commission.

Mr. Hoffman?

MR. HOFFMAN: All right. Thank you. Again, my name is Craig Hoffman. I'm the compliance project manager on this -- on this project.

Before I get too -- too much further into my PowerPoint presentation I will get all the PowerPoint presentations and get them on the website. I see a lot of people taking notes. And -- and we'll get them on the web so that you have them there and you can just download them instead of trying to -- trying to keep up with notes.

The other thing I wanted to talk about was when this application came in Staff issued a notice of receipt. And there have been some questions about what is the mailing list for that notice. Staff takes the -- the final mailing list from the original Calico Project. That included property owners within 1,000 feet of the project site and 500 feet of the linear features. Any agencies that were originally involved in the project, anyone who asked to be included within any type of mailing list, as well as the proof of service list that was developed, it's -- it's the people who intervened. So we take all those mailing lists, and that is the mailing list that we're operating from right now.

If anyone feels that they aren't being included in any notices or mailings, please see Lynn and get your name added to that. But people haven't been excluded from the --

from the mailing lists. It's everyone from the previous case. And we don't exclude any -- any mailings unless somebody requests to be removed from that mailing list. So I hope maybe that helps clarify who's getting notices at this point in time.

Can we go to the next slide please? The Calico Solar Project amendment is not a new application for the Energy Commission. The commission previously acted on the Calico Solar Project last year. And the applicant has filed this as a petition to amend.

I'm not in the siting unit. I think many of you previously worked with Christopher Meyer who was a part of a division that takes in new applications for certification. Since this application is happening post decision it's in the compliance unit. And as a compliance project we process this as an amendment. And Staff is recommending that this be processed as a major amendment. We filed a request to have a committee put in place for this.

Staff is going to look at this project based upon the difference between the decision that was filed last December and what the proposal is. Staff is not looking to review the project in its entirety as a new project, just based upon the modification of what the project amendment proposal is. We do look to determine that the project is consistent with laws, ordinances, regulations and standards.

We're making sure that it's consistent with the previous commission decision. But again, it's not a new project, unless the -- the committee makes some other type of determinations.

We are the lead agency for completing a CEQA document. And again, Staff is proposing to prepare a staff assessment on this project and any additional documents the comments or questions might require. But you're not going to see a process that's similar to the siting case in which we're analyzing this as a new project.

Next slide please.

HEARING OFFICER VACCARO: Mr. Hoffman, before you continue, for those of you who are joining us on the telephone, you might be just recently joining us or you might have joined from the beginning, again I would ask that you put your phones on mute. We are hearing a fair amount of background noise right now. And if you'd put your phones on mute everyone will be able to hear Mr. Hoffman clearly. Thank you.

MR. HOFFMAN: All right. Again, the application to amend, the petition to amend came in on -- on March 22nd. On March 25th we issued our notice of receipt of that document. Shortly thereafter the siting committee identified that we would be holding this hearing and asked Staff to prepare an issues identification report. The

issues identification report was to inform participants of any potential issues and focus on any important topics that Staff could see as part of that petition to amend.

Potential issue that we saw included ongoing compliance issues, biological resources, soil and water resources, traffic and transportation and visual resources in regard to glint and glare. And then this is a topic that although it does not have it's own heading within the issues identification report, project access north of the railroad tracks has become more of an issue over the last week.

And the next slide please. In regard to ongoing compliance, although this isn't really an issue that affects the amendment process, we just wanted parties to recognize that many of the existing conditions of certification potentially won't change. And due to the applicant's timeframe they do really need to focus on ongoing compliance work and making sure that submittals take place. And so that was more of a heads-up on -- on an issue that affects globally what's going on with the -- the Calico Project.

Next slide please. In regard to biological resources, one of -- several agencies are currently working on the tortoise translocation plan and the biological opinion for the Calico Project in making sure that it's consistent with what was done before, but also recognizing that there may need to be some edits to that as far as where

desert tortoises are translocated. And that is discussed further within the issues identification report, but that is a critical timeframe. And as the applicant had identified, the -- the desert tortoise is -- is a critical issue for this project site.

And next slide please. Within soil and water resources -- soil and water resources resources, it's that important -- we identified that the applicant is currently working on grading and drainage plans. And those -- those plans are a critical timeframe issue. They were not materials that came in with the -- with the application. The applicant is aware of that. And it's a critical path item. Drainage was a critical issue with the previous Calico Project and it remains so, and so the applicant is working on that. And I think that's going to be one of the items that really drives the -- the -- the schedule.

Staff is also concerned about access to the -- to the north, and that's where the existing water well for the project site is.

Next slide please. In regard to the traffic and transportation, and visual resources, it's really the -- the same issue. Again, the applicant is currently working on a glint and glare study. That glint and glare study was not a part of the application. It's something that the applicant is working on right now. And it's a critical timeframe or a

critical time path issue. And Staff is concerned about any impacts to users of the nearby traffic or transportation system, as well as concerns that the railroad also has as far as glint and glare. So that study is -- is looking to -- to move forward. We don’t have that at this point in time.

Next slide please. And again, access, although you don’t see this as a formal topic within the -- within the issues identification report with it’s own subheading. Again, the applicant and -- and the railroad, as -- as you’ve heard earlier, are currently working on access. And the applicant, again, is also proposing to -- to modify access to a site that’s south of -- south of the railroad tracks that will require supplemental information that will come into Staff. It probably is part of the data request set that identifies the road that was previous discussed and is identified on the map.

HEARING OFFICER VACCARO: Mr. Hoffman, I hate to throw you off your rhythm, but since you raised access and you’re speaking of it, again, for the benefit of the members of the public and for the committee who are sort of just now joining the conversation, that is, for lack of better word that Staff and Applicant have been having by way of the filing of the petition to amend your evaluation of that and Staff, as I understand it, has now made further inquiry in

writing of the applicant, if you could please, just for the benefit of everybody else in the room, explain exactly what you're talking about in terms of sort of the -- the access issues.

I think we've heard about water. We've heard about a bridge. And now you're talking about an alternative access route that doesn't involve the railroad. So if you could just explain that just a little bit better so that we all have the same level of understanding that would be greatly appreciated.

MR. HOFFMAN: Okay. In regard to access, again, the applicant has identified that there, potentially at this point in time, are issues with accessing the north side of the railroad tracks. And they've modified the phasing of the project, and that's included in the amendment.

I think when I'm talking about that as a potential issue, that change and what we've heard today is access may not be resolved between the applicant and the railroad track. When I'm talking about access as far as south of the railroad tracks, that is the new proposed access point that the applicant had previously shown. There is a parcel that is off to the west, and there's a proposal for a new access point that wasn't originally included as the -- as part of the approved Calico Project. That will be information that is submitted to Staff, probably with the data requests.

There will be some supplemental information that we currently don't have that includes a review of all the technical sections and technical areas to address what that access may look like.

