

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for)Docket No. 06-AFC-9
the Colusa Generating Station)
_____)

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

THURSDAY, JANUARY 10, 2008

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Mr. James D. Boyd, Vice Chairperson

Mr. John L. Geesman

HEARING OFFICER

Mr. Raoul Renaud

ADVISORS

Ms. Susan Brown, advisor to Vice Chairperson Boyd

STAFF

Mr. Jack Caswell, Project Manager

Mr. David Flores

Mr. Richard Latteri

Mr. Dick Ratliff, Staff Counsel

Mr. Rick Tyler

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Mary Anne Azevedo

Ms. Dora Dirks

Mr. Gary Evans, Colusa County Supervisor

Mr. Ron Lee(via teleconference)

Mr. Dave Wells, Chief, Maxwell Fire Protection District

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1 PROCEEDINGS

2 COMMISSIONER GEESMAN: The Prehearing Conference
3 for the Colusa Generating Station Application for
4 Certification, now sponsored by Pacific Gas and Electric.

5 I am John Geesman, the presiding member of the
6 Committee; to my distant right is Susan Brown, who's
7 Commissioner Boyd's advisor; Commissioner Boyd, who is the
8 associate member of the Committee and likely to take over
9 the process because my term has expired and I will be
10 leaving the Commission at some point in January; and Raoul
11 Renaud, who is the Hearing Officer. I'm going to turn the
12 proceeding over to him to conduct.

13 HEARING OFFICER RENAUD: Thank you, Commissioner.

14 In addition to the introduction of those of us up
15 here on the dais, I'd like to proceed with introductions
16 of those other persons who are present.

17 We have a representative of the Public Advisor's
18 Office?

19 No. Okay.

20 Okay. Let's proceed with introductions.

21 On behalf of the applicant, I see we have Mike
22 Carroll, counsel for E&L Westcoast.

23 MR. CARROLL: Yes, that's correct. And I believe
24 on the telephone we have Andy Welch with Competitive Power
25 Ventures as well.

1 HEARING OFFICER RENAUD: All right. Mr. Welch,
2 are you there?

3 MR. CARROLL: Or perhaps not. I think he's
4 planning to call in.

5 HEARING OFFICER RENAUD: Okay. Well, next to you
6 is Scott Galati, counsel for PG&E.

7 MR. GALATI: Yes, that's correct. Thank you.

8 HEARING OFFICER RENAUD: All right. And let's
9 see, do we have any representative of Emerald Farms today?
10 Intervenor Emerald Farms? No.

11 Government agencies? Are there any government
12 agencies represented here today?

13 County of Colusa? Anybody?

14 Could you introduce yourself please.

15 MR. EVANS: Gary Evans. I'm the supervisor in
16 the district that this powerplant is scheduled to go in.

17 HEARING OFFICER RENAUD: Okay. Welcome. Thank
18 you.

19 MR. WELLS: And you have one more here.

20 HEARING OFFICER RENAUD: Yes.

21 MR. WELLS: Dave Wells with Maxwell Fire
22 Protection District.

23 HEARING OFFICER RENAUD: Welcome, sir. Thank
24 you.

25 And we have on behalf of the staff Dick Ratliff,

1 counsel, and Jack Caswell, a project manager.

2 MR. TYLER: I'm Rick Tyler. I'm the staff person
3 responsible for the workers' safety and hazard materials
4 management.

5 HEARING OFFICER RENAUD: Okay. Very good. Thank
6 you.

7 What we'd like to do today with this prehearing
8 conference is assess the parties' readiness for
9 evidentiary hearings. This application for certification
10 has been ongoing for a little over a year now and the
11 process has proceeded relatively smoothly. Final staff
12 analysis was issued recently. And an evidentiary hearing
13 is schedule for January 23rd, roughly two weeks from
14 today.

15 We've asked the parties to come today to indicate
16 readiness to proceed to evidentiary hearing and for us to
17 attempt to determine which issues, which topic areas are
18 not in controversy so that they can be eliminated and
19 determine which areas are still in controversy and the
20 potential for resolving any of those prior to hearing, so
21 that we'll be able to proceed expeditiously and
22 efficiently when the evidentiary hearing does take place.

23 Today's prehearing conference was noticed in a
24 document dated December 11, 2007. And that notice
25 specified that the last day to file a petition to

1 intervene in this case was December 24, 2007. We've had
2 no other petitions to intervene beyond those who are
3 already intervenors.

4 We also asked that any parties who wish to
5 participate in the conference or present or cross-examine
6 witnesses at future evidentiary hearings file a prehearing
7 conference statement by December 28, 2007. That deadline
8 was later extended to January 3rd. And we have prehearing
9 conference statements filed by the applicant E&L Westcoast
10 and by California Energy Commission staff.

11 I think we'll begin by discussing the topics set
12 forth in the prehearing conference statements. And once
13 we're done with that, we'll provide an opportunity for
14 public comment.

15 And I'd like to propose that we use as our road
16 map today the table prepared by Mr. Carroll, setting forth
17 each of the topics in his prehearing conference statement.

18 I think this gives it a pretty good summary of
19 where we stand with respect to the topics.

20 Does that sound acceptable to staff, Mr. Ratliff?

21 STAFF COUNSEL RATLIFF: Yes.

22 HEARING OFFICER RENAUD: All right. Good.

23 Looking at the Table 1, which is page 3 of the
24 prehearing conference statement, the topic areas are set
25 forth. And under the -- I guess the column we're most

1 interested in is the second one, which is "Disputes
2 "Between Parties." And as you go down that, you'll see
3 whether or not there's a dispute. And we have a number of
4 them which are "no dispute."

5 And then the second category is what I'm going to
6 call "no, but," which means no dispute, but maybe there's
7 something. And there's -- some of them, instead of saying
8 "no, but," I'll just say "unclear." So that will be our
9 second category for discussion.

10 And then the third category will be "Yes, there
11 is a dispute."

12 Let's start with the "no" items and -- "no
13 dispute" items. And I'll just rattle those off and find
14 out if the parties agree that there is no dispute as to
15 those topics and we can agree that those will be put into
16 evidence on the basis of written testimony or declaration.

17 Project ownership -- these are the "no dispute"
18 topics. Project ownership, project description, cultural
19 resources, land use, noise and vibration, public health,
20 transmission line safety and nuisance, waste, geology and
21 paleontology, efficiency, reliability, transmission system
22 engineering, and alternatives?

23 Can I have the agreement of the parties that all
24 testimony in these topics will be by declaration and then
25 live witnesses need not be present subject to direct and

1 cross-examination?

2 Mr. Carroll?

3 MR. CARROLL: Yes.

4 HEARING OFFICER RENAUD: Mr. Galati?

5 MR. GALATI: Yes. We would like to make sure
6 that the record reflects, and so I might need a few
7 minutes on project ownership, to discuss the closing where
8 PG&E actually becomes the owner. And that should take
9 place between now and the evidentiary hearing. So just a
10 few minutes.

11 HEARING OFFICER RENAUD: Thank you. Excellent
12 point. That is referring to the fact that the project
13 owner is going to change very soon from E&L Westcoast to
14 PG&E.

15 Okay. And, Mr. Ratliff, was I hearing assent?

16 STAFF COUNSEL RATLIFF: Yes.

17 HEARING OFFICER RENAUD: Thank you. All right,
18 great.

19 Let's go on to the next category, which is the
20 "no dispute, but" category. And in that area, we have air
21 quality, biological resources, socioeconomic resources,
22 soil and water resources, traffic and transportation,
23 visual resources, and facility design. And I think it's
24 safe to say that with respect to those areas we have some
25 area of need for clarification, maybe additional facts

1 before we could deem those ready to proceed.

2 And I think we'll just go ahead and start through
3 those if that's okay.

4 Let's start with air quality. The first thing I
5 should point out is that I understand we will have a
6 witness from the Colusa Air District on the phone for the
7 evidentiary hearing in accord with Section 1744.5 of the
8 regulations; is that correct? We are -- I think we're
9 required to do that.

10 STAFF COUNSEL RATLIFF: Yes, we're supposed to --
11 we've asked for that. And our staff has indicated that
12 they will be there or they will participate telephonically
13 if they aren't there.

14 HEARING OFFICER RENAUD: Okay. Thank you.

15 Now, in Mr. Carroll's detailed discussion by
16 topic area under "air quality," it's requested that
17 references to AQ 24 in condition of certification AQSC 7
18 be changed to AQ 27. And I've looked at that and I think
19 that appears to be correct, that that change should be
20 made.

21 Is there any dispute about that?

22 STAFF COUNSEL RATLIFF: I believe that's correct.

23 HEARING OFFICER RENAUD: All right. Good.

24 There's also a request that -- a typographical
25 request really to add the word "days" in the first

1 sentence of the AQ 27 verification section.

2 Again, no problem with that?

3 STAFF COUNSEL RATLIFF: No.

4 HEARING OFFICER RENAUD: All right. And there's
5 a request to add some footnote language to make the table
6 in AQ 27 consistent with Appendix A on page 4.1-75.

7 Again, is there any question about that?

8 STAFF COUNSEL RATLIFF: There is. I don't think
9 we will agree to that. But I think that's -- we thought
10 that was confusing. And I believe that the applicant has
11 agreed to relent on that suggestion. But we'll have to
12 ask Mr. Carroll.

13 HEARING OFFICER RENAUD: You had some discussion
14 about that, Mr. Carroll?

15 MR. CARROLL: I believe we did have some
16 discussion, but we may have had a misunderstanding. We
17 actually thought that the footnote should be included.
18 And if there's some confusion about that, perhaps we can
19 resolve it here.

20 The point that's being made there -- and perhaps
21 if there's a complete understanding of the parties, it's
22 not critical that the footnote be in there. But there are
23 greater -- there's a greater quantity of offsets under
24 option than we believe are necessary for the project. So
25 we're simply pointing out that some of the identified

1 emission reduction credits would be acquired to offset
2 emissions from the project. But some of those identified
3 offsets would not necessarily be acquired by the
4 applicant; or if they were acquired, they would be
5 retained by the applicant.

6 HEARING OFFICER RENAUD: Okay.

7 STAFF COUNSEL RATLIFF: And we don't disagree
8 with that. And what he's saying is that they've offered a
9 menu of offsets, of which certain will be selected to
10 fulfill the obligation that they have in the district. We
11 agree with that. But I think the language of the footnote
12 is confusing; and, therefore, maybe what we need to do
13 when we get an opportunity is just work out what that
14 language will be.

