HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for	)	
Certification for the	)	Docket No. 98-AFC-3
DELTA ENERGY CENTER	)	
(CALPINE CORPORATION and	)	
BECHTEL ENTERPRISES, INC.)	)	
_____	)	

2500 ANTIOCH-PITTSBURG HIGHWAY

ANTIOCH, CALIFORNIA

WEDNESDAY, OCTOBER 13, 1999

6:20 P.M.

Reported by:
Valorie Phillips
Contract No. 170-99-001

COMMITTEE MEMBERS PRESENT

William A. Keese, Chairman, Presiding Member

Robert Pernell, Commissioner, Second Member

STAFF PRESENT

Susan Gefter, Hearing Officer

Major Williams, Jr., Hearing Officer

Cynthia Praul, Adviser to Chairman Keese

Rosella Shapiro, Adviser to Commissioner Pernell

Paul C. Richins, Jr., Siting Project Manager

Dick Ratliff, Senior Staff Counsel

Gary Walker

Obed Odoemelam

Eric Knight

Gary Walker

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ALSO PRESENT

Greg Baytrup
Delta Diablo Sanitation District

Harold Carlson, Chemical Engineer

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P R O C E E D I N G S

6:20 p.m.

HEARING OFFICER GEFTER: This is a continuation of the hearing for Delta Energy Center. Chairman Keese, who is Presiding Member, is not here yet, and it's now 20 after 6:00, and we were scheduled to begin at 6:00, so we're going to go on record and ask Commissioner Pernell to chair until Chairman Keese arrives.

COMMISSIONER PERNELL: Thank you, Susan. Good evening. We're here this evening to conduct an evidentiary hearing on Calpine and Bechtel application for the certification of the Delta Energy Center.

This hearing is being conducted in the Pittsburg area for the convenience of local intervenors and residents who are interested in this proceeding.

Before we begin we would like to introduce the Committee and then ask the parties to identify themselves for the record.

We'd ask the individuals who are attending this hearing to identify yourselves when we indicate your name or organization. If you are not affiliated with any intervenor or

organization, please identify yourself as we proceed.

Now, we will introduce the Committee. I'm Chairman Commissioner Pernell. To my right is Advisor Rosella Shapiro, Hearing Officer is Susan Gefter, and we also have Major Williams --

HEARING OFFICER GEFTER: Who is a Hearing Officer, as well.

COMMISSIONER PERNELL: And now I would ask the parties to identify themselves for the record. The applicants.

MR. ELLISON: Thank you, Commissioner Pernell. My name is Chris Ellison with the lawfirm of Ellison and Schneider. I'm representing the applicant Calpine/Bechtel.

MS. STRACHAN: I'm Susan Strachan; I'm the Environmental Project Manager for Calpine/Bechtel Delta Energy Center Project.

MR. BUCHANAN: And I'm Doug Buchanan; I'm Development Manager for the Delta Energy Center Project.

MR. RATLIFF: I'm Dick Ratliff, Counsel to the Staff. And with me is Paul Richins, the Project Manager.

HEARING OFFICER GEFTER: Thank you. Any

intervenors?

MS. LAGANA: I'm Paulette Lagana from CAP-IT. That's L-a-g-a-n-a. Thank you.

MR. HALL: Jack Hall, City of Antioch.

MR. JEROME: Randy Jerome and Avan Gangapuram, City of Pittsburg.

COMMISSIONER PERNELL: Any agencies?

MS. MENDONCA: I'm Roberta Mendonca, the Energy Commission's Public Adviser, and I've been in touch with Joe Hawkins, Community Health First. He's not going to be able to attend this evening, but he has sent me an email which I'm going to go try and retrieve, that would come in by way of public comment.

MR. BAYTRUP: I'm Greg Baytrup representing Delta Diablo Sanitation District.

COMMISSIONER PERNELL: Thank you.