The third item that I'm talking about access, there was a public health concern that's been raised to staff. Currently we do not have access to go to the north side of the railroad tracks. And it's an issue that Staff has -- has discussed with the -- with the railroad. And Dr. Alvin Greenberg has talked to the person who raised this issue. We're working on it and we hope to resolve it, but right now getting access to north of the railroad tracks is going to be important for Staff to even somewhat proceed with this application. We're going to need to get over -- over there at some point in time. And I think -- I'm trying to think, but I think as far as access goes that's what we're looking at, at this point in time.

When we initially issued the issue ID report I don't think we had an idea that access north of the railroad tracks was as -- as severe as maybe what we thought last week. And that's been raised by BNSF.

HEARING OFFICER VACCARO: Okay. So a few moments ago when you were mentioning that access has become more of an issue in the past week, is that what you were referring to?

MR. HOFFMAN: Yes, I was.

HEARING OFFICER VACCARO: Okay. Thank you.

COMMISSIONER DOUGLAS: I'd just like to follow up quickly. So in the original process review, the original application, was access to the north part of the site an issue?

MR. HOFFMAN: Well, the applicant has modified the phasing because of the issue of access. I think it only became apparent to the Energy Commission staff how much of an issue access as when we were denied access north of the railroad tracks. So I think we're flagging that because it's becoming a little bit more of an issue than we were aware of then. And representatives from BNSF are -- are here to discuss probably this topic area.

COMMISSIONER DOUGLAS: Thank you.

MR. HOFFMAN: And next slide please. And this looks like a blur, but let me try to explain, at least to everyone in the audience, what this looks like. Again, this schedule is attached to the issues identification report. This is online.

The first several topics are items that really have been accomplished already. We've issued an issues identification report. We filed data requests that have been provided to the applicant. And copies of -- of the issues identification report and the data requests went out

to the proof of service list that currently exists now.

The committee asked for some type of schedule that we would propose. And what we've tried to do is not only put a date with that, but more put a day schedule. And if material isn't provided on certain days at least you could get an understanding from Staff from a timing standpoint what we need. And I think it's easier to -- to look at it as far as the day.

On day one the final data requests will be provided to Staff, and some of those are critical timeframes; the glint and glare study, potential -- potentially resolving some of the issues with access, and the hydrology and grading studies that are needed. We'll hold a data response and issue resolution workshop if requested by various parties. We put that in there. We propose to issue our staff assessment on the project around Day 46, holding a staff assessment workshop about 2-and-a-half weeks after that and respond to any comments or issues that have been raised and release a revised staff assessment.

We've also provided some estimates on when the committee may hold other events, including an evidentiary hearing, a recommendation to the commission, and potentially even a commission business meeting.

But again, those are some Staff recommendations.

And -- and again, whether or not information comes in on May 9th, I think that's what the applicant was originally shooting for, I think you could see a schedule that by day can still work.

HEARING OFFICER VACCARO: I think if there's more that staff is planning on presenting, if you want to complete that, then we can revisit the schedule. Because I believe the committee has some follow-up questions for both Staff and the applicant with respect to that proposed schedule. So do you have any more slides or was --

MR. HOFFMAN: That's --

HEARING OFFICER VACCARO: -- was that?

MR. HOFFMAN: That's it. That concludes Staff's presentation.

HEARING OFFICER VACCARO: Okay.

MR. HOFFMAN: And we're here to answer any questions we might be able to.

HEARING OFFICER VACCARO: Okay. Thank you. Then I think that's a perfect segue back to that slide. If we might have that schedule put back up on the screen, that would be helpful.

I think in listening to the applicant and then also just listening to Staff, it seems as thought both Staff and Applicant agree that third quarter 2011, which I think is September 2011 is the target date. Yet I understood

Staff to indicate there were some critical path items that are necessary for Staff to complete its evaluation. So I want to follow up with that in just a moment.

But before that, Applicant, my understanding is that you did file something in response to Staff's issues identification report and schedule. And the document that was submitted indicated that May 9th may not be a realistic deadline for the applicant to either file or all of the submittals. That wasn't clear to me.

So I think maybe we'll start with the applicant. And let's talk about what the outstanding items are and when it is that the applicant expects those documents to be filed. Because if we look at what Staff is saying, that starts Staff's clock in terms of its next step. So think perhaps we should better understand where the applicant is in its efforts to provide the outstanding studies and data responses.

MR. O'SHEA: I think with respect to the outstanding studies -- well, let me start with the data requests. I think we will be able to provide by May 9th the bulk of the data requests. But we think we may not be able to provide on May 9th the full hydrology study or studies that are required, the complete glint and glare study that are -- that is required. And I think there's also -- there was a data request for a confirmation of the water line,

approval of the water line going under the BNSF tracks. And so that may not be -- I don't think that will be available by May 9th.

MS. FOLEY GANNON: Also, none of the items related to the hydrology and to the glint and glare were items that were required under the approved project as compliance items, so that they were items that were being worked on and -- and it was -- you know, that instead you have included performance standards that were required to be met before construction could begin, and we're still obviously committed to doing that. We're trying to get the studies done earlier so that can be information that will inform the staff's analysis. But this is information that was previously required under the approved project.

We're still meeting the same standards, as is the approved project. So the need to actually have all that information by May 9th, we're just not sure that this should be what's holding this study up for the staff.

HEARING OFFICER VACCARO: Okay. And I think, Mr. Hoffman, you will be able to respond to that. Not yet though.

I have one more question for Applicant, and -- and I guess it -- it goes to the resolution of these various access issues. And I think the committee's understanding and my understanding is that, yes, there are ongoing

discussions with BNSF and that there have been ongoing discussions with BNSF for some time now. And while I understand that we will be hearing most likely from BNSF during the public comment portion, I think it's important for the committee to -- to understand what the applicant perceives as when you're going to have a sense of resolution.

Are you getting any closer to that? You have involved yet another agency into your access resolution discussion. And I think, as I understood it, Mr. Hoffman said that is a critical path item, as well.

So I think for us to understand the import of a third quarter 2011 deadline in the face of all of these outstanding issues, perhaps you can discuss that a little further.

MR. O'SHEA: Sure. I mean, we -- we are -- we're hopeful that negotiations will bear fruit in the near future. But we've also taken a parallel path. We are -- we have back in I think September or October of 2010 there was a complaint filed with CPUC. That complaint has been processed. We have a hearing at the CPUC May 16th. So that is something that's -- that is -- that access issue is -- is coming to a head at the CPUC, as well. So we will -- we'll have some additional information on that in the near future. That doesn't meet the May 9th deadline, I know, but it is

something that we would expect one way or another to be resolved by the end of summer, by the end of August.

HEARING OFFICER VACCARO: Okay. Thank you. And, Mr. Hoffman, just to make sure that -- that I'm understanding your schedule correctly, May 9th is a target date, but by providing us a sort of -- well, this would be the middle column basically showing us this is how many days or how many weeks it will take for staff to complete an activity, from Staff's perspective whether you get that May 9th or June 9th you'll still be able to work on the same timeline, not by dates but by the number of days that it will take for Staff to complete its work?