15 HEARING OFFICER RENAUD: All right. So you're
16 really suggesting that there should be a footnote but
17 maybe the wording would be different?

18 STAFF COUNSEL RATLIFF: Yes.

19 HEARING OFFICER RENAUD: Maybe the two of you can
20 wordsmith that and try to come up with something that's
21 agreeable to both of you.

22 MR. CARROLL: Yes, we will.

23 HEARING OFFICER RENAUD: All right. Thank you.

24 All right. I think that takes care of air
25 quality. So let's move on to the next "no, but" issue,

1 which is biological resources. In Condition of
2 Certification Bio 19, there's a reference to 1.28 acres in
3 connection with the set-aside amount. And it's requested
4 that that be changed to 1.25. And I think --

5 STAFF COUNSEL RATLIFF: We agree with that.

6 HEARING OFFICER RENAUD: -- I can see that that's
7 a correct request.

8 So that's agreed, Mr. Ratliff?

9 STAFF COUNSEL RATLIFF: Yes.

10 HEARING OFFICER RENAUD: Good. Thank you.

11 Now, let's move on to hazardous -- I'm sorry.
12 Let's move on to socioeconomic resources. That's the next
13 "no, but" issue.

14 Excuse me. "Hazardous," that's a "yes" and we'll
15 come back to that.

16 All right. There is a requirement in Condition
17 of Certification Socio 1 that the project owner procure
18 materials and supplies within Colusa and Glenn counties.
19 And their request is made on behalf of the applicant's --
20 phrase "unless the materials or supplies are not available
21 at competitive prices."

22 And the argument for that is that that would make
23 it consistent with language in the development agreement
24 that the applicant has with the county.

25 What does staff have to say about that?

1 STAFF COUNSEL RATLIFF: We agree to the change.

2 HEARING OFFICER RENAUD: Great. All right.

3 VICE CHAIRPERSON BOYD: I just had a question.

4 Who's going to adjudicate that difference?

5 STAFF COUNSEL RATLIFF: You want to adjudicate --

6 VICE CHAIRPERSON BOYD: No, I just said -- no,
7 who is going to decide what -- decide that something is or
8 is not at a competitive price in the area?

9 STAFF COUNSEL RATLIFF: I think that's an
10 interesting question, and I don't have an answer to it.

11 VICE CHAIRPERSON BOYD: I only ask interesting
12 questions.

13 (Laughter.)

14 STAFF COUNSEL RATLIFF: We have put these
15 conditions in many of our licenses. I think it's almost
16 become a boilerplate condition.

17 In reality, how meaningful it is I think is very
18 questionable. I don't know that there has ever been any
19 actual enforcement of how you would actually even try to
20 enforce such a condition.

21 COMMISSIONER GEESMAN: It's in the development
22 agreement though?

23 MR. CARROLL: It is.

24 COMMISSIONER GEESMAN: So I would suspect from a
25 practical standpoint, this will be between the applicant

1 and the county. Complaints are registered with the
2 county. I suspect they'll be worked out there as well.

3 STAFF COUNSEL RATLIFF: Yes.

4 VICE CHAIRPERSON BOYD: Thank you.

5 HEARING OFFICER RENAUD: The exact wording in the
6 development agreement is "subject to availability and
7 competitive pricing." I agree that that's -- I think
8 that's a problem that we face when and if it should rear
9 its head.

10 STAFF COUNSEL RATLIFF: Right. It provides the
11 avenue for I think local businesses or local governments
12 to complain to the Commission that it is being bypassed or
13 ignored or perhaps unfairly treated in terms of local
14 purchases.

15 HEARING OFFICER RENAUD: All right. Let's move
16 on to soil and water resources.

17 To summarize it, the question is whether or not
18 there should be a separate construction water agreement.

19 The applicant contends that proposed Condition of
20 Certification Soil and Water 4 requires the project owner
21 to have a construction water agreement separate from the
22 operational water agreement. And the applicant states
23 that Article 6 of the water conveyance agreement that it
24 has entered into with the Glenn-Colusa Irrigation District
25 already covers construction water.

1 Now, the condition itself -- the proposed
2 condition itself says that the project owner -- in part,
3 "The project owner shall provide the CPM two copies of the
4 construction water agreement issued by the GCID" -- That's
5 the Glenn County Irrigation District -- "for the sale and
6 delivery of construction water."

7 The provision in the conveyance agreement reads,
8 in part, "The parties agree that prior to commercial
9 operation date, E&L" -- the applicant -- "shall attain a
10 supply of water during construction of the powerplant from
11 GCID under GCID's established rates and terms for
12 construction water."

13 Staff have any comment on this?

14 PROJECT SITING MANAGER CASWELL: You know, at
15 this time could we pass that over to the applicant and see
16 if they want to continue to have that stance on this?

17 MR. CARROLL: I think our understanding is that
18 the request -- or the condition as proposed is that a
19 construction water -- a separate construction water
20 agreement be obtained for approval by the CPM, but that
21 that wouldn't be necessary to have that in place prior to
22 the evidentiary hearings. If that's the case, although we
23 think the existing agreement does cover construction, in
24 the interest of moving this forward we're prepared to get
25 a separate agreement with GCID to cover the construction

1 water.

2 HEARING OFFICER RENAUD: The way I see it is I
3 don't think the condition necessarily requires a separate
4 agreement. I think it could be a combined agreement as
5 long as it covered construction water and made sure you
6 had a source of it. I don't think the Article 6 though of
7 your conveyance agreement actually provides for water. It
8 simply provides that you're going to get it. But I think
9 this could be worked out. This doesn't seem like a very
10 big problem. You should be able to work out something
11 where a letter or something would be provided when you --
12 to make sure there was a supply of construction water.

13 Would staff be amenable to try -- to working that
14 out with the applicant?

15 STAFF COUNSEL RATLIFF: We have the staff
16 technical person for that here, Mr. Richard Latteri. I
17 would like him to let you know what he has in mind.

18 MR. LATTERI: As counsel stated, I'm Richard
19 Latteri on water and soils.

20 My concern here is that due to the language of
21 the agreement, the conveyance agreement, and the
22 information in the AFC, they haven't established their
23 source supply, other than it's going to be provided by
24 Glenn-Colusa Irrigation District. Based on the record of
25 conversation with the assistant general manager, they're

1 anticipating that delivery be made out of the Glenn-Colusa
2 Canal, not the Tehama-Colusa Canal, or that they could
3 take it from the Tehama-Colusa Canal from their original
4 intake structure. So this is going to involve possibly
5 truck routes, a new turnout or pump installed in one of
6 the canals. Because the agreement came in so late in the
7 process, and we know that construction water is required,
8 it's a necessity, it's just a matter of monitoring during
9 compliance. We just need to know where and when and make
10 sure that soil and water and transportation impacts are
11 mitigated through our existing or proposed conditions of
12 certification.

13 HEARING OFFICER RENAUD: Is the agreement you're
14 referring to that came in late in the process the
15 conveyance agreement?

16 MR. LATTERI: Yes.

17 HEARING OFFICER RENAUD: Yeah, I agree. We just
18 did get that.

19 What would be satisfactory to staff? Would a
20 letter from the irrigation district specifying the source
21 entitlement to construction water be sufficient?

22 MR. LATTERI: Source, location. I guess a meter
23 is going to have to be installed as well. And eventually
24 they're going to get off of trucking in the construction
25 water to using their operation intake and pipeline. And

1 so we just need to know the specifics of it so that it can
2 be monitored and that they're included in the erosion
3 control plan, storm water pollution prevention plan as
4 being a part of the total project.

5 MR. CARROLL: Again, if the intent of the
6 condition as proposed is that all that information be
7 provided for approval by the CPM, we're fine with that.

8 HEARING OFFICER RENAUD: Okay. Well, I think we
9 can safely assume you'll get this worked out between now
10 and the evidentiary hearing and we won't have this as a
11 contested issue at that time. At least make the effort.

12 MR. LATTERI: Sure. I'm more than willing.

13 MR. CARROLL: Yeah, again --

14 MR. LATTERI: It's no big obstacle.

15 MR. CARROLL: Right. We'll have some further
16 discussion, but I think we're there. If our understanding
17 of the condition as proposed is correct, then I think
18 we're fine with it as proposed.

19 HEARING OFFICER RENAUD: All right. Sounds good.
20 Thank you.

21 Okay. Well, our next "no dispute, but" one is
22 traffic and transportation. There are a number of issues
23 with respect to the conditions under that topic. The
24 first one involves certain bridge and road work that's
25 going to need to be done at some point in order to

1 accommodate the heavy construction traffic that's going to
2 take place getting materials to the project site. Where
3 the project site is located is apparently in a rural area
4 with minimal roads, small older bridges, all of which
5 raise concern over the weight of the equipment that needs
6 to get to the site.

7 And the first concern is when the upgrades will
8 take place. Proposed Condition Trans 1 currently requires
9 that the work be completed prior to construction.
10 Applicant is requesting that the text be changed to "prior
11 to heavy haul transport." Like I said, I'd like hear
12 first from staff about that.

13 STAFF COUNSEL RATLIFF: We're in agreement with
14 that.

15 HEARING OFFICER RENAUD: All right. Sort of to
16 mirror Commissioner Boyd's question, who's going to
17 determine what's heavy? Is that an issue or is that a
18 concern? You may have already thought about that and
19 determined it's not, but --

20 STAFF COUNSEL RATLIFF: I'll have to ask our
21 witness on that what that means.

22 HEARING OFFICER RENAUD: Okay. Is your witness
23 here?

24 STAFF COUNSEL RATLIFF: Yes.

25 HEARING OFFICER RENAUD: Okay.

1 MR. FLORES: Dave Flores.

2 On the bridge requirements there are legal load
3 limits on those current bridges, and so it would have to
4 be worked out with the Colusa County Public Works
5 Department as to the load limits before they could utilize
6 those bridges. So that would be a determining factor.

7 VICE CHAIRPERSON BOYD: And you'd be able to
8 establish a form of threshold for this?

9 MR. FLORES: Yes.

10 HEARING OFFICER RENAUD: And you feel confident
11 that that can be done?

12 MR. FLORES: Yes, I believe it can.

13 HEARING OFFICER RENAUD: All right. Very good.

14 So what I'm hearing is that there is no objection
15 from staff to the change to that condition to allow for
16 the work to be done prior to heavy haul transport?