HEARING OFFICER GEFTER: Are there any other members of the public who haven't introduced themselves this evening who expect to speak to us, make formal comment? If you are interested in coming forward and identifying yourself for the record at this time, this is your opportunity.

(Pause.)

HEARING OFFICER GEFTER: Yes, would the

gentleman who just walked in please identify yourself, come up to the microphone. You don't have to say anything other than your name so we know you're here.

MR. CARLSON: My name is Harold Carlson; I'm a chemical engineer, specializing in water treatment.

HEARING OFFICER GEFTER: Thank you. I want to note for the record that Chairman Keese and his Advisor, Cynthia Praul, have just now arrived and we haven't begun the hearing yet, just gone through the introductions.

We're going to go off the record and let Chairman Keese take a seat.

(Off the record.)

HEARING OFFICER GEFTER: I'm going to discuss the schedule before we go forward with the evidentiary hearing tonight.

On September 9th the Committee issued a notice scheduling this hearing. During the course of tonight's hearing the Committee will take occasional recesses as we proceed.

On October 7th the Committee issued a revised evidentiary hearing schedule which canceled the hearing previously scheduled on

October 27th, and added the dates of November 3rd and November 10th.

The topic of socioeconomics was previously scheduled for today's hearing, October 13th. However, we moved socioeconomics to the November 10th hearing to provide more time for the parties to prepare testimony on issues of socioeconomics, which would include the topic of environmental justice. The Committee prefers to take evidence on the environmental justice issue in conjunction with the topics of air quality and public health. Those topics are all scheduled on November 10th.

Regarding air quality, the final determination of compliance or FDOC was previously expected to be released in the first week of October. However, we are understanding now that the new date has slipped a few weeks to the middle of October. At this point we would like to inquire whether the parties have any new information on the FDOC release date. I'll go to the applicant first.

MR. BUCHANAN: This is Doug Buchanan. The information we have is that from the air district which was delivered from Peter Hess to us

on Monday, was that they have no issues and they are attempting to complete their administrative task of finishing the document.

So there's no action on the applicant's part at this point, we're simply waiting for them to complete their administrative process. They have indicated they expect it out this week. Past practice would indicate next week.

HEARING OFFICER GEFTER: Does staff have any other information other than what the applicant has indicated?

MR. RICHINS: We have been trying for the last couple of days to try to get a proposed release date, have not been successful. The staff that we were talking to would not commit to a date. So we don't have any new information other than what Doug just shared.

HEARING OFFICER GEFTER: The schedule for the November 10th hearing is depending on the release date of the FDOC. And then staff has requested at least two weeks to review the FDOC and prepare its testimony.

So the longer the delay in receiving the FDOC there's always a chance that the November 10th hearing might have to be put off to another

date. Just so everybody knows, there's still that possibility.

PRESIDING MEMBER KEESE: May I ask a question of staff? Is there an indication that there is very little change between the original document and the FDOC?

MR. RICHINS: There was a number of issues that were brought up by the reviewers, the California Air Resources Board, the Energy Commission Staff and EPA.

And we would anticipate that there would be some changes to address and deal with the issues that were raised during the 30-day comment period.

PRESIDING MEMBER KEESE: Thank you.

HEARING OFFICER GEFTER: We have some unfinished housekeeping business from the hearing on October 5th.

At the October 5th hearing the record on geology remained open for the purpose of receiving the applicant's geotechnical report, or otherwise responding to staff's concerns regarding soil liquefaction issues.

I wanted to ask the applicant whether they have retrieved that report and provided it to

staff?

MS. STRACHAN: Yes, we did. It was given to the staff last week.

HEARING OFFICER GEFTER: Okay. And then we turn to staff to inquire whether that report is sufficient --

MR. RICHINS: Yes. We reviewed it and it's satisfactory.

HEARING OFFICER GEFTER: Okay.

MR. RICHINS: And I also have an errata that you requested from the last hearing that would cover this topic and the other topics that you brought up at the hearing. We will docket this tomorrow, but I have ten copies with me this evening if you would like me to pass them out.