MR. HOFFMAN: That's correct. And I think one of the -- the comments I heard was some information will be coming in later, and that won't stop Staff from working on specific sections. That stops Staff from finishing analysis in regard to soils and water, visual resources, traffic and transportation. But other sections that have all of its information, we'll definitely be working on those sections and finishing them. I just think there's some critical path items on several sections that will make finishing that analysis difficult, if not impossible, until that information is provided.

HEARING OFFICER VACCARO: Okay. Well, I think from the committee's perspective you've -- you've pretty

much answered the questions that -- that the committee has right now. Is there anything else, Applicant, at this point that you would like to say, supplement or follow up on with respect to the schedule or anything else that the committee might need to know with respect to the project moving forward?

MR. O'SHEA: No, thank you.

HEARING OFFICER VACCARO: Okay. Staff?

MR. HOFFMAN: No, thank you.

HEARING OFFICER VACCARO: Okay. So, you know, as I indicated early on, we'll still be having a public comment portion. But there are a couple of topics, I think that the committee might want to explore just a bit further with the parties. The schedule, of course, all of your input is helpful. We already advised the public at the beginning of the proceeding, and this would include the would-be interveners, that their comments with respect to schedule are something that the committee would also like to consider before the committee issues a scheduling order.

I think one of the -- the other topics that the committee was interested in hearing about and will likely invite -- excuse me just one second. I just -- can we go off the record for just a moment?

(Off the Record From 4:14 P.M., Until 4:15 P.M.)

HEARING OFFICER VACCARO: Okay. Let's get back on

the record. I'm sorry. I was laughing at myself because from time to time I do interrupt myself when I've got a few too many thoughts in my head. And that was one of those moments, so thank you for your patience.

There are two topics that the committee is interested in hearing a bit from Applicant and Staff, and later from members of the public on. And then we'll also ask you to brief these two issues. I think the -- the first of the issues is whether or not there might be concern or thoughts that the parties have with respect to the committee's jurisdiction, particularly because this is a project that involved not just the solar thermal component of the SunCatchers, but also because there is a photovoltaic component, as well.

Mr. Hoffman has already indicated that the Energy Commission intends to act as the lead agency for this proceeding, yet the committee is also interested in hearing whatever thoughts or concerns the parties, would-be interveners or public might have on the topic of jurisdiction. What the committee will do is hear from you today, Staff and Applicant, if there's anything that you might want to say on that. But the committee will further address it, flesh it out a little bit more and give you some parameters in the scheduling order, and would also invite briefing by a date certain and responsive briefing by a date

certain.

But this seemed to be a good forum and a good time to at least put the issue out there and to hear if there's something that you might have to say.

So we'll start with Applicant, if there's at all you have to say on that point.

MS. FOLEY GANNON: Sure. I think first off, in looking at this -- that question we need to take into consideration that what we're looking at is an amendment to an existing permit. There would be, I think a slight different conversation. It may be the same result if it was a new project that was coming before you. But we are amending a permit that you issued. So for you to be continuing to be looking at and reviewing the project you were -- you were the lead agency who produced the CEQA document which, you know, the supreme court last week refused to hear petitions to -- to open and reconsider. So we think that it makes absolute sense, both practically and legally, for you to continue in that role.

I agree that I think briefing is probably an appropriate way to flesh out. There are a lot of nuances in the issue about what does it mean to be the lead agency, as well as the approving agency. And I think that that briefing would be an appropriate way to address that. But we do believe that it is entirely appropriate, that you are

the appropriate agency to be looking at what changes should be made to the permit that you have already issued. Thanks.

HEARING OFFICER VACCARO: Thank you. Ms. Willis, is there anything that you wanted to say on this topic?

MS. WILLIS: We don't have any comment today. But we do agree that briefing is a good approach. Thank you.

HEARING OFFICER VACCARO: Okay. Thank you. I think one other area that the committee is interested in -- in hearing from the parties on is as this process moves forward, of course there are going to be a number of documents to be reviewed and to be evaluated. And this is an amendment process, as Mr. Hoffman pointed out. This wasn't a new application for certification of a project. So there are certain areas where the committee is going to be able to exercise its discretion in terms of process and procedure.

One of the topics in that regard is the role of evidentiary hearings in this process. There's certainly a difference, as we all understand, I think, between issues of policy, issues of law and issues of fact. And the evidentiary hearings are really intended to address issues of fact. And people, parties, and would-be interveners would certainly be welcome to suggest why briefing might be required on other legal issues, in addition to the one that the committee has just raised. But specifically on the

topic of issues of fact and the possible need for evidentiary hearings, that is something that the committee is interested in hearing the parties discuss. Perhaps you have thoughts today. Again, that's something that we could invite you to address in writing.

But if you have preliminary thoughts at this time, I think that's something the committee would be interested in hearing.

Applicant?

MS. FOLEY GANNON: Our initial thought on this is after completing the petition to amend and going through each one of the resource areas and looking at this and -- and as Mr. O'Shea went over, and sort of brief, the similarities between the project that was approved that was subject to extensive evidentiary hearings and considerations by the commission is really fundamentally not changed. I mean, there obviously are some areas of change and there may be some areas that -- that -- that it would be appropriate to have additional facts put before you in an evidentiary hearing. But we think that the window of those issues is going to be very, very narrow. And -- and I'm not even sure really what -- what will be required for that. And certainly I think it's an appropriate thing for all the parties to be offering some -- some -- some questions on.

But again, when -- after going through the process

in detail and looking at the analysis that was done previously, all the information that was presented to the commission previously, and there were -- there were a lot of questions that were resolved by the commission, and we really believe that the -- the changes that are happening as a result of this amendment in almost all areas are really not affected by the. The analysis shouldn't be changed at all.

HEARING OFFICER VACCARO: Okay. So just to make sure I understand, so you're leaning right now is that you're not seeing any particular value or need for evidentiary hearings, as you sit here today?

MS. FOLEY GANNON: That's correct.

HEARING OFFICER VACCARO: Okay. Thank you. Ms. Willis, any thoughts on that point?

MS. WILLIS: As you notice from the proposed schedule, we did include the possibility of evidentiary hearings. We've also included a staff assessment workshop which could in some ways serve a similar purpose of including the public and other interveners to come forward to comment on the staff assessment that would be published, probably a few weeks prior.

We also are proposing a 30-day comment period, and that we would issue either a revised staff assessment and/or response to comments. I'm assuming there probably will be

enough changes to probably publish some sort of revised document. So we -- we'd be happy to brief the issue. But I think that we -- we've also wrestled with that, of whether there is -- if there will be a need or not. We can see it both ways at this point. So we did include it as -- as an option. But there are other ways that, you know, through the staff workshop that we might be able to accomplish the same thing.

HEARING OFFICER VACCARO: Okay. Thank you. And again, would-be interveners, and there are several petitions to intervene that the committee has already received, we know some of you are here in person, as well as representing individuals over the phone. I think that's a topic for you to address, as well, if you'd like to, should you make a public comment in just a few moments.