17 STAFF COUNSEL RATLIFF: That's correct.

18 HEARING OFFICER RENAUD: All right. Good.

19 The next issue on traffic and transportation has
20 to do with Condition of Certification Trans 3, which
21 requires that a plan for mitigated construction impacts on
22 Delevan, McDermott and Dirks roads to be submitted to the
23 Colusa County Public Works and Planning Department and the
24 CPM at least 90 days prior to the start of the site
25 mobilization. And the applicant is simply requesting that

1 the 90-day requirement be reduced to 30 days.

2 Is that acceptable to the staff?

3 STAFF COUNSEL RATLIFF: Well, the staff always
4 prefers more time rather than less. And we -- I guess
5 we'd like to hear from the applicant, but also from the
6 county because we know the county has asked that they have
7 the full amount of time. But I don't know what -- I would
8 let them speak for themselves on that issue.

9 HEARING OFFICER RENAUD: All right. Let me hear
10 from the applicant as to the need for the reduction by 60
11 days?

12 MR. CARROLL: Well, of course our desire is to
13 get underway with construction as soon as possible after
14 the issuance of the decision by the Commission. And at
15 this point it appears as though we would be able to get
16 underway sooner than 90 days following the issuance of the
17 decision by the Commission. So that means that this
18 particular condition would become the driver of our entire
19 schedule. And we didn't think that that seemed
20 reasonable, and we're hoping to narrow that window so that
21 we could get underway with the project.

22 HEARING OFFICER RENAUD: All right. Is there
23 anyone from the county who wishes to speak to that at this
24 time?

25 Please come forward to the mike, sir.

1 MR. EVANS: Thank you, Mr. Chairman. Gary Evans,
2 the Supervisor for Colusa County.

3 We support staff's recommendation of 90 days
4 prior due to our road department staff needs 90 days to
5 properly assess any of the applications for encroachment
6 permits.

7 I have a memorandum that I would like to
8 distribute to your staff and to the applicant as well as
9 for PG&E, which we don't see this as being an issue that
10 can't be cleared up prior to the hearing. It's mostly a
11 communication or lack thereof breakdown here.

12 If we can get people face to face, the applicant,
13 the contractor, and our public works, it can be an
14 internal thing, I'm certain, to be able to be handled that
15 way.

16 HEARING OFFICER RENAUD: So you're optimistic
17 that this could be worked out?

18 MR. EVANS: Yes, sir, very much so.

19 HEARING OFFICER RENAUD: The document you've
20 provided, if you can, also provide a copy to the reporter
21 there. We'll make sure that gets in the document.

22 Do you have one to spare?

23 MR. EVANS: Yes, I do.

24 HEARING OFFICER RENAUD: Thank you. Very good.

25 Let me just ask in general.

1 Mr. Galati, what's the --

2 MR. GALATI: Actually, yes, this is an issue for
3 PG&E. When it's in the condition, it says it must be at
4 least 90 days. What happens if we're very successful and
5 we get done in 30 days? That's what we're looking for.
6 And that's an "at least." We certainly would submit as
7 soon as we can. And we're not going to be able to get it
8 resolved until everybody buys off on it. What we didn't
9 want to do was be in a position where we have been
10 successful and resolved it, yet had to schedule our
11 construction 90 days out under all circumstances. Because
12 we're going to be making decisions on when we ask the EPC
13 contractor to mobilize. And this is the kind of condition
14 that you're afraid to ask them to mobilize sooner because
15 you're in violation of a condition unless you've got
16 someone to -- off work. So that's what we're looking for
17 was flexibility. Does not mean that we won't take 90
18 days. But this makes us take 90 days.

19 VICE CHAIRPERSON BOYD: You're looking for an
20 up-to-90-days kind of a thing?

21 MR. GALATI: Yeah, I mean at least -- it's an at
22 least submitted in enough time for them to review. They
23 also need to review and comment on it. And we have to get
24 the CPM approval. So however many days it takes for that
25 last part to happen, it's going to take -- that's what's

1 required for us to start construction. So I think
2 everybody is protected, quite frankly, except us on this
3 we have to do at least 90 days prior --

4 HEARING OFFICER RENAUD: What we're talking about
5 is a plan for mitigate construction impacts. And it
6 strikes me that that plan can be prepared well in advance
7 of even the issuance of the PMPD, couldn't it?

8 MR. GALATI: Yeah, it certainly can. And we're
9 certainly working on it, there's no question about that.
10 But, again, is if we're working on that plan and the PMPD
11 comes out and we're reviewing that plan, and the day after
12 we get our decision and we have all the other things
13 resolved, would that mean we could not go to construction
14 because we didn't submit this?

15 HEARING OFFICER RENAUD: Well, I guess maybe the
16 flip side of that is --

17 COMMISSIONER GEESMAN: You could turn it in
18 tomorrow.

19 MR. GALATI: I'll tell you what kind of keeps us
20 from turning it in tomorrow is right now there's a change
21 in who might be preparing that plan.

22 COMMISSIONER GEESMAN: Because of the change of
23 ownership?

24 MR. GALATI: Yes.

25 COMMISSIONER GEESMAN: So what keeps you the day

1 after the change of ownership goes into effect turning it
2 in? I mean you don't need to wait for our decision, do
3 you?

4 MR. GALATI: No, we don't need to wait for your
5 decision. I'm just asking for your decision not to
6 require it be 90 days. And I think that if the county
7 needs 90 days to look at it, the county's going to take 90
8 days to look at it. There no requirement that if the
9 county doesn't and the CPM doesn't sign off on it, it's
10 deemed approved.

11 HEARING OFFICER RENAUD: I was going to suggest
12 that if you met the 90-day requirement, there wouldn't be
13 any reason that everybody couldn't agree that, after 45 or
14 60 days they'd had enough looking and everybody was in
15 agreement and we could go ahead, there's nothing that
16 would require that 90 days to run.

17 MR. GALATI: And in that case, if that is how the
18 condition would operate, I'd prefer to have the language
19 that says 90 days or unless mutually agreed by the
20 parties. Some way so that it's not a hard and fast
21 deadline that we can't get extended.

22 HEARING OFFICER RENAUD: That sounds like that
23 might be doable if maybe you and staff could kind of work
24 something out to give that kind of flexibility while still
25 protecting the needs of the agencies for time enough to do

1 this.

2 STAFF COUNSEL RATLIFF: Yeah, I think so. I
3 don't think we'd want to be inflexible about this. I
4 mean it would be silly to adjudicate something like this.
5 So we'd want to reach some kind of an agreement that the
6 county feels allows it time to look and see what the plan
7 is. But it doesn't have to necessarily prevent
8 construction beginning for 90 days.

9 So maybe we can come back with some different
10 proposal after we talk with the county and we talk with
11 PG&E.

12 HEARING OFFICER RENAUD: Okay. Why don't you
13 work on that between now and two weeks from now and see
14 what you can come up with.

15 Okay. The next issue under traffic and
16 transportation has to do with the haul route, that is, the
17 route by which heavy equipment will be transported to the
18 site.

19 The Department of Public Works for the County of
20 Colusa submitted a letter last month expressing concern
21 that the route had been changed and expressing an
22 understanding that the intended route was from a rail
23 siding at Delevan to the site and that it's now been moved
24 to a rail siding at Williams, which is farther from the
25 site.

1 Applicant states that the route has not been
2 changed, that as far back as February 2007 in Data
3 Response No. 97 the route using the Williams siding was
4 set forth. And I've reviewed the documentation, and that
5 looks to me like that is the case.

6 I wonder if there's any statement from staff
7 about this. Perhaps Mr. Flores?

8 STAFF COUNSEL RATLIFF: Well, Mr. Flores can
9 correct me if he wishes. But I think that that's a
10 resolved issue, that this has been an established route
11 since that time. And I think the county is in agreement
12 about that.

13 HEARING OFFICER RENAUD: All right. Is that
14 correct, Mr. Flores?

15 MR. FLORES: Yes, that is correct.

16 HEARING OFFICER RENAUD: All right. And
17 representative of the county, do you want to confirm that
18 that's been resolved?

19 MR. EVANS: Sure.

20 Yes, we believe it's a moot point, that this was
21 part of the agreement that's built into that.

22 But what I -- and I haven't read the entire FSA.
23 But what I haven't seen is any discussion about City of
24 Williams, which had up ordinances for weight limits on
25 their surface streets. So Williams -- utilizing Williams

1 could be problematic. I just -- somebody needs to know
2 that, because I didn't see any mention of that anywhere.

3 HEARING OFFICER RENAUD: All right. It does
4 sound like weight limits in a city would need to be
5 addressed in the analysis, and it hasn't been. We may
6 need to do that.

7 Mr. Flores, any comment on that?

8 MR. FLORES: That's correct. That would have to
9 be reviewed.

10 HEARING OFFICER RENAUD: All right.

11 Okay. Any other -- anything else on traffic and
12 transportation before we move on?

13 MR. CARROLL: I just want to make sure I
14 understand on that last point. Meaning what, that -- when
15 you stated that it would have to be addressed and the
16 response was yes, addressed in what way? I mean obviously
17 if that's a LORS, we're committed to complying with that
18 LORS. If that means adding a condition that the applicant
19 would comply with, if we need to add that to the LORS
20 list, that's fine. I just want to make sure I understood
21 what needed to be done to address that.

22 MR. FLORES: Yes, I would come up with as part of
23 the conditions of certification to addressing it in that
24 area.

25 HEARING OFFICER RENAUD: All right. So between

1 now the evidentiary hearing we'll get that --

2 MR. FLORES: Come up with --

3 HEARING OFFICER RENAUD: -- sent out and we'll
4 take it from there.

5 MR. CARROLL: Okay. Thank you.

6 HEARING OFFICER RENAUD: All right.

7 Okay. Visual resources. So give us a little
8 lighter topic here.

9 This has to do with tree planting. And the
10 proposed Condition of Certification Visual 3 requires that
11 the landscaping trees be planted during the first optimal
12 planting season following site mobilization. Applicant,
13 recognizing that we'd like to get the trees in there as
14 soon as we could, points out nonetheless that that would
15 mean trees being planted while construction is still
16 ongoing. And it suggests that the applicant be allowed to
17 plant the trees after commercial operation begins but use
18 larger trees.