HEARING OFFICER GEFTER: At this point I would ask staff whether you have any further testimony or evidence on the topic of geology, or whether you are ready to close the record on that topic?

MR. RICHINS: The record can be closed.

HEARING OFFICER GEFTER: Okay. And the geotechnical report, is that already on our exhibit list and identified for the record?

MS. STRACHAN: No, it's not.

HEARING OFFICER GEFTER: Okay.

MS. STRACHAN: It's an exhibit at this time.

HEARING OFFICER GEFTER: All right. Would the applicant be interested in sponsoring the report for the record?

MR. ELLISON: We'll go ahead and sponsor it as an exhibit.

HEARING OFFICER GEFTER: Okay.

MR. ELLISON: We have not docketed it. We will do that tomorrow or the day after.

HEARING OFFICER GEFTER: Okay. Is there any objection to submission of the geotechnical report from the applicant? It will be identified exhibit 28.

(The above-referenced document was marked Applicant exhibit 28 for identification.)

HEARING OFFICER GEFTER: Is there any objection to admitting that document into the record?

MR. RICHINS: No.

HEARING OFFICER GEFTER: Okay, does anyone have a copy of it this evening?

MS. STRACHAN: I actually have a couple

copies of it in my car. Do you want me to get it --

HEARING OFFICER GEFTER: Would you please provide it to the Committee before the end of today's hearing?

MS. STRACHAN: Sure.

HEARING OFFICER GEFTER: Thank you. At this point, exhibit 28, which is the geotechnical report prepared by the applicant and sponsored into evidence this evening is received into evidence.

(The above-referenced document, previously marked Applicant exhibit 28, was received in evidence.)

HEARING OFFICER GEFTER: And this document will be docketed and distributed to the parties. Thank you.

Okay, with respect to cultural resources, the topic remained open to allow the parties to redraft proposed conditions regarding the timeline for hiring qualified specialists prior to the start of construction.

Have the parties agreed upon a new timeline and other conditions regarding this topic?

MR. RICHINS: We reviewed -- I reviewed with our staff and also with the applicant the condition that was in question as a standard condition that we had used in past cases and had good success in its use.

I also checked on the Sutter case, as well as the Pittsburg ENRON case, and it was the standard condition that we used there.

HEARING OFFICER GEFTER: What is staff's conclusion, then, regarding revising the condition?

MR. RICHINS: Our conclusion was not to make any changes. There's also no known resources in the area, so we didn't feel that there was any unusual conditions that would cause a need to make a change.

HEARING OFFICER GEFTER: All right.

MR. RICHINS: This is covered also in the errata.

HEARING OFFICER GEFTER: Is there any other item that staff wishes to pursue regarding cultural resources or are you ready to close the record on this topic?

MR. RICHINS: No, we have no more information.

HEARING OFFICER GEFTER: All right. So the topic of cultural resources will be closed at this point, and the conditions, as proposed previously by staff, will be submitted as originally drafted.

With respect to the record on worker safety and fire protection, the record remained open to receive amended language for proposed conditions regarding the construction schedule.

Have the parties agreed upon these new proposed conditions? Worker safety.

MR. RICHINS: I'm not sure what you mean. We did make some minor changes regarding 30 days at the last hearing, and that's included in this errata. And, yes, we have agreed.

MS. STRACHAN: That's correct.

HEARING OFFICER GEFTER: Thank you. The record on worker safety and fire protection will now be closed.

Does staff want to distribute your proposed errata and identify it for the record?

MR. RICHINS: If you would like. I have ten copies.

HEARING OFFICER GEFTER: Yes. Staff's errata will be identified as exhibit 29.

(The above-referenced document was marked CEC Staff exhibit 29 for identification.)

HEARING OFFICER GEFTER: And this errata covers the topics of geology, cultural resources and worker safety, is that correct?

MR. RICHINS: Yes, it is.