So I think we do have yet one more question from the committee, I think for either or both the Applicant and Staff. And I'm going to have Ms. Allen ask the question because I don't want to get it wrong.

MS. ALLEN: This is a question for the applicant. Can you bring us up to date on what's happening with the transmission line upgrade process?

MR. O'SHEA: We thought you might be interested in that. And we've asked SCE to join the hearing. SCE is in the audience right now. I'd ask that Tom Diaz be allowed to

speak.

MS. ALLEN: Thank you.

MR. DIAZ: Good morning -- or good afternoon, everybody. My name is -- I'll address the -- the committee here. My name is Tom Diaz. I'm with Southern California Edison. I'm a project manager within our regulatory department. And I was asked to speak regarding the status of Edison's Pisgah transmission line upgrades.

Recently, in the first part of March, Edison had a workshop here -- well, in Hesperia with the public. There are a couple of areas where we are seeking public input into the areas of our substation, which is east of Barstow. We have two locations we are looking at. And also we're asking for information on a couple of proposed line routes.

We are in the process right now of conducting our environmental spring surveys. And we had hoped to get back to the public with another workshop later on this year with respect to the preferred and alternate routes and substations sites.

So I'm not sure what else I can address right now. I did bring some additional information as far as handouts which provide information as to our project, as well as where they can get further information. And I'll be glad to speak to anybody or meet with anybody should they so like.

MS. ALLEN: When are you expecting that the

process will be completed at the Public Utilities Commission?

MR. DIAZ: Well, we were initially anticipating that we would be filing in 2012, the first half of 2012. Depending upon if we can conclude our spring surveys, that will depend very heavily whether we can make that date or make that timeframe. But we anticipate, as far as completing it, it may be an 18-month to 24-month process before we would anticipate a completion by the CPUC as far as obtaining a CPUC permit. We would still also have to work with the BLM for approval of our application with them also.

MS. ALLEN: Thank you.

MR. DIAZ: Are there any other questions? Thank you very much.

MS. ALLEN: Thank you.

HEARING OFFICER VACCARO: Okay. Well, it seems as though we've gone back and forth a few times with anybody having any additional or final comments. It seems as though the final comment has come in the form of a question or series of questions from the committee.

So I think at this point it would be appropriate to begin with the public comment portion of the proceeding. I think where I'd like to start are with the individuals who are here in person. And then we will certainly make time

available for individuals who are participating by telephone.

So the first blue card that I have would be you, Ms. Gulesserian on behalf of CURE.

MS. GULESSERIAN: Thank you. Tanya Gulesserian on behalf of CURE. There's no reason to cut corners in the commission's review of the proposed project. This no longer a high priority project. It does not have a power purchase agreement. There will be no approved PPAs before the end of this year for PPAs that have not already been submitted to the PUC. This one hasn't even been negotiated yet. A solicitation just went out, and there are hundreds of photovoltaic projects proposed throughout the state. So the funding issue for this project is no different than any other of the hundreds of projects proposed in California.

Another reason that there's no reason to cut corners is that there is a lot of litigation over this project. The railroad is involved in litigation. There's other federal litigation challenging the project, and there may be more. The project has no access to water. It doesn't have access to the second half of its site. Reports and studies and additional surveys that are required are not complete.

As we may all know from recent experiences on other solar projects, careful and complete and thorough

surveys are essential early on in the process in order to correctly evaluate a project's impacts and to identify the required mitigation during the environmental review process rather than after construction has already begun when mitigation and impacts are addressed outside of a public process, and when often times it's too late to consider alternatives.

This is not last year. It's not the same set of facts as last year. And Staff is not overwhelmed with its workload. This is a new project. This is one specifically that was rejected in the environmental review document that the commission -- documents that the commission relied on for its previous approval. The -- the project is now majority photovoltaic. There are -- there's a new location for the main services complex -- complex, excuse me, a new location for the substation, and the well, there's now a proposal to do additional piping underneath the railroad.

So you know, not only has the technology changed, the location of the services within the complex has changed and, yes, there may be similar boundaries along the outside of it but what's inside of it has changed.

So this -- I submitted comments in writing that I'd be happy to, you know, answer any questions about, but this project should be held to no lesser standards that those that the commission approved at the end of last year

in its requirements for siting renewable energy projects, including those requirements for sufficient data that's necessary to process an application and conduct a meaningful analysis. And at this point we do not have this information.

Thank you for the opportunity to comment today.

HEARING OFFICER VACCARO: Thank you. The next blue card I have is from Mr. Emmerick with Basin and Range Watch.

MR. EMMERICK: Thank you. Well, first off, I haven't -- it's been about a week since I contacted the Bureau of Land Management. I'm kind of disappointed there's nobody here to talk about this. But they told me, anyway, that they have not received any kind of new plan from K Road. And the reason that came up is a lot of us are thinking that we need an environmental impact statement from them.

We don't really agree that the footprint of this project is going to be the same as the former one. When I'm looking at these photos I'm looking at these long rows of photovoltaic panels that are all connected to one another. There going to be about three feet high. And while there won't be as much grading as they say, I'm not really convinced that the plan to remove or grade -- grade vegetation haven't changed.

In fact, when the photovoltaic panels are only that high it looks to me like you're going to have to change that plan. So that's a fairly large difference ecological from the vegetation plan, Mojave Fringe-toad Lizards and sand transport. I'm not really sure how three feet high rows of photovoltaic panels are going to interrupt sand transport, but I haven't see anything in this new plan that really tells me this has been looked into that much. Maybe it has, maybe it hasn't.

Polarized glare; this isn't going to be SunCatcher dishes anymore. It's going to be photovoltaic panels, and those have been known to attract aquatic insects and birds. And so how is that going to change the plan.

The desert tortoise translocation, that's going to be moved over to the Pisgah ACEC. That's a new plan. You're going to need a new translocation plan. I understand K Road wants to get this going by September in order to receive a DOE loan, and that's pretty premature.

We believe that there should be an evidentiary hearing because we don't think, as CURE said, this should be rushed and undermined. We think the footprint has changed and an evidentiary hearing and a longer process would give us an opportunity to introduce new alternative.

So I guess that's the basis of my comment, I think.

HEARING OFFICER VACCARO: Thank you. I have a card from Anthony Dominguez.

MR. DOMINGUEZ: Yes. Hello, everybody. Congratulations on trying to get your project through the plethora of challenges that will be before you.

I'm here to only comment on access. My comment is many years ago Congress wanted to expand our country to the west. It granted access to the railroads for that purpose. And the renewable energy project should also have those same undisputed accesses. There is a various multitude of tools available to both parties. Please work together to benefit our environment and our country.

HEARING OFFICER VACCARO: Thank you. I have three cards before me on behalf of BNSF Railroad. It's slightly untypical to have three speakers on behalf of one entity. We certainly welcome hearing from all three. But I would ask -- and if we start with Ms. Burch, if we could first hear from you. And then with respect to the other two individuals maybe if you can give us a sense of what it is they're going to be speaking on and we can maybe hit the high points of their comments, that would be helpful. But again, we're welcoming all three of you to make your comments today.