19 I'd like to hear from the staff about that, any
20 comments or any questions.

21 STAFF COUNSEL RATLIFF: Yes. My understanding is
22 that this would be okay so long as the planting occurs
23 prior to the commercial operation. And --

24 HEARING OFFICER RENAUD: Rather than after
25 commercial operation?

1 STAFF COUNSEL RATLIFF: That's right.

2 HEARING OFFICER RENAUD: Applicant, how do you
3 feel about that?

4 MR. CARROLL: That's acceptable.

5 HEARING OFFICER RENAUD: Good.

6 All right. There's also a Condition of
7 Certification Visual 1 regarding -- or reporting of
8 conditions and appearance generally of the project. And
9 under that proposed condition, the project -- the owner
10 would be required to report on the condition of the
11 surfaces of the structures, maintenance activities that
12 occur during that year, and the schedule of maintenance
13 activities for the next year.

14 Applicant contends that these requirements are
15 more onerous than have been required in the past and asks
16 for some relief from those.

17 Comment from the staff on that.

18 STAFF COUNSEL RATLIFF: Well, this is the kind of
19 condition that we have required in our other projects.
20 We've put in the word "major" to indicate that they only
21 have to report on things that have changed -- that are
22 major in nature. So we want that specificity that we are
23 requesting and the condition. We don't think the
24 conditions in this language should be changed.

25 HEARING OFFICER RENAUD: Applicant, is there

1 really a reason that you can't meet these reporting
2 requirements?

3 MR. GALATI: This is a PG&E issue as well. And
4 we can meet the reporting requirements. But we fail to
5 see why they're necessary, to report why -- I mean how
6 about just the ongoing obligation that we keep it in good
7 order?

8 And I would also point out that the Energy
9 Commission recently, in the last few years, has a fee that
10 is attached to provide inspections that it didn't used to
11 have. And that my experience is that nothing stops staff
12 from going out and taking a look to ensure that we are
13 complying as opposed to a reporting structure.

14 So what I envision is somebody going around and
15 then writing a report that "the paint's in good
16 condition." And I just -- I'm not sure that that's real
17 helpful to staff. And it seems like it's a bit of
18 additional burden with not much benefit.

19 But we're certainly not going to go to
20 evidentiary hearing over this matter, but I did want to be
21 heard.

22 HEARING OFFICER RENAUD: It does sound like the
23 type of thing that could be worked out in the intervening
24 two weeks. It certainly doesn't sound like a whole lot of
25 extra paperwork to have to do. But if there is a

1 legitimate contention that the extra paperwork is
2 unnecessary, maybe you can try and come to some compromise
3 about that. If you can't, we'll hold the hearings on it.
4 How's that?

5 STAFF COUNSEL RATLIFF: Well, we want to keep the
6 condition. We don't have the time to send compliance
7 people out to do an inspection ourselves. We think that
8 since these are signed documents that they send, that if
9 they are filling them out, they will probably fill them
10 out honestly. And if there are problems with the service,
11 then they would probably indicate in these reports. So we
12 think it's just a useful compliance measure.

13 HEARING OFFICER RENAUD: Okay. Well, unless I
14 hear otherwise, then we'll plan to include this in the
15 evidentiary hearing.

16 MR. GALATI: Okay. But there is no need to
17 include this in the evidentiary hearings. I think I've
18 been heard and I think I see the decision, so we're fine.
19 We do not have to take up evidentiary hearing time for
20 that item.

21 Thank you.

22 HEARING OFFICER RENAUD: All right. Thank you,
23 Mr. Galati.

24 Let's address the final "no dispute, but" issue,
25 which is facility design. This has to do with the version

1 of the Building Code that's going to be applied. We've
2 seen this in other projects.

3 It has to do generally with the version of the
4 code which will be applied to the General Electric turbine
5 equipment. And the code that's to be applied is the 2001
6 code, and I don't think there's any question about that.
7 It seems to be simply a question of the wording of the
8 proposed Condition of Certification Gen 1. The proposed
9 condition is relatively brief but does make that clear.
10 Applicant has asked for a substantially longer, a more
11 detailed proposed condition.

12 Again, has staff had a chance to review that and
13 do you have any comments?

14 STAFF COUNSEL RATLIFF: We agree to it.

15 HEARING OFFICER RENAUD: All right. Fine. Good.
16 Got that taken care of.

17 Okay. Well, that leaves us with the "yes" issue.
18 The "yes" issue covers both hazardous materials and worker
19 safety and fire protection areas. And it has to do with
20 the capability of the Maxwell Fire Protection District to
21 cover hazardous response and -- hazardous material
22 response and fire response issues at the project.

23 To summarize the positions as I understand them,
24 the Maxwell Fire Protection District has written a letter
25 asking for \$230,000 per year from the project owner to

1 cover the costs of hiring a full-time fire chief, two
2 firefighters, and some equipment. The fire protection
3 district is basically a volunteer fire department at this
4 time, and it has one fire station in Maxwell itself, which
5 is about nine miles, as I understand, from the site.

6 The applicant offered to pay for the cost of an
7 expert analysis of this issue, with an expert selected by
8 the fire protection district, and that did occur. It was
9 a report authored by the McMullin firm, which came out
10 with a number of recommendations for mitigation.

11 And the applicant has agreed to take care of all
12 of those recommendations, save one, the one being the
13 establishment of a private fire brigade under the
14 California Labor Code, which is basically the use of the
15 employees of the facility as firefighters, to have them
16 trained as firefighters and available in the case of need.

17 Let me hear first I think from the applicant
18 about that. Do you have any comment on this?

19 MR. CARROLL: Well, just to summarize the
20 positions that we've set forth in a number of documents.
21 Given the nature of this facility and the proven
22 infrequency of incidence at such facilities and the
23 built-in fire suppression and emergency response systems,
24 all of which are discussed in great detail in the
25 application for certification, we think that, first of

1 all, the likelihood of an incident occurring at the
2 facility is very, very low. We believe that should an
3 incident occur, the on-site fire suppression and emergency
4 response systems at the project would take care of that
5 incident without the need for response or significantly
6 involved response from Maxwell Fire Protection District.
7 And in light of that, we don't believe that it's warranted
8 to have two or two and a half additional staff persons
9 placed on the fire protection district's payroll for the
10 next 30 years at the expense of this applicant simply
11 waiting for an incident that is extremely unlikely to
12 occur and unlikely to require any intervention on the part
13 of the fire protection district should it occur.

14 HEARING OFFICER RENAUD: Mr. Galati, anything
15 further on that?

16 MR. GALATI: The only thing I would point out is
17 that in the -- in order to move this process forward, we
18 had proposed a condition that would provide to be sure
19 that Maxwell Fire Department gets what it needs. It may
20 not be what it has currently asked for, which is what it
21 wants. But we certainly are going to take care of what
22 Maxwell Fire Department needs.

23 And the purpose of the condition was a
24 compromise, so that we could go forward while we continue
25 to negotiate and get more information with Maxwell Fire

1 Department but not delay this project going to
2 construction. And we're very concerned on behalf of PG&E
3 that if we are taking up evidentiary time to try to put in
4 front of you dollars and have you make a dollar decision
5 on what Maxwell Fire Department needs today, that that
6 would actually delay the final issuance of this decision.
7 And we want to go to construction right away.

8 So we propose that condition that says that
9 agreement will be in place based on -- in coordination
10 with Maxwell Fire Department and third party experts, if
11 they're necessary. And that would be in place prior to
12 erection of structures. And our purpose is we followed
13 other projects that have included a similar time when the
14 dollar amount was in question.

15 HEARING OFFICER RENAUD: Your proposed condition
16 basically states that the project owner and the fire
17 protection district would work with third party experts,
18 if needed, to mutually determine the amount of money to be
19 provided to the MFPD to ensure adequacy of fire protection
20 services, which sounds fine. Big question in my mind is
21 what if you can't, what if you cannot mutually determine?
22 What would we do?

23 MR. GALATI: I think at that time that we would
24 be in a situation where we would need to come to you and
25 amend that condition. And that would be an amendment

1 process.

2 HEARING OFFICER RENAUD: Let me hear comment from
3 staff on this, if any.

4 MR. TYLER: Fire department has informed me that
5 they've looked at this and they feel this is the minimum,
6 absolute minimum that would be necessary for them to
7 respond effectively.

8 Our position is that basically at the time
9 present, there is a potentially significant impact that's
10 been identified. There's been no analysis to suggest that
11 that impact isn't significant. There's nothing in the
12 record in terms of frequency of occurrences of events or
13 the likelihood of fatality, injury or property damage that
14 could be used to assess the significance of the potential
15 impact. The fire department has stated that if they
16 respond to an incident at this facility, that they would
17 be unable to respond effectively to their normal
18 constituency. And so staff is in the unenviable position
19 of having a significant impact pursuant to CEQA and no way
20 to mitigate that impact other than to require that it be
21 paid for by the applicant.

22 I would also point out that under the recommended
23 measures that were described by the expert consultant
24 report, that one of those is to obtain assurance from the
25 County of Colusa that appropriate fees derived from CGS

1 property taxes are appropriately disseminated to the
2 Maxwell Fire Department. Normally what happens in these
3 types of situations is an agreement is reached between the
4 applicant, the county, the local government to ensure that
5 the fire department has adequate funding. Once that's
6 done, the fire department normally sends a letter or
7 testifies or informs staff that they are now satisfied
8 that they have adequately resources to respond to the
9 needs of the community and the facility and that there are
10 no longer impacts associated with the project. We're not
11 at that point here.

12 Staff had allowed time after the last workshop at
13 the request of the developer to try to work this out. It
14 hasn't been worked out. And we have nothing in the record
15 to suggest that there's anything but a significant --
16 potential for significant impact.

17 HEARING OFFICER RENAUD: And I understand the
18 parties feel they're at an impasse at this point and,
19 hence, this discussion.

20 One thing I know the Committee is very interested
21 in is whether you've looked at precedent for the idea of
22 paying annually for the costs of beefing up the staff of a
23 fire protection district.

24 MR. TYLER: This is the first time that it hasn't
25 been resolved outside of our process. So this is the

1 first time that we have a situation where we have to
2 impose this on the applicant outside the normal tax
3 revenue base. So we don't have a precedent.

4 HEARING OFFICER RENAUD: Has staff looked at
5 solutions to this issue that have been successful in other
6 cases, in prior projects, in other words?

7 MR. TYLER: In prior projects it has always been
8 resolved outside the process. It's been resolved between
9 the fire department, the developer. And the fire
10 department has then basically indicated that they had
11 adequate resources and that there was no longer an impact,
12 no longer a potential impact.