HEARING OFFICER GEFTER: Thank you. Has the applicant received a copy of this errata?

MR. RICHINS: Yes.

HEARING OFFICER GEFTER: Okay. Does staff move to submit this errata into the record?

MR. RICHINS: Yes.

HEARING OFFICER GEFTER: Exhibit 29. Okay, is there any objection?

Exhibit 29 is now received into the record.

(The above-referenced document, previously marked CEC Staff exhibit 29, was received in evidence.)

HEARING OFFICER GEFTER: For the benefit of members of the public who have never attended Energy Commission hearings before, I'm going to give a little background as to the purpose of these hearings.

The evidentiary hearings are formal in nature, and they're similar to court proceedings. The purpose of the hearings is to receive evidence, including testimony, and to establish the factual record necessary to reach a decision in this case.

The applicant has the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the proposed facility.

The order of testimony will be taken as follows for each topic, the applicant, staff, the intervenors; and we will address the topics in the sequence contained in the hearing order.

This evening we will hear testimony on transmission line safety and nuisance, which includes a discussion on electric magnetic fields, known as EMS.

Next we will hear testimony on visual resources, and finally on land use.

Witness will testify under oath or affirmation. During the hearings a party sponsoring a witness shall establish the witness' qualifications and ask the witness to summarize the prepared testimony. Relevant exhibits should

be offered into evidence at that time.

At the conclusion of a witness' direct testimony the Committee will provide the other parties an opportunity for cross-examination, followed by redirect and recross, as appropriate. Multiple witnesses may testify as a panel. The Committee may also question the witnesses.

Upon conclusion of each topic area we invite members of the public to offer unsworn public comment. Public comment is not testimony, but it may be used to explain evidence in the record.

Are there any questions regarding this process?

The Committee distributed a current version of the exhibit list to the parties. On the exhibit list we noted that exhibit 23, which the applicant identified at the previous hearing on October 5th, was not received into the record.

Does the applicant wish to move exhibit 23 into the record? That's regarding the proposed location of an ammonia tank.

MS. STRACHAN: Yes, we do.

HEARING OFFICER GEFTER: Okay, is there any objection?

MR. RICHINS: No.

HEARING OFFICER GEFTER: Okay. Exhibit 23 is received into evidence this evening.

(The above-referenced document, previously marked Applicant exhibit 23, was received in evidence.)

HEARING OFFICER GEFTER: Are there any other exhibits that the parties wish to move into evidence at this time?

MR. ELLISON: Ms. Gefter, we do have a couple of other housekeeping items, and I would ask Susan Strachan to discuss them.

MS. STRACHAN: In terms of exhibits we'd like to move exhibit 12 into the record. This is a supplemental filing to the DEC application for certification which has a change to the gas line interconnection point that was part of the project description testimony.

HEARING OFFICER GEFTER: Is there any objection to the admission of exhibit 12 into the record?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Exhibit 12 is received into the record.

//

(The above-referenced document, previously marked Applicant exhibit 12, was received in evidence.)

MS. STRACHAN: And also we'd like to add an additional exhibit which is Jeremy Salamy's qualifications. He was sponsoring testimony for hazardous materials and traffic and transportation at the hearing on October 5th.

HEARING OFFICER GEFTER: Do you have a copy of that document?

MS. STRACHAN: Yes, I do.

HEARING OFFICER GEFTER: Okay, that will be identified as exhibit 30. These are Jeremy Salamy's qualifications.

(The above-referenced document was marked Applicant exhibit 30 for identification.)

HEARING OFFICER GEFTER: If you'd distribute the document to the parties and to the Committee.

MS. STRACHAN: Okay. If I could bring up the last item, and then I'd be happy to distribute those.

The last item is actually a clarification that I wanted to make as part of the

project description testimony by Mr. Buchanan. He had previously stated that the amount of steam that will be sent to Dow Chemical was 70,000 pounds per hour. It's actually 200,000 pounds per hour. And that's consistent, the 200,000 pounds per hour is consistent with the staff analysis and what's specified in the application for certification.