MS. BURCH: Thank you very much. I really appreciate this very quick informational hearing and

opportunity to go the site visit.

As you know, we -- we are very concerned with the project that was certified last December. We feel that it -- it was rushed to judgment on a very changed plan in September, that studies that should have been done on hydrology in the soil and water section were never done, and what was adopted was a process and not an actual plan.

And we're here today to tell you how disappointed we are that absolutely nothing has been done on those studies. And we think they are critical and that there's no -- this really supports CURE's point, there needs to be a real -- a real plan here for both the staff and the -- the interveners and parties to look at. And we at this point don't have a plan on hydrology. And while part of that work probably would not have applied to PV, a good part of it would. And we've been after the applicant for months on this issue and nothing has happened. And now we're here to see that by May 9th some very rushed studies will be done. And then to hear that they have no plans apparently, if I understand right today, to complete those studies prior to a staff assessment for this project.

A second issue that we have, as you know, is glint and glare. And on that issue no work was done the last time around. And we have stood ready since last August with experts and -- and, we thought, an offer by the applicant to

work with us to get those studies going. We had the experts lined up and we thought we had an agreement. Nothing has happened. The project has been sold. New people are here at the table to tell us that they're taking over the project. And all of a sudden it's, you know, a new day.

Well, while I'd like a game over, do over on what happened last year, I'm very concerned about giving us three weeks and maybe a few more weeks until maybe June 24th to do what is considerably important work to help mitigate glint and glare and its impact -- impact on the railroad, motorists, truck drivers, and anyone in the vicinity.

On access, I'm here to explain that the original application for Solar I, which is how this project began, if you go back and look at it, it had an access road -- road being built by the applicant from somewhere east of Pisgah to its site. Somewhere along their amendments last year or the year before that road, apparently, was written out of the plan. Apparently nobody noticed that from Staff or -- or certainly anybody that would come and say to us at the time we need temporary access to get to our site to -- to do construction. We knew nothing about the lack of access to their -- to their site north of the railroad.

What we did know is that they needed a grade separation on their project site to connect the north and the south side, and we were working with them to accomplish

that, and we are still working with them to accomplish that. In fact, we were working so hard with them that we proposed to them in December that if they were going to file an amendment that the amendment change the phasing of the project to have the project begin south of the railroad and -- at the first phase, and the second phase be north. And they took us up on that idea, but they left out the reason we suggested it which is we wanted to have the bridge built in the first phase so that they could access the northern part when phase two began.

If you look, they are asking an amendment to the current approved project which has the bridge being built in the first phase, and they want it now built in the second phase which prolongs their need for some temporary access which isn't on the plan they've shown you. Okay.

So I would not that we will work with them to unite the north and the south if they -- if they are able to get a new right of way from the BLM for this project, and it has a need for connectivity between the north and the south parcel. We will work with them for grade separation. That's not a problem.

The problem is if they can not find a way to reinsert that road into their project, which is what I'm asking of you today to add, that would give them access from east of Pisgah, much like we took on the bus today, and get

to their project however they intended to do it before.

And we would note that we sat through many hearings last summer. And Mr. Jackson repeatedly asked about access to his facility. And the applicant at that time explained numerous ways for Mr. Jackson to get to his property, not for the railroad track, that did not require him to go over the railroad track. Those same possibilities are there for this applicant. We are not preventing the building of this -- this project. Okay.

With respect to the processing of the amendment, we have the same issues that CURE has, and that is that we don’t believe that this is the same project. We believe this was an alternative project rejected by both the CEC and the BLM, and that to try to come in and hijack this certification and put a PV facility here is simply just -- it’s just inappropriate. And -- and we would ask you to look very hard that question.

We’d like to know where BLM is, because BLM does have a role in whether they renew their right of way. Their right of way is premised on the building of a SunCatcher facility that’s not going to be built. So -- and -- and it’s for a project they rejected. So we’d like to know where they are today and where they are in scheduling their participation in studies and the process here.

We were in an untenable situation last time where

we have federal concerns that were unaddressed by the federal government and are being studied by the state government, and we don't know the connection. We'd like to have that clarified in the order. What is the role of the federal government? What is the role of the state government in this process?

HEARING OFFICER VACCARO: Ms. Burch, I'm just going to throw you off your -- your roll for just one moment to remind you that there were two other speakers that you were indicating you wanted to speak. And to ensure that everybody gets a fair opportunity to speak, but also to speak briefly, we'd ask that we'd hear from them soon.

MS. BURCH: I'm trying. But these are the issues that you said you want to discuss today. And we are here to give you that information in advance of your -- your order. And I will -- I will hurry along.

With respect to some threshold issues, we'd like to have you check into Calico, LLCs financial viability. We've now spent a tremendous amount of time and money commenting on the project for SunCatchers, only to find out in December that the technology was no longer financially viable. And a company has come in and bought this LLC, and we do not know what its financial viability is.

This project is going to be the size of a small city. If something goes wrong and it needs to be

decommissioned we need to know that there's money there to decommission it. If it creates problems for people and interests here, we need to know that there's somebody behind and that there's not just a flow -- flow-through corporation that money is being sent through and there's nobody there at the end of the day to take care of these problems. We'd like to see that addressed.

We brought here people on both glare and glint and hydrology, and expert. And the purpose of bringing them here today was so that you could understand what has to be done to analyze those two issues, glare and glint and hydrology, in the coming months and how long it will take, and ask you to consider that in your schedule. And we would ask you not to rush this schedule. If you're going to seriously consider this project, get the information, get a real project, give us all a chance to comment on it. And hopefully they'll be a viable company with a purchase contract at the end of the day. Thank you.

HEARING OFFICER VACCARO: Thank you. So is there one gentleman in particular that you'd like to start with?

Yes. Mr. Linkletter, please.

MR. LINKLETTER: Good afternoon. I appreciate this opportunity. And I will try to be very brief and focused. My name is George Linkletter. I'm the principal and the senior vice president at the international

consultancy called Environ. And I want to speak to the -- the soil and water on this thing.

As several of the speakers you've heard over the last few minutes have indicated, there are a number of studies that are supposed to be done. And my understanding is that many of them have not been done. By my count there's something like 30 studies or reports that are required under the soil and water umbrella. I think it is critically important that those studies be completed before this amended project is agreed to or not. I think -- I understand there were reasons why things were done differently the last time, as other speakers have indicated. Most if not all of those reasons are gone. I think you have the opportunity to do it the way it should be done.

I would suggest to you that in the soil and water area there's a lot of interrelationship from study to study. And the way the process should start is with the development of a logic tree that shows the feed of information required. Because I think if you look at it you'll realize very quickly that certain studies need to be completed before you can, in fact, complete subsequent studies.