13 HEARING OFFICER RENAUD: And I take it that the
14 staff's position basically is that the district's requests
15 are appropriate to mitigate the potential impact?

16 MR. TYLER: That's correct. Looking at the
17 impact study and then looking at the fire department's
18 requests and their stated reasons and the staffing levels
19 that they've indicated are completely consistent. The two
20 documents don't have any inconsistency or glaring errors
21 that I can see at all.

22 VICE CHAIRPERSON BOYD: I will confess I put some
23 time in to this. And I'm glad to hear you say it wasn't
24 precedent, because I actually went searching. I spent
25 more time than I normally ever do going through past

1 dockets looking for some guidance and I failed to find
2 that guidance. So I know this is a tough one. I'm
3 frankly, you know, undecided and a little torn here myself
4 with regard to what the -- time might be recommending
5 you're comfortable with. And so I hope you folks can go
6 back and come out with some agreement, and I wish you
7 luck.

8 You know, in this search for precedent I saw
9 historically the statements that were made by the
10 applicant that this agency has said repeatedly, that the
11 likelihood of any kind of an event is extraordinarily low.
12 So I'm a little guided by that. By the same token, every
13 other case I've personally been involved in and others
14 that I looked at, we are admittedly dealing with fire
15 districts that are, you know, not quite so rural, let's
16 just say, as this fire district, and I couldn't find a
17 volunteer one in all that I looked at.

18 So this is a precedent-setting situation and it
19 is kind of new, and I wish you luck in trying to resolve
20 it so we don't have to resolve it. And I just hope -- you
21 know, I want to see the action taken adequate to provide
22 for the potential risk, which is admittedly quite low. I
23 don't want the community shortage should there be that
24 rare event. But by the same token, I hope the community
25 is being fair in terms of its assessment and not just

1 trying to make itself whole for some future expansion of
2 the community, where I hope in turn that expansion would
3 be covered by necessary developer fees or whatever else
4 takes place. But I'm not ready to render any comments
5 beyond that today. But it's obviously one that we don't
6 have simple a precedent to fall upon.

7 COMMISSIONER GEESMAN: Is this one where PG&E as
8 the new owner has had an adequate opportunity to review
9 the matter, or are you simply stepping in the shoes of
10 your predecessor?

11 MR. GALATI: At this stage we've not had an
12 opportunity to meet with the Maxwell Fire Department on
13 our own. And when we become the owner of the assets, we
14 certainly intend to. And, again, the purpose of our
15 condition was not to leave Maxwell Fire Department without
16 an agreement with us. It's just we don't have time to get
17 enough information to have an adequate basis upon
18 negotiation.

19 There was a study that was done. The study has
20 no dollars in it. The study doesn't, in our opinion,
21 support two and a half full-time people. And so there
22 might be some agreement on which experts could do an
23 additional study. And that is exactly what was done in
24 the Blythe case. The dollar amount was what was
25 questioned. And so there was a requirement that there is

1 an agreement. And maybe the language of this condition
2 needs to be tightened up to say, rather than shall work
3 with third-party experts, but we should actually bring an
4 agreement if that would get us over this impasse.

5 Our concern is that -- I'm not sure evidentiary
6 hearings are going to be very productive on this point.
7 I'm not sure what experts we're going to bring in at this
8 stage and have a battle of opinions. But there really
9 isn't a study or the sort of evidence upon which those
10 experts could base their opinion, in our assessment. We
11 want to go get that. And we think that the Commission and
12 the Commission staff and the public will be protected if
13 such an agreement is provided to the CPM prior to erection
14 of structures. That's what we're attempting to do.

15 HEARING OFFICER RENAUD: And I think looking down
16 the road toward the evidentiary hearing and having to
17 adjudicate this, it seems to me it's an area that is
18 suitable, in effect it can only be handled through expert
19 opinion testimony. We do have an expert report. This
20 was -- the McMullin Company prepared this report in April
21 and recommended nine mitigation measures.

22 The applicant has offered to implement numbers 2
23 through 9. The first one is the formation of an
24 industrial fire brigade. Private industrial fire brigade
25 has not been the applicant's offer at this time.

1 We don't have comparable expert opinion
2 apparently to counteract this.

3 First I guess my question is, is anybody planning
4 to use this report and its author in expert testimony,
5 either?

6 STAFF COUNSEL RATLIFF: Well, if we adjudicate
7 it, of course we would.

8 Right now the only thing we have in the form of
9 evidence is the consultant's report, which says what ought
10 to happen, and then the estimates from the fire department
11 of the monetary amount that would be necessary to make it
12 happen. There isn't anything else really to base an
13 opinion on.

14 So I think Mr. Galati's right. I mean you don't
15 have very much to go on. But if you go on anything at
16 all, you'd have to go with the staff's conditions, I
17 think, unless you, you know, pull out another report and
18 you get someone else to do an estimate.

19 HEARING OFFICER RENAUD: Well, if that's the
20 case, then between now and the evidentiary hearings you're
21 both going to need to scramble a bit and assemble expert
22 testimony witnesses and that sort of thing from which we
23 could -- a decision could be made. Because at this point
24 I don't see that we have enough to go on. What I'd like
25 to --

1 STAFF COUNSEL RATLIFF: We would really like PG&E
2 to make this issue go away. And I think maybe they just
3 haven't done that because they haven't had a chance to.
4 Normally it does go away. And I guess we'd like to think
5 that they will make it go away.

6 The problem we have with the proposed condition
7 that we have in their counter-proposal is the one that
8 you've raised - what if there is no resolution of the
9 issue? I think an amendment process would be very
10 destructive of any schedule if there had be before they
11 could begin commercial operations. So it doesn't seem
12 like a very good way or a very secure way of trying to get
13 what either one of us really wants.

14 HEARING OFFICER RENAUD: Well, one thing about
15 that proposed condition is that it begins with the phrase
16 "prior to construction," which means that if there's --
17 before construction of structures there would be -- there
18 must be an agreement about this or there will be no
19 construction of structures. That's a pretty powerful
20 incentive to try to come to an agreement, I think. So
21 there may be some merit to that proposed condition.

22 I believe there's someone here from the fire
23 protection district. Is that correct?

24 Would you care to address us about this?

25 MR. WELLS: Yes, I would.

1 HEARING OFFICER RENAUD: State your name for the
2 record, if you will, please.

3 MR. WELLS: Yeah, Dave Wells with Maxwell Fire.
4 I'm the Chief. Good afternoon.

5 There's been some I guess misguided information
6 here. We talked about our expert that the company hired
7 in April. And we did ask them to do that, and they took
8 on the project. They came out with their statements,
9 which is written in the statements here. That wasn't what
10 we were after. We were after a full-blown -- we wanted to
11 know how this was going to impact the district, and not
12 just from fire protection, you know, sides and, you know,
13 fire extinguishers and sprinklers. We wanted a full-blown
14 report. Well, when they came back with this they told us,
15 "Well, there wasn't enough money. This is just a
16 preliminary overview here. There wasn't enough money to
17 provide us to do a study like that." And I go, "Well, I
18 guess that's the way it is."

19 And I was in communication with them a month ago,
20 and they would put that in writing that that was just a
21 preliminary and there wasn't enough funding to do a real,
22 true study.

23 And the other comment I have here, you know, that
24 fire protection and fire safety and the EMS doesn't stop
25 at the gates. You know, this is going to be an ongoing

1 thing, with trucks and service vehicles, and it just
2 doesn't stop at the gate.

3 And from -- and I'm speaking for the
4 Commissioners now on some of this here. If you don't
5 build it, we are not affected at all. And right now we
6 are taxed, and we don't need any more business. I've been
7 with the district since 1972 and started as the
8 firefighter and went all the way through this. And I've
9 seen the changes in society on demands, rules and
10 regulations. Our staffing from the volunteers, we can't
11 get volunteers. We went from a waiting list with 30 guys,
12 with a waiting list of another 15 or 20 just to get on, to
13 now we don't have a waiting list and we're down, you know,
14 10 guys.

15 And so society has changed here. And we don't --
16 like I say, bottom line is we don't need any more
17 business. And this is a great project, but I don't know
18 that the people of our district should have to fund this.
19 And like I say, this is a -- it's an ongoing process here
20 for the next 30 years, and somebody's going to have to
21 take care of it.

22 And there was something mentioned in the -- in
23 this study here all along. And this is just one of the
24 examples of this. They were talking about defibrillators
25 in here. And the PG&E or the applicant, one or the other,

1 they didn't even want defibrillators on site. So I know
2 where the liability's going to go. It's going to go to
3 us.

4 And to mitigate this -- from the Commissioner's
5 side, this is the lowest they think they can go. I
6 recommended it should be -- for ideal, it should be four
7 personnel, 24 hours a day. Now we're talking hundreds of
8 thousands of dollars, hundreds of thousands of dollars.
9 And that's the correct way to do this. This is a -- this
10 is what they feel is the minimum they can go with this to
11 have this project go through. And they can hopefully -- I
12 don't like it because I don't think it's quite enough.
13 But their perspective is, this is a compromise for them to
14 be able to provide the service to our district and to this
15 new powerplant.

16 HEARING OFFICER RENAUD: Thank you. Let me ask
17 you a question.

18 In the -- referring to the McMullin report.
19 There's reference to a study published by the district
20 called Development Impact Fee Study?

21 MR. WELLS: Yes.

22 HEARING OFFICER RENAUD: Was that in anticipation
23 of this project or was that just a general --

24 MR. WELLS: It was a general study --

25 HEARING OFFICER RENAUD: -- a general study?

1 MR. WELLS: -- year 2004-2005, yes.

2 HEARING OFFICER RENAUD: All right. You've
3 indicated that the report you felt was preliminary, it
4 wasn't really as thorough as you had hoped?

5 MR. WELLS: Well, it wasn't what we asked for.

6 HEARING OFFICER RENAUD: Did you have any
7 discussions with anybody to try and go back to the drawing
8 board and get it beefed up for you?

9 MR. WELLS: Well, we had conversations with --
10 and they just kept going back, "Well, that's the report."

11 HEARING OFFICER RENAUD: You had conversations
12 with --

13 MR. WELLS: -- Competitive Power Ventures, the
14 applicant, I'm assuming, here.

15 HEARING OFFICER RENAUD: And the upshot of that
16 was basically that this is the report, that's what you're
17 going to get?