HEARING OFFICER GEFTER: Thank you. After the parties have an opportunity to look at exhibit 30, do you want to move that exhibit into the record?

MS. STRACHAN: Yes, we do.

HEARING OFFICER GEFTER: Is there any objection?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Okay, exhibit 30 is received into evidence this evening.

(The above-referenced document, previously marked Applicant exhibit 30, was received in evidence.)

MR. ELLISON: That completes our housekeeping items.

HEARING OFFICER GEFTER: Okay. Does any party wish to make changes in their list of

witnesses for the topics this evening?

MR. ELLISON: No.

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Does the applicant -- sorry?

MR. RATLIFF: I assume that the Committee is aware that the staff witness in visual resources will be Gary Walker sponsoring the testimony of Joe McDonald, who actually prepared the testimony.

HEARING OFFICER GEFTER: Thank you.

MR. RATLIFF: Mr. McDonald is out of state and not accessible right now. We have a witness, though, who is thoroughly familiar with the testimony and can explain anything that the Committee or anyone else might ask about it.

HEARING OFFICER GEFTER: Thank you. Is the applicant ready to proceed with your witness on transmission line safety and nuisance?

MR. ELLISON: We are.

HEARING OFFICER GEFTER: Okay. All the witnesses will be sworn by the court reporter. The applicant may proceed.

MR. ELLISON: The applicant's witness on transmission line safety and nuisance is

Mr. Doug Buchanan, who I believe was previously sworn.

Whereupon,

DOUGLAS BUCHANAN

was recalled as a witness herein, and having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q Mr. Buchanan, will you identify the subject matter of the testimony that you're here to sponsor?

A Yes, transmission line safety and nuisance.

Q Can you specifically identify the documents which are sponsored as part of that testimony?

A The document that is specific to this testimony is the EMS study submitted to the Energy Commission on July 2, 1999.

HEARING OFFICER GEFTER: Is that exhibit identified in the exhibit list?

THE WITNESS: Yes, it is. We're currently checking the number.

This is exhibit 15. EMF study

identified as exhibit 15.

HEARING OFFICER GEFTER: Thank you. What were the other exhibits that you were sponsoring with this testimony?

THE WITNESS: The other exhibits were as noted from the previous testimony under transmission line safety and nuisance. I'm sorry, I misspoke, transmission system engineering. And those items previously identified were AFC section 6.0, responses to the CEC data requests number 33 and 35.

PG&E power flows submitted to the Energy Commission on February 4, 1999, the PG&E detailed facility study submitted on March 25, 1999, the Independent System Operator comments on that study filed on June 2, 1999, a notice of relocation of a segment of the transmission line route filed on September 1, 1999.

Responses to the Energy Commission's informal data request filed on May 14, 1999, and Calpine/Bechtel status report number 4 to the CEC filed on July 22, 1999.

HEARING OFFICER GEFTER: Have all those exhibits been identified and/or admitted into the record?

THE WITNESS: Yes, they have.

HEARING OFFICER GEFTER: Thank you.

MR. ELLISON: Clarify the record, all those exhibits have both been identified and admitted into the record.

BY MR. ELLISON:

Q With respect to all the exhibits that you identified, but specifically with respect to exhibit 15, Mr. Buchanan, were these documents prepared either by you or at your direction?

A Yes, they were.

Q Are the facts contained in these documents true to the best of your knowledge?

A Yes, they are.

Q Do you have any changes or corrections that you would like to make?

A Yes. If this is the appropriate time, I have one correction to my testimony. And that is on page 15, on the summary section A. I'd like the record to note that the correct total distance is 3.3 miles, as opposed to 3.2. For the record the reference should be 3.3 miles.

Q With that correction do you adopt these documents as your sworn testimony in this proceeding?

A Yes, I do.

MR. ELLISON: I would move the admission of exhibit 15.