And I have with me, and I'll make it available for distribution, a chart in which we have taken a shot at understanding the -- the logical sequence amongst these various studies. I understand that there's some focus on

the September deadline. I would suggest to you that if this is done in a way that nobody gets to look at these studies until they have been issued final by the applicant that's not going to help achieve the September deadline. I would encourage you to develop some sort of a program where interested parties can, in fact, participate in discussions as these studies are going on. I think you can find examples where this has been done very well and, in fact, has ended up not only with a better product but a much more efficient and timely process, which I think all parties would like to see.

The last comment I would make is that I think the applicant's position that a lot of stuff is the same and you don't need to worry about the changes I think is wrong. I think there's a lot of changes. Certainly the footprint of these photovoltaic cells is very, very different from the SunCatchers. There's going to be a lot of poles that are going to be needed. You're going to have a lot of the surface of the site covered with impervious material in -- in the -- in the solar panels. That means a big difference when rain is falling on the project area itself in the way the rain hits the ground, the way it focuses and channelizes. And I think there are just -- there are a lot of issues.

The fundamentals are not the same. A lot of the

fundamentals are different. And just saying the fundamentals are the same isn't sufficient. That needs to be demonstrated. And I would encourage you to have a process that makes that demonstration necessary. Thank you.

HEARING OFFICER VACCARO: Thank you. Mr. Linkletter, if I could ask, you indicated that you brought some documents with you.

MR. LINKLETTER: Yes.

HEARING OFFICER VACCARO: And, Mr. Diaz, you did, as well. Our Assistant Public Advisor Lynn Sadler is here. If you would please provide her with a copy of what you brought then we can ensure --

MR. LINKLETTER: I brought --

HEARING OFFICER VACCARO: -- that those are docketed.

MR. LINKLETTER: I brought 50 copies.

HEARING OFFICER VACCARO: Okay.

MR. LINKLETTER: I'll give her the 50 copies.

HEARING OFFICER VACCARO: Okay. You could leave some here. But as long as she gets one that will be docketed in the public record for this proceeding. Okay.

Mr. Krause?

MR. KRAUSE: Good afternoon. My name is David Krause. I'm a senior managing scientist at Exponent, a scientific and engineering consulting firm. I have a

background, I have a PhD in cognitive psychology focusing on visual perception. And I was retained by BNSF to evaluate glint and glare, for the need for glint and glare study at the site.

The purpose of such a study is to understand this very dynamic environment and how glint and glare will affect train crews, as well as motorists traversing this area. The study that I have proposed is divided into two sections. The first involves doing a site specific study and a model that lets us visualize what the glint and glare will be before the site is actually built.

Additionally, once the site or once solar collectors or solar technology is in place, be it SunCatchers or photovoltaics, the model needs to validated. What that means is we have a computerized model. We then go out to the site and ensure that everything was put where it was supposed to put -- be put. It functions the way the model believed it would function. And that, in fact, we are getting the same glare and glint patterns that we believed would be present at the time.

A second benefit of this -- of such a model is that once it exists it can be used down the road for safety purposes. So should a train, for example, be traveling through the right of way and experience a glare or glint episode where we have a complaint, we can use the model to

evaluate where it was coming from and also how to ameliorate that problem.

This study is very, very complicated. It’s a very dynamic environment, and as such it really can’t even commence until the completion of the soil and water study that Mr. Linkletter was just discussing. The reason for this is that should the footprint at all be changed or things be moved in any way as a result of the hydrological assessment we need to incorporate that into our model. So creating a model before we have the completed final plan is really an exercise in futility.

The specific goals of the model are to evaluate changes in the crews vantage points with respect to the solar collectors as the train travels the right of way to model the effect of the geometry of the track, changes in elevation, and the direction of travel on the magnitude and pattern of the glare, to evaluate the effects of the -- both time of day and time of year on the magnitude and pattern of any glare that’s created.

The extent to which a level of glare exists to train crews that they may experience as a result of the solar technology, which may not induce what we call flash blindness where you are actually unable to see for a period of time, but rather causes discomfort to a point where it’s a distraction or it causes a train crew members of a

motorist to look away from where they should be looking, the effects of this perceived glint and glare in the periphery. So we may see sort of flashing lights off in the periphery that may inadvertently draw attention away from the task at hand. The effects of the visual obstruction, specifically the SunCatchers, if these are 40 feet tall they may, in fact, obstruct critical pieces of information from train crews specifically. Light may reflect off solar collectors and make signals difficult to see. So by shining a bright light on a signal which may be reflected sunlight it may veil the signal, which is called a phantom signal, and make it difficult to see.

As trains move along the right of way if a distraction does occur, trains are traveling somewhere between 70 and 90 miles per hour, if somebody gets distracted and looks away, in fact, they will have traveled several hundred feet by the time they recover. This is something that needs to be addressed.

HEARING OFFICER VACCARO: I think -- I think we're following you, that there are several issues, all of various types, kinds and magnitude that you have identified as being from the railroad perspective very important to be considered in a study, and that that study needs to come second after the soil and water studies are completed.

I think what's happening now, at least from my

perspective, is we're -- we're reaching a very technical and detailed sort of level of analysis that I think is -- is very appropriate, probably, for any study and appropriate, certainly, to be further evaluated.

But I thin what we did ask early on, since there were three speakers, is if you could hit the high points, and then certainly submit in writing for the committee's consideration and the consideration of all other parties all of these very important details that you're now emphasizing. So if I could ask you to summarize it, that would be great.

MR. KRAUSE: Sure. I'll -- what I'll do is I'll jump into sort of the key methodological issues with how -- how we have arrived -- and not -- not to get --

HEARING OFFICER VACCARO: Technical it sounds --

MR. KRAUSE: Yeah. Not --

HEARING OFFICER VACCARO: -- to me. So perhaps if you could in just another minute or two summarize, again, sort of the -- underscore the importance of the study and what needs to happen, because I think that's really what resonates with the committee, so we understand what it is that BNSF understands needs to happen next, trusting that all of the technical elements are going to be fleshed out.

MR. KRAUSE: Okay. I got you. And I -- and I will do this quickly.

So the biggest issue that needs to be incorporated

into this model is to understand all of the moving parts here. So we have a train or motorist moving through an environment that isn't flat, so we've got topography. We have curves in the track, curves in roads. We have solar collectors that move. We have sun that moves as a function of time of day and time of year. All of these things can't be studied with single or a small set of data points. The specific way that all of these parts interact with each other needs to be incorporated into the model, and this is not a trivial task.

So that's really the gist of why this model is so complex and why it's not something that certainly can not be done. I mean, I've given it -- I see no evidence that it's going to be done yet. It's something that likely will be a several month process. And it really can't be even started, again, until the final plan of where the -- of where the solar technology is going to be placed is completed. When I say the model itself shouldn't be started until we have all of the solar technology, we can build the environment. So once we have the topography, as long as there isn't any additional grading that's going to happen the model can begin, but we can't actually start running the model until we know where -- where all the solar technology is going to be placed. Thank you.