18 MR. WELLS: Correct.

19 And then the other question that you had. We did
20 meet with PG&E a month ago, and they said they'd get right
21 back to us. And we haven't seen anybody.

22 HEARING OFFICER RENAUD: All right.

23 VICE CHAIRPERSON BOYD: Could I ask a couple
24 questions?

25 MR. WELLS: Sure.

1 VICE CHAIRPERSON BOYD: What's the nearest
2 adjacent fire district to you and what type of a district
3 is it? And do you have a mutual aid agreement with that
4 district?

5 MR. WELLS: There's one to the north in Glenn
6 County. It's 17 miles north. And then we have one that's
7 10 miles -- or 8 miles south of Williams and --

8 VICE CHAIRPERSON BOYD: Are they full time or
9 volunteer?

10 MR. WELLS: Williams is full time. They have one
11 person on, full-time chief, and then they also have one
12 person 24 hours a day, as does Willows.

13 VICE CHAIRPERSON BOYD: And do you have -- are
14 there mutual aid agreements amongst the districts --

15 MR. WELLS: With Williams, which is in the
16 county.

17 VICE CHAIRPERSON BOYD: Okay. Thank you.

18 STAFF COUNSEL RATLIFF: Could I ask, before you
19 go, is there an assessment district for the Maxwell Fire
20 Department?

21 MR. WELLS: Well, we're set up through Prop 13
22 way back when.

23 STAFF COUNSEL RATLIFF: So there is a --

24 MR. WELLS: There's no assessment district, no.

25 STAFF COUNSEL RATLIFF: So there's no way to

1 allocate such costs through other developers that might
2 come in later?

3 MR. WELLS: Just through property tax.

4 STAFF COUNSEL RATLIFF: Okay. Thanks.

5 MR. TYLER: I would make one more comment. This
6 goes to the issue of -- I think that you were grappling
7 with about the likelihood. And I think that's -- that
8 goes to the question of this risk management plan. And
9 obviously if you're going to do a risk management plan,
10 you do some sort of risk assessment to determine the
11 probabilities and impacts of such offense. And that is
12 part of what is not here.

13 So, really we're left with a situation where we
14 have a report that on its face suggests that there are
15 significant impacts that would need to be mitigated
16 pursuant to CEQA. So that's the reason for staff's
17 position on this and why we've put a condition in place to
18 require the applicant to pay for it, because there is no
19 one else to make pay for it.

20 COMMISSIONER GEESMAN: So let's say that the
21 applicant -- and I think one reading of their comments
22 would suggest -- agrees that it ought to pay for it,
23 agrees there's an impact that ought to be mitigated, but
24 thinks that we ought to punt calculation of exactly what
25 that mitigation amount should be until post-licensing,

1 pre-construction of structures but post-licensing. What's
2 the matter with that?

3 MR. TYLER: As long as it's a situation where the
4 fire department has the control over saying that we agree.
5 In other words -- or that there's some analysis that staff
6 agrees to. My concern is that until the fire department
7 says that there isn't an impact or until staff determines
8 through some sort of analytical analysis that there's not
9 a significant risk, we are in a position where we have to
10 mitigate. And, unfortunately, the only way to get
11 mitigation is through the applicant. We cannot force the
12 county to pay for it through taxes and neither can the
13 fire department and neither can the applicant.

14 COMMISSIONER GEESMAN: Well, I'm reading their
15 proposed WS6 as the applicant and the fire district
16 mutually determining.

17 MR. TYLER: If they reach agreement, obviously
18 the fire department would come back to us and say that
19 there's no longer an impact.

20 COMMISSIONER GEESMAN: If they don't, they're not
21 going to erect structures. They'll be back here, I
22 suspect, asking us to do something to address the
23 condition.

24 Is there something fundamentally flawed with
25 taking that approach? And the alternative is Commissioner

1 Boyd and I are going to sit here in a couple weeks and
2 trying to figure out what we use to determine an amount.

3 MR. TYLER: I --

4 COMMISSIONER GEESMAN: And they will just go with
5 what the fire district has suggested because it sounds as
6 good as anything else.

7 MR. TYLER: Based on my reading of the impact
8 study, the fire department's recommendations aren't
9 inconsistent with that. So I have no reason to question
10 it at this time.

11 But -- I have no problem with a condition that
12 allows more time and allows PG&E the opportunity to reach
13 agreement with the fire department. But I do -- I do feel
14 that, pursuant to CEQA, we do have to have mitigation at
15 some point.

16 MR. CARROLL: On behalf of the applicant, let
17 just me just make a couple points.

18 First of all, we are not at all unsympathetic to
19 the longstanding and chronic underfunding of the Maxwell
20 Fire Protection District, and we're sympathetic to the
21 chief's statements that the times, they are a changing,
22 and that it's difficult to maintain a volunteer fire
23 department. So we're not unsympathetic to their plight.
24 The question is whether or not this particular project
25 should bear the full burden of addressing that plight, and

1 that is our concern.

2 With respect to -- you know, we're struggling
3 with what the number should be. And let me also make a
4 point, that we also are not suggesting that we not
5 mitigate for any impacts that this project has. From the
6 very beginning we've made it very clear that to the extent
7 this project has any impacts, we understand our obligation
8 to step up and mitigate those. We seem to be struggling
9 with, you know, what the dollar amount is. I don't see
10 any reason that the mitigation measures need to be put in
11 terms of a dollar amount.

12 We have an expert's report. It's the only expert
13 opinion that we have that's been prepared. I understand
14 that the county wasn't happy with the outcome of that
15 report. They would have perhaps preferred that it --
16 certainly they would have preferred that it come to a
17 different set of conclusions, and they might have
18 preferred it be more comprehensive. It was a \$10,000
19 effort. It was something that we thought was adequate and
20 it didn't give short shrift to the issue.

21 So we have a set a mitigation measures. I don't
22 know that the Committee or anybody else needs to come to a
23 conclusion as to what the dollar value of those mitigation
24 measures are. The condition could simply required that
25 those mitigation measures be implemented regardless of the

1 cost. So I don't know that we need to struggle here with
2 figuring out how to put a price tag on that set of
3 mitigation measures in order to put the condition in terms
4 of dollars as opposed to actions.

5 HEARING OFFICER RENAUD: Thank you.

6 Mr. Tyler, let me just ask you, did staff review
7 and consider the recommended mitigation measures in the
8 McMullin report?

9 MR. TYLER: Yes. And in fact one of those, the
10 fourth one down, clearly indicates that there should be
11 funding of the fire department. Okay? And that's what
12 normally happens. The problem is that hasn't happened
13 yet, and we are at the point of making a decision where we
14 have an obligation to comply with CEQA.

15 We don't -- we have a significant impact on its
16 face and no way to mitigate other than be to require the
17 applicant to pay for it.

18 I have sympathy for the fact that it's
19 falling -- the burden's falling on the applicant outside
20 of the tax base. But the fact is I've tried in the past
21 to make requirements that fire departments would get the
22 money up front and it would be reimbursed through local
23 taxes.

24 I was informed by our legal staff that I have no
25 authority whatsoever to tell a county how to spend their

1 tax revenues.

2 So I'm left in the position of simply having only
3 one place to go to get the mitigation, and that's the
4 applicant or the owner of the project.

5 HEARING OFFICER RENAUD: Okay. Well, all I can
6 do at this point then is suggest that you keep trying to
7 work it out. And when it comes to the evidentiary
8 hearing, be prepared to put on your side with opinion
9 testimony and --

10 MR. GALATI: I promise I'll be brief. I thought
11 I heard the possibility that staff may have agreed with
12 WS6. Is there some language that is necessary to take
13 that issue off the table? Because I think that it is -- I
14 don't want to be unproductive on the 23rd. And if the
15 issue is the amount, maybe we can list the performance
16 standards of what needs to be paid for and that an amount
17 is determined prior to erection of structures by a
18 third-party consultant and an agreement between the
19 applicant, which will be PG&E, and Maxwell Fire
20 Department. And in that case, that allows us the time to
21 go ahead and do what we're doing and get it resolved. And
22 that was successfully how it was resolved in Blythe. The
23 issue was the amount. I remember negotiating Blythe, and
24 we were in a situation where we were at a dollar amount
25 with the City of Blythe, and then the Metcalf decision

1 came out. And so I walked into the City of Blythe's
2 conference room and there were three front pages of the
3 San Jose Mercury news showing the \$12.3 million gift that
4 Calpine had given to the city. And so it changed our
5 negotiations significantly, as you might imagine.

6 So we had an agreement. And then we went and got
7 a study. And guess what? That study then provided a
8 basis upon which we could negotiate. And that's all we're
9 asking for.

10 HEARING OFFICER RENAUD: Well, proposed WS6 may
11 have some potential to get us there. Right now it is far
12 from an agreement that the parties will simply submit the
13 issue to a third party and allow that third party to come
14 up with a solution. It requires still that everybody
15 agree to it.

16 But among other things, I think that's -- you
17 ought to continue talking about potential for WS6 to be
18 the solution here.

19 Okay. Yes, please come forward, sir.

20 State your name for the record.

21 MR. EVANS: Gary Evans, Supervisor, Colusa
22 County.

23 We would like to be involved in this negotiation
24 with the fire department for the funding mechanism. There
25 are some things we feel at the county that we can do, some

1 things we feel we can't because of perhaps precedent.

2 One thing perhaps could be the 172 funds
3 generated by the construction of this project, which
4 brings me to that it's imperative that the Commission
5 cause the applicant to abide by our Ordinance 714, our
6 development agreement, that it adhere to just a little
7 additional redundancy perhaps. If PG&E assumes the
8 ownership, we don't need a loophole where they don't also
9 assume that agreement which causes the point of sale to be
10 Colusa County. Which would, you know, give us the sales
11 tax, which would be a significant boost that we could
12 divert. But, sure, it's a one time shot in the arm over
13 two years. And that's one example.

14 I just would like us to be kept in the
15 negotiating loop and help to perhaps facilitate part of
16 this. But, you know, like I say, it's imperative that
17 some sort of language or some sort of requirement from the
18 Commission that the new owner or new operator of the
19 facility not be able to get out of the agreement that we
20 have with E&L.

21 HEARING OFFICER RENAUD: I would imagine we could
22 hear from Mr. Galati about that right now.

23 We're stepping into the shoes of E&L, correct,
24 and we're assuming all the rights and obligations?

25 MR. GALATI: Yeah, we are. I mean when it gets

1 to taxes, now taxes are way beyond my level of expertise.
2 And the point of sale, I don't understand. So I don't
3 know if I can provide the answer to that right now. I've
4 written it down though and I will provide the answer.