HEARING OFFICER VACCARO: Thank you. And -- and

I think what the committee has just heard from all three of these BNSF commenters is that BNSF has a very significant interest in this proceeding. And that -- that what we would encourage BNSF to do is to file a petition to intervene as soon as is practicable. We have already received, I'd say seven petitions to intervene from a number of individuals and entities who have an interest in this project. BNSF clearly has an interest in this project, and we encourage you to get all of this information into the record in an organized fashion and make yourself a party to this action so that you can be heard at each stage of the proceeding as an active participant.

COMMISSIONER DOUGLAS: And I'm actually going to ask a question, very high level, quick response please. But -- but do you have specific issues where you think the glint and glare issues from photovoltaic would be different than SunCatchers?

MR. KRAUSE: Nothing specific, and that's exactly why we need to do the study.

COMMISSIONER DOUGLAS: Oh.

MR. KRAUSE: And -- and I can say that I also have a handout that we'll make available to the committee.

HEARING OFFICER VACCARO: Please do. And please ensure that Ms. Sadler also gets a copy so that document can be docketed.

MR. KRAUSE: Will do.

HEARING OFFICER VACCARO: Thank you. The next card I have is from John Coffey.

MR. COFFEY: Good afternoon. Thank you for this opportunity to be heard again. For the record, I was a speaker at several of the hearings when this project was first proposed. The last name is spelled C-o-f-f-e-y. I'm a member of Helphinkley.org and have previously been requested by Defenders of Wildlife to make specific presentations about specific issues that are very much part and parcel of this project, as well as other projects throughout the upper and lower desert.

Specifically, I am offended at the applicant's cavalier dismissal of a unique and endangered species as DT. This not a cartoon. This is a very important and valuable biological resource. It is a marker species and it deserve a full name. It should be the desert tortoise translocation plan so everybody knows exactly what's being talked about.

This desert tortoise issue is not very complicated. When you move them, they die. When you get in the way of their reproductive areas they die. When there are too many little ones out there and not enough natural predators to control the crows the ravens they die.

All I have seen since 2000 from a number of applicants, Harrison Products (phonetic) is one, various

other solar and non-solar applicants before this and other agencies, including the Bureau of Land Management, this all adds up into an endangered species eradication plan because they don't want to have to deal with them. The sooner they can get rid of them all and move them around to someplace, there's none left to move, then we can all get on with business or, rather, they can get on with business.

The other issue is particularly specific to the proposed site where there are five habitats for federally endangered species, including the Bighorn Sheep. So when you're talking about gradient levels and changing drainage and all of these things, you're impacting on an incredibly shrinking population of creatures that are going to go away and not come back, extinction.

This project was approved by the full commission without a transfer, an access agreement between the applicant and the railroad. Now there are a number of army versions that I could -- or tags I could put on that. But I think the kindest one would be abject and political surrender to money. The commission sold the citizens and the endangered species out. Please stop and listen to all of the other people in this room. The one consistent theme is this project is not ready for prime time.

This isn't even a project. It was approved on political considerations because there was some money

involved, some DOA loan or a subsidy or something. This is a subsidy driven project, as are many here in the desert that we have to -- have to look at. And please understand that this is not our only remedy. The federal courts are still open for business. The Bureau of Land Management got that message very quickly in the Calico -- in the project in the southern desert. So we are not without remedies, and we have not lost our will to advocate for those who do not have a voice. Thank you.

HEARING OFFICER VACCARO: Thank you. I have one final card from a gentlemen who indicated that he will not be speaking. So at this point I'm not going to read that name into the record.

Is there anyone else in the room who has a blue card or doesn't have a blue card who wishes to speak. I see one gentleman here. So if you would please come up to the podium. And then when you state your first name and last name, then you can hand that blue card over to Ms. Sadler.

MR. STIMPFEL: Yes. Ted Stimpfel. And I'm with Newberry Springs, but I'm just representing my own self here, my personal opinion.

I find this rather strange that we're right now looking at a modification of -- of somebody else's plan here. We have a new owner of the property. We have a new applicant. We've got a lot of problems, as has been

discussed by CURE, George Linkletter here and others. We've got under consideration problems still existing on glint and glare, modifying access, new technologies that are going to be used, problems with drainage, new locations for substation and services. This is a new project. And it is disappointing to me that this is not being handled as a new project, but that this is trying to be rushed through as a modification. Thank you.

HEARING OFFICER VACCARO: Thank you. Is there anyone else in the room who wishes to make a public comment? Would you please come up to the podium?

MR. JACKSON: My name is Patrick Jackson. Excuse me. My name is Patrick Jackson. I was a prior intervener, and I'm a property owner. And I did not intend to speak today, in fact I was told not to, but I'll make this brief.

First of all, I would like to thank Jennifer Jennings and Lynn Sadler, the public advisor office for assisting me with some of my questions. I'd like to thank Mr. Craig Hoffman for responding to my letter quickly. And I would like to thank Dr. Allen Greenberg -- Alvin Greenberg -- sorry, okay -- for taking the time to speak with me on my concerns.

As to access, I'm -- I'm really surprised, almost shocked. For over two years I've submitted documents to the commission, to the BLM, to the applicant regarding access to

the north side of the railroad tracks, BNSF. And I have not going to hold back; BNSF is just as guilty. In the documents that I've submitted it shows that BNSF sold land in section one, right, to a rancher, W.W. Boswell, I believe. And along with that sale came an implied access to a public right of way, and that access is -- is Hector Road.

I urge all the parties to look at all the documents that I have submitted. I've spent months, you know, trying to address this issue and it seems like it only comes forward when somebody else doesn't have the right to cross railroad tracks.

As to the other issue that's being addressed as a public health issue, I sincerely, sincerely hope and pray that the parties take a real serious look at this issue. I mean, it didn't come up, you know, during the application. It's one of those facts that come up when everybody does their work. They do their job, right, and it has to be addressed. I don't know if you're concerned about the numbers, but I believe the amendment indicates that over 737, 700 cubic yards of cut-and-fill for this project. And according to the University of Arizona the Center for Valley Fever Excellence, 15 trillion valley fever spores can fit into a single cubic inch. There could be a major, major health problem out there.

So I urge all the parties to do their studies,

check with their employees, check with their contractors, subcontractors to make sure that they have not been stricken by this debilitative disease. Thank you.

HEARING OFFICER VACCARO: Thank you. Okay. I think with the conclusion of Mr. Jackson's comments it appears that there are no other individuals present who wish to make a public comment. But I do understand we have individuals on the telephone line.

Mr. Ritchie, are you still there on behalf of Sierra Club?

MR. RITCHIE: Yes, I am. Thank you, Hearing Officer.

HEARING OFFICER VACCARO: Would you like to make a comment now?

MR. RITCHIE: I would. I'm hearing myself echo. I don't suppose there's a remedy for that.

HEARING OFFICER VACCARO: Unfortunately not. Perhaps take -- maybe back up an inch off of your telephone receiver. That might help just a bit.

MR. RITCHIE: I will try that. I appreciate that.

First, I'd like to thank the commission for so far taking this petition to amend seriously. I think it is a very major revision, and I think treating it accordingly is the proper way to do it. I'm skeptical of claims saying that this is just a minor issue that -- that isn't going to

require full evidentiary hearing. I think there a lot of issues that have been addressed today that show that it should have full evidentiary hearing.

I also think that some of the pressures that everyone was under previously for the -- the original application don't exist. And -- and so as the Chair pointed out there really isn't the same reason to try and -- and cut corners and move things quickly this time. I'm very much hoping not to have a 4:30 a.m. hearing this time around.

I also wanted to point out, though, that there are -- there are issues that even though we dealt with them last time they could warrant revisiting some of the impacts here, specifically with respect to desert tortoise. As I'm sure the commission is -- is aware, BLM actually has issued a partial construction halt on the Ivanpah Solar Generation facility specifically because they were finding more desert tortoise than the original CEC review had anticipated.

I realize that the footprint for this proposed project is the same as the -- as the prior project, but I think that this does constitute a new circumstance in that our understanding of what we reasonably expect to find on this site may change based on the information that we're seeing coming from Ivanpah and the other solar projects going forward. So now that we have this opportunity to -- to look at this project and revisit it I think it's

incumbent on the commission to take a full look at all of those issues, including desert tortoise issues, to see whether or not we know more now that can help us avoid some of the -- the mistakes that might have been made with the other project.

And then real briefly, some of the other issues that I think warrant full evidentiary hearing and full consideration, the applicant talked about grading and -- and how it -- it won't be an issue. I think while that's hopeful it is definitely something that does require evidence. And I think that the other parties have a right to test that evidence and cross-examine the experts who are -- are making those statements.

The commission expressly rejected PV because of grading, and also because PV requires, generally requires greater amounts of construction which leads to greater air emissions and has greater erosion potential. Those are all issues that I think need to be addressed in full evidentiary hearing.

The roads in this proceeding have -- or in the -- in the modified project are also different. The prior project included some 500 miles of roads that I believe were all to be treated with tagaform (phonetic) and various other substances. I believe the applicant has proposed changing that now to what they called unimproved module access

points, which to me sounds like off-roading. That potentially could have different impacts. Whether they're good or bad I think requires a hard evidentiary look. Having -- not creating construction and creating roads may be a good thing, but at the same time we had testimony last time about how roads in the desert create erosion and -- and they can have increased scour. And I think having unimproved module access points is potentially something that -- that all the parties need to take a hard look at.

There's also the issue of shading. The shading is going to be very different with -- with PV arrays as compared to the SunCatchers. That could have different impacts on -- on plants and different biology. And some of the assumptions that were made about the ability of some plant species to persist on the site may change. And -- and I think that warrants a hard look.

And then finally I'll -- I'll conclude. I think there is also an opportunity here that the commission really needs to take a look at. There were possibly constraints with a SunCatcher project that didn't allow certain, you know, mitigation measures or alternatives to be considered because of the nature of the technology. This is a completely different technology now that is being proposed. And I think that Staff and the applicant and all of the intervening parties should be allowed an opportunity to

really explore whether there are additional mitigation measures, if there are additional things that can be done to make this a better project. And -- and I don't think that we can do that by quickly rushing through this project as a modification without -- without evidentiary hearings and without full opportunities to present evidence, to have cross-exam, and -- and to brief all of these issues.

And those conclude my remarks.

HEARING OFFICER VACCARO: Thank you, Mr. Ritchie.

Before we move on to find out of there are any other individuals who would like to make a public comment who are on the telephone I think this is an appropriate time to -- to signal to everyone here and those listening that -- that there have been some very important and significant comments raised through this public comment process just now that -- that touches on where Mr. Hoffman, I think appropriately started in framing Staff's contemplated process for evaluating this.

And I think the simplest way to put it is that it appears as though there are differences of opinion on what the baseline ought to be for the evaluation of certain of the important areas in this project. And I think the applicant has a perception of the project. Staff does, as well. But in hearing most recently from Mr. Ritchie, as well as particularly the comment with the respect to there's

now new information that may very well apply to this amendment that might not have been fully applicable during the evaluation in the first phase of the project.

There are a number of things that have been said by a number of the commenters that suggest that that, too, is something that the parties should be briefing for the committee as we move forward, because I think it goes directly to the question of hearings, what the factual issues are, and framing what those issues are from the outside of this project. That will be something that the committee also addresses in its order and we'll invite the parties to submit briefing on so that early on in this process we understand where we're headed and what the baseline issues are.

I think with that, are there any other individuals on the telephone who might wish to make a public comment? I'm hearing none. And again, I believe there were no more individuals in the room who were looking to make a public comment.

So what I'll do now is turn the microphone over to Commissioner Douglas to adjourn this informational hearing.

COMMISSIONER DOUGLAS: Thank you, Ms. Vaccaro. I'd like to thank everybody who participated in this hearing, Applicant, Staff, potential interveners and members of the public who we've heard from. It is clear and has

been clear to me that there are very strong feelings about this project. We've -- we've heard some -- some strong opinions going in -- in a number of directions about the modification to the project.

We -- the Energy Commission and -- and really through the siting committee which gets the amendments, and especially major amendments, took this issue seriously. We saw that it was a significant level of change and merited, you know, a committee taking this on and taking a fairly formal review process, which we don't always do for amendments. So, of course, that was also Staff's recommendation when they saw the extent of proposed changes.

So we -- you know, I want to emphasize that we're going to look at the potential changes in the -- the proposed changes and the potential impacts from those changes. You know, to the extent that we see a need for evidentiary hearings, you know, we will have those hearings. We -- we don't anticipate -- I don't anticipate going to 4:30 in the morning. I don't think I'm capable of it, and I don't think -- at some point the value of the information that you're soliciting from the participants is diminished at some point in the night. So I'm not going to make a hard and firm commitment, but I do not anticipate hearings going anywhere near that late.

But I want to assure everybody that, you know, we

will satisfy ourselves as to the adequacy of the record that we have, and we'll try to do that in the amendment timeframe if we're able to do that. And so -- and we have asked the parties for a briefing on a number of legal issues. We'll clarify what we in particular think we -- we need briefing on in the order.

This -- this -- because of the timeframe of an amendment in which we're really trying to act we -- we, the committee, want to be very proactive about putting issues on the table that we see as potentially significant and not necessarily waiting for them to be raised by others or to manifest late in the process. So that's why we've come forward and asked for briefing on a number of topics in this informational hearing.

So with that I'd like to thank everybody again. We look forward to hearing from you and evaluating this amendment. And so we're -- for today we're adjourned.

(Thereupon the California Energy Commission, Calico Solar Project Informational Hearing Adjourned at 5:17 p.m.)

CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status 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 conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, 2011.

/s/ Martha L. Nelson

MARTHA L. NELSON – CERT 00367

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.

/s/ Martha L. Nelson

MARTHA L. NELSON – CERT 00367

April 25, 2011