5 HEARING OFFICER RENAUD: All right, very good.
6 Well I appreciate your interest in working on the solution
7 toward this, and I hope everyone will.

8 VICE CHAIRPERSON BOYD: And I personally think
9 it's a fair statement that the county be in the loop. I
10 mean this is a systems-wide issue that involves county
11 government, its fire district, its corporate citizens and
12 everything, so I think that's an extremely reasonable
13 suggestion and I'm sure it can be accommodated.

14 MR. EVANS: And just, you know, for
15 clarification, we have -- we, the county, have not muddied
16 the fire department water, because they have their own
17 governing board, they're their own entity, and they know
18 best what they need more so than we do. But we're here to
19 help, you know, the best that we can.

20 So thank you.

21 HEARING OFFICER RENAUD: Thank you.

22 MR. CARROLL: We have one additional point before
23 we move off from this topic if we're nearing the end of
24 discussion. So --

25 HEARING OFFICER RENAUD: Why don't you go ahead

1 and then we'll hear from --

2 MR. CARROLL: Yeah, this is more of a procedural
3 issue.

4 It appears as though it's possible we may be
5 going to evidentiary hearing on this issue. Of course
6 we're going to try our best over the next couple of weeks
7 to avoid that. In the event that that happens, we've
8 identified some additional experts that might be able to
9 provide some helpful information subsequent to the filing
10 of our prehearing conference. And so I wanted to provide
11 those names so that they're on the witness list. And
12 we'll get the resumes in for those individuals within the
13 next couple of days. So at some point before we leave, I
14 just wanted to put those names on the record so that
15 people are aware of them.

16 HEARING OFFICER RENAUD: You might as well do it
17 now. And then also submit it in writing, please.

18 MR. CARROLL: I'll do that.

19 The names are Randy Roxson R-o-x-s-o-n, with the
20 McMullin group; John Lee J-o-h-n L-e-e, who is a retired
21 fire chief; and Ross F-e-e-n-e-y, also a retired fire
22 chief.

23 And as I said, we will get the CVs in for those
24 three individuals. We've just identified them in some
25 cases this morning.

1 HEARING OFFICER RENAUD: All right. Thank you.

2 And, Chief Wells, you wish to add something?

3 MR. WELLS: Yeah, just one other comment. We're
4 talking about the impacts. And it sounded like we wanted
5 to move -- we wanted to start here and move the project
6 forward while we negotiate that. And we're going to be
7 against that. I mean we're impacted already. We're here.
8 We've been doing this for a year, spending time. We're
9 already impacted. And so we would like to see this --
10 before they start, this mitigated out, before they start
11 anything. As soon as you start a project, we are
12 already -- and it's going to take us awhile, you know, to
13 gear up here. And I think -- in our request I think we
14 wanted six months here before they started doing anything.
15 I know -- I think it's 30 days. That's probably doable, I
16 guess. If it takes -- you know, you just don't go put
17 something together here, hire people and getting the right
18 training in 30 days. It doesn't happen that way. And,
19 you know, we're -- like I said, our district is willing to
20 work here with people. But it's been pretty silent here
21 for the last year. And we're hoping we can mitigate this
22 out, but we're willing to listen to anything. But they
23 need to be listening to us too.

24 HEARING OFFICER RENAUD: I appreciate that. And
25 I think everyone has agreed to involve you in the

1 discussions over this, and that will be ongoing.

2 MR. GALATI: Can I just clarify for Chief Wells
3 what our proposal is?

4 HEARING OFFICER RENAUD: Sure.

5 MR. GALATI: Again, our understanding is that the
6 ongoing possibility of an incident that happens, this is
7 going to be something that happens when we bring hazardous
8 materials and flammable materials to the site. There has
9 not been identified that there's a construction response
10 issue. That's why we timed it to erection of structures
11 that this agreement would be in place. And there's quite
12 a bit of time between the erection of structures and the
13 time that hazardous materials are brought on site and
14 operations.

15 So, again, we were trying to target a timeframe
16 that didn't put him in a position where he didn't have
17 time to train people.

18 So we're not trying to shift it way out. This is
19 not actually shifted out very far at all. It just does
20 allow us to maybe start site mobilization, some site
21 grading, and get working on maybe some foundations and
22 things like that and get us moving forward.

23 HEARING OFFICER RENAUD: Thank you.

24 And the proposed condition, WS6, does contemplate
25 agreement between the project owner and the fire district.

1 So those will be, you know, the people who pursuant to
2 that proposed condition anyway would need to be in
3 agreement about this. So I'm sure you'll be talking into
4 the future about that.

5 A couple of minor things in this area on worker
6 safety really amount to housekeeping. The staff
7 declaration of Rick Tyler for worker safety also includes
8 the name of Heath Golden. I think you need to change
9 that.

10 And the testimony for worker safety indicates
11 that it's the testimony of both Rick Tyler and Alvin
12 Greenberg, which it may be. But we need a declaration of
13 Dr. Greenberg. We don't have that.

14 All right. Nick is there something?

15 This is Nick Bartsch, a public advisor.

16 All right. Thank you.

17 Before we move into the public comment period,
18 just again administrative detail. The notice asked the
19 parties to bring the documentary and written testimonial
20 evidence here to exchange. I understand from Mr. Carroll
21 that that's what those boxes over there are.

22 MR. CARROLL: That's correct.

23 HEARING OFFICER RENAUD: Thank you.

24 And as to the staff's documents, I think we
25 probably already all have those anyway, basically

1 indicating the FSA and a couple of other things.

2 STAFF COUNSEL RATLIFF: Yes.

3 HEARING OFFICER RENAUD: All right. We're ready
4 to move into public comment.

5 I've been informed by Mr. Bartsch that we are
6 having some technical difficulties with the phone line and
7 we need a moment to work on that. There are some people
8 who wish to speak by phone.

9 So I'm going to suggest that we take a
10 five-minute break and resume at 3:30. Hopefully we'll
11 have the phone line up and running again. And we'll also
12 take public comment from those of you who have filled out
13 blue cards.

14 MR. CARROLL: Mr. Renaud, I don't know if we take
15 it up at this point or after the break. But under
16 "hazardous materials" there was also one minor issue in
17 addition to the significant issue that we've been
18 discussing. It's on page 8. It was another one of those
19 uncertain or no, but's.

20 STAFF COUNSEL RATLIFF: We agreed to that change.

21 MR. CARROLL: That's the change of the haz mat --
22 for clarification. But I want to make sure the record's
23 clear.

24 HEARING OFFICER RENAUD: Oh, yes, on the record.

25 Yeah, we -- I'm sure that was a typographical

1 error and you're not running down Downey Boulevard.

2 MR. CARROLL: Thank you.

3 HEARING OFFICER RENAUD: Okay, 3:30.

4 (Thereupon a recess was taken.)

5 HEARING OFFICER RENAUD: Okay. Please take your
6 seats. Let's get going so we can wrap this up in short
7 order, please.

8 We're now going into the public comment period.

9 I understand we have people on the line who wish
10 to speak. We also have three people here in the room who
11 wish to speak. And I think we'll proceed with the people
12 in the room first and then go to the telephone line.

13 MR. LEE: Raoul?

14 HEARING OFFICER RENAUD: Yes.

15 MR. LEE: Yeah. And I just want to make sure,
16 the first contact with the phone conference when you began
17 the hearing.

18 HEARING OFFICER RENAUD: Who is speaking, please?

19 MR. LEE: My name is Ron Lee.

20 HEARING OFFICER RENAUD: All right, Mr. Lee. Are
21 you representing any agency?

22 MR. LEE: I'm representing the family, the owners
23 of the property.

24 HEARING OFFICER RENAUD: All right. Good.

25 We will be taking public comment from those on

1 the telephone shortly. Can you hear the proceedings at
2 this point?

3 MR. LEE: I can. But could you please answer my
4 question?

5 HEARING OFFICER RENAUD: What was that question?

6 MR. LEE: Did you when you began the conference
7 acknowledge that you could hear the telephone portion of
8 the meeting?

9 HEARING OFFICER RENAUD: I asked if there were
10 people present on the telephone lines. And at that point
11 there were not.

12 MR. LEE: And what time was that?

13 HEARING OFFICER RENAUD: Well, it was
14 approximately at 2 o'clock.

15 MR. LEE: Okay. I was on prior to that.

16 HEARING OFFICER RENAUD: It appears there was a
17 technical difficulty with the phones. As you were told,
18 the transcript will be made available and you'll be able
19 to review what was said in the room at that time. I'm
20 sorry. These things are not avoidable sometimes.

21 MR. LEE: Thank you.

22 HEARING OFFICER RENAUD: I'd like to proceed with
23 public comment from Dora Dirks, please.

24 Come to the microphone and state your name for
25 the record.

1 MS. DIRKS: Dora Dirks.

2 HEARING OFFICER RENAUD: Why don't you pull that
3 mike down towards your face there.

4 MS. DIRKS: My name is Dora Dirks. And our
5 family owns 130 acres of farmland that is located one-half
6 mile from the powerplant site. Our property is on both
7 sides of Dirks Road and is adjacent to the east side of
8 the GCID canal.

9 We have concerns in general about the powerplant,
10 as it will be located so close to our farmland. We have
11 voiced these concerns over the past year in letters and
12 Emails to the Energy Commission, the Colusa County Board
13 of Supervisors, and in the few conversations that we have
14 had with E&L Westcoast. However, today we want to focus
15 on our concerns related to the proposed construction
16 projects that will impact our land.

17 Any of the bridge replacement plans and road
18 alignments will require the use of our property for
19 permanent and temporary easements.

20 Our specific concerns include interruption of our
21 irrigation water flows, both at the inlet and drainage
22 sites; and the impact of relocating the irrigation ditch.
23 Also, the area shown as a fresh water marsh on our
24 property was created by seepage through the levee of the
25 GCID canal. Excavating or dredging taking place on or

1 adjacent to the levee on either side of Dirks Road could
2 cause additional seepage with unknown damages.

3 We also have concerns about nonorganic fill dirt
4 that could jeopardize our organic certification.

5 We have asked E&L Westcoast for a project
6 engineer or a qualified representative to meet with us to
7 discuss and explain what types of construction activities
8 would be taking place on our property, including the
9 short- and long-term impacts and how these would affect
10 our growing of organic rice.

11 As of today, E&L Westcoast has not answered to
12 our requests to meet with an engineer or to -- or a
13 qualified representative. Our only scheduled meeting for
14 early November in '07 was canceled by E&L.

15 E&L Westcoast does not own any of the property
16 that I have discussed, nor have they entered into any
17 agreement to purchase this property from us.

18 Our family has been provided with little
19 information about how this project will affect the use of
20 our land and our concerns have not been addressed.

21 Thank you.

22 HEARING OFFICER RENAUD: Thank you for your
23 comments, Ms. Dirks.

24 My next comment card is from Mary Anne Azevedo.

25 MS. AZEVEDO: Mary Anne Azevedo. And I'm

1 representing my husband, Alan, and myself. We are
2 landowners on the west side of the Glenn-Colusa Canal.
3 Dirks and Barrett's own on the east side as you proceed to
4 the current PG&E substation. My husband and I own
5 property on both sides of the current PG&E easement.

6 The last communication that we had with Andy
7 Welch was on November 3rd. And at that time, we had
8 several questions and those have been unresolved. And we
9 received a letter from PG&E on November 16th saying that
10 they were going to acquire this from E&L Westcoast. But
11 they have not contacted us at all.

12 Our concerns is they're talking about doing a
13 temporary -- purchase a temporary and permanent easements,
14 and they haven't come out to the site to explain exactly
15 what kind of effect it's going to have on both the north
16 and the south sides of the road. Increased traffic, we're
17 concerned on how that's going to affect us that we can
18 continue to do our farm operation on both sides of those
19 roads.

20 There's a locked gate that you go over the
21 Glenn-Colusa Canal. And we had discussed at previous
22 meetings that the gate isn't being locked and there is a
23 continuous problem with people trespassing and that hasn't
24 been -- E&L Westcoast or PG&E hasn't responded to those.

25 So thank you.

1 HEARING OFFICER RENAUD: Thank you for your
2 comments.

3 Gary Evans, I have a card from you. Do you wish
4 to speak further?

5 MR. EVANS: Yes, sir. Gary Evans, Supervisor.

6 I just -- after my comment as pertained to the
7 development agreement from counsel to my right, the -- I
8 just would like it understood that I'm speaking of the
9 entire agreement, Ordinance 714, that that needs to be
10 assumed, you know, by the beneficiary in its entirety, not
11 just as pertains to taxes, you know. We just need to make
12 certain that the development agreement, you know, it was
13 to lay with the land. But if they don't own the land --
14 if PG&E doesn't own the land, we just need the development
15 agreement to go on down to the next beneficiary of the
16 plant.

17 HEARING OFFICER RENAUD: Very good.

18 MR. GALATI: Mr. Evans, I didn't mean to seem
19 cagey. I honestly don't know. But I will certainly talk
20 to you afterwards and find out exactly what your concern
21 is and we'll address it.

22 MR. EVANS: Okay. Thank you.

23 STAFF COUNSEL RATLIFF: Could I just ask, you're
24 talking about the development agreement that went with the
25 county's land-use changes and --

1 MR. EVANS:

2 STAFF COUNSEL RATLIFF: -- the canal plan and --

3 MR. EVANS: Yes.

4 STAFF COUNSEL RATLIFF: Okay.

5 That one -- it was between the County of Colusa
6 and E&L Westcoast.

7 STAFF COUNSEL RATLIFF: And your concern is that
8 it might not be applicable to the new owners, is that it?

9 MR. EVANS: I just wanted it tightened up, you
10 know, so that there's no loophole, you know, of a legal
11 matter that -- because it went -- we did it attached to
12 the land-use changes, you know. Well, if land-use
13 changes, you know, are done, you can't -- there are some
14 cases where you cannot force a party -- obligations upon a
15 receiving party, you know. And I just don't want this to
16 be one of those, you know, because we've made this
17 agreement with E&L with the understanding that it was to
18 go -- continue on to whichever beneficiaries end up with
19 the powerplant on down the line. And we just don't need
20 to have -- because it's essential for the tax base
21 purposes, but it has other reasons.

22 STAFF COUNSEL RATLIFF: And I think the county in
23 its correspondence with the Commission staff has requested
24 that the Commission include as a condition those
25 provisions that were in the county's resolution, is

1 that it?

2 MR. EVANS: Yes.

3 STAFF COUNSEL RATLIFF: If in fact the Commission
4 did that, would that take care of it?

5 MR. EVANS: Yes, it would.

6 Thank you very much.

7 HEARING OFFICER RENAUD: Thank you for your
8 comments.

9 Let's turn to the telephones.

10 Ron Lee, please. Did you wish to comment?

11 Mr. Lee, are you there?

12 MR. LEE: Yes, I'm here.

13 Unfortunately, I don't have any comments at this
14 time but I wasn't privy to the whole meeting. I'll have
15 to get a transcript, I guess present at the 23rd if I have
16 any comments.

17 HEARING OFFICER RENAUD: Yes, you'll certainly
18 have an opportunity to comment at that hearing.

19 So thank you for calling in today.

20 MR. LEE: And how do we get a transcript?

21 HEARING OFFICER RENAUD: Cue contact the Public
22 Advisor, Nick Bartsch, and he will help you with that.

23 MR. LEE: Very good. Thank you.

24 HEARING OFFICER RENAUD: All right. Thank you.

25 Is there anyone else on the phone?

1 Nick, I thought you indicated there were other
2 people. No?

3 THE SPEAKER: There's other people on the phone.
4 We just -- we don't need to comment, I don't think.

5 HEARING OFFICER RENAUD: Okay. Anyone on the
6 phone who wants to speak? I want to make sure you have
7 that opportunity before we close the proceedings for the
8 day.

9 Is there anyone present who wishes to speak,
10 present in the room?

11 All right. Any further comments from staff,
12 applicant?

13 Anybody?

14 STAFF COUNSEL RATLIFF: Yes, Commissioners.

15 One of the sort of loose ends for the staff that
16 we don't have a very good understanding of is the issue
17 that was just raised by Dirks and the Azevedo's concerning
18 construction impacts and potential use of their property.
19 I guess I would like to have -- if the applicants, they
20 won't give us any more information about that, it would be
21 very useful to us to try to understand what the issue is
22 and how it might be resolved if it is an issue, because
23 we're short on information on that very item.

24 HEARING OFFICER RENAUD: All right. Mr. Galati
25 or Mr. Carroll, is there something, any comments you can

1 make on that at this time or --

2 MR. CARROLL: Yes, I'd be happy to provide some
3 background.

4 The existing access to the site includes, as
5 we've discussed, an access road that provides for public
6 access and a bridge over the Glenn-Colusa Irrigation
7 District. It was recognized early on that the existing
8 bridge was not adequate to handle the heavy haul transfer.
9 The applicant believed that the most elegant approach to
10 addressing that was to replace the bridge. And that also
11 required some modifications to the approaches to the
12 bridge. That proposal required the use of some of the
13 property from the Azevedo's and the Dirks. And so
14 throughout these proceedings, we have been in discussions
15 with the Azevedo's and the Dirks. We have tried mightily
16 to answer their questions. But as you've heard, we
17 apparently have failed. But I can tell you it was not
18 through lack of effort on our part.

19 We also have failed to come to commercial terms
20 that were mutually acceptable to the parties.

21 So in the absence of the ability to address their
22 concerns about our use of their property, in the absence
23 of the ability to agree upon commercial terms for the use
24 of their property, the proposal now is to not replace the
25 bridge but to simply use a temporary bridge that doesn't

1 require any intrusion into either of their properties.

2 I should add that, you know, there may be
3 discussions hereafter between PG&E and the property owners
4 that would change that proposal. But from E&L Westcoast's
5 perspective, the current proposal is to use a temporary
6 bridge that doesn't require property from the Dirks or the
7 Barrett's.

8 HEARING OFFICER RENAUD: When was the temporary
9 bridge proposal or idea decided on?

10 MR. CARROLL: I believe it was first discussed at
11 the PSA workshop. But I'd have to go back and look at
12 that. I'm referring to the --

13 HEARING OFFICER RENAUD: Has that been covered in
14 the --

15 MR. CARROLL: -- refers to the jumper bridge.

16 HEARING OFFICER RENAUD: Has that been covered in
17 the staff analysis?

18 MR. FLORES: No, it has not.

19 PROJECT SITING MANAGER CASWELL: The change --
20 the original bridge proposal did change. And it was
21 submitted to the currently analyzed bridge proposal just
22 days before the workshop. And we discussed with the
23 applicant that we couldn't make too much comment on it
24 because we didn't have it long enough to even look at the
25 information and analyze it. So this is yet a third -- or

1 a second change to the original bridge proposal.

2 So, you know, I don't know. You know, if they're
3 going to come up with another idea, they're going to have
4 to submit it as a change.

5 HEARING OFFICER RENAUD: Mr. Carroll, do you have
6 details about the temporary bridge proposal that's
7 submitted?

8 MR. CARROLL: Well, there aren't many details
9 about the temporary bridge proposal. There simply is a
10 temporary bridge that a contractor brings in and lays
11 across the existing bridge. And when the heavy haul
12 equipment has been taken across, the temporary bridge is
13 taken away. So it's a fairly simple proposition. No
14 impacts beyond the scope -- certainly beyond the scope of
15 replacing the bridge, which involves some fairly -- which
16 did involve some impacts that had to be analyzed. So it's
17 completely within the scope of what's been analyzed for
18 the proposal that was in the AFC.

19 HEARING OFFICER RENAUD: Well, it sounds like
20 that is something the staff needs the chance to analyze to
21 determine if in fact in their view there's an impact or
22 not. Is there any detail that could be provided to staff
23 promptly?

24 MR. CARROLL: Absolutely. Yes, we'd be happy to
25 talk to the staff and see what they think they might need

1 and to provide that, absolutely.

2 HEARING OFFICER RENAUD: All right. Would you
3 please do that.

4 Thank you.

5 All right. Anything further?

6 I thought I heard a voice there. No?

7 All right. Hearing nothing.

8 Commissioners, anything else?

9 All right. We'll stand adjourned.

10 Thank you.

11 (Thereupon the Colusa Generating Station

12 Prehearing Conference adjourned at 3:47 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Colusa Generating Station Prehearing Conference
7 was reported in shorthand by me, James F. Peters, a
8 Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 15th day of January, 2008.

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