HEARING OFFICER GEFTER: Is there any objection?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Exhibit 15 is received into evidence this evening.

(The above-referenced document, previously marked Applicant exhibit 15, was received in evidence.)

BY MR. ELLISON:

Q With respect to transmission line safety and nuisance, Mr. Buchanan, let me ask you a couple questions. First of all a couple of, if you will, cleanup matters from the previous hearing.

I understand that during your testimony on transmission line engineering the subject of exhibit 10 came up, which is a profile of the underground Delta Energy Center transmission line and the underground PDEF transmission line.

Would you refer the Committee to that exhibit and explain it briefly.

A I'd like to refer you to exhibit 10,

which specifically in exhibit 10 a cross-section diagram showing the proposed location spacing of the underground transmission cables in relation to the PDEF transmission cables, as they would reside through the 8th Street corridor through Pittsburg.

Q Thank you. Also at a previous hearing I understand that Hearing Officer Gefter asked the applicant to identify the distance between the transmission line poles. Can you provide that information?

A Yes. The proposed overhead configuration will consist of 11 towers with an average spacing of 810 feet. There was one section that is 975 feet, and that's maximum spacing on one set. And a minimum set spacing of 715 feet.

So to respond to the question the average distance is 810, a max of 975 and a min of 715, for the 11-tower run.

And for the Committee's benefit and for the record, the tower spacings are not always identical because you're avoiding physical obstacles in the field.

Q Mr. Buchanan, have you had an opportunity to review the final staff assessment

with respect to transmission line safety and nuisance?

A Yes, I have.

Q More specifically have you reviewed the conditions of certification with respect to transmission line safety and nuisance?

A Yes, I have.

Q Are the conditions of certification in the final staff assessment acceptable to the applicant?

A They are acceptable.

MR. ELLISON: Mr. Buchanan is available for cross-examination.

HEARING OFFICER GEFTER: Does staff have cross-examination of the witness?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Do any of the intervenors have cross-examination of the witness? Committee Members?

EXAMINATION

HEARING OFFICER GEFTER: With respect to exhibit 15, would the applicant please indicate what the conclusions were with regarding EMF?

THE WITNESS: The conclusions in regards to EMF is that for the two segments of the

transmission line, the overhead and underground, the EMF expected from the configuration proposed in one case, on the overhead, would not create or impose any kind of public nuisance or hazard.

And in terms of the underground EMF levels are de minimis.

So with the entire route we believe that the EMF study would conclude that there is not a risk of public health -- public health risk with the transmission line as proposed.

HEARING OFFICER GEFTER: What was the conclusion that the underground line would result in de minimis effects, what was that conclusion based on?

THE WITNESS: The conclusion was based on the configuration which is cable within steel pipe construction. The model results of that configuration are such that we would anticipate a two- to three-milligauss EMF field at one meter above the ground above the pipes.

For reference purposes a fluorescent lamp bulb produces about 40 milligauss at a one-foot distance.

HEARING OFFICER GEFTER: Does the applicant intend to build a linear park above the

8th Street corridor where the line is undergrounded?

THE WITNESS: That's correct. We have committed to the City of Pittsburg to design, finance and construct a linear park through the 8th Street corridor, in conjunction with PDEF.

HEARING OFFICER GEFTER: What do you intend to build on the linear park? Will there be a playground?

THE WITNESS: We have looked at the configuration and believe that the proposed Delta lines and construction configuration would result in not precluding any use that the city thought was appropriate.

So we believe that a park setting, playground setting, gazebos, a bandstand, whatever might be desired would be compatible uses.

COMMISSIONER PERNELL: Commissioner Pernell. How wide is the linear park?

THE WITNESS: The 8th Street corridor is a corridor that at one time was an old railroad right-of-way that, at its widest point, is approximately 100 feet, average is about 75 feet. And I think at its narrowest is about 50.

It's bordered on either side by a single

lane of local traffic.

COMMISSIONER PERNELL: Then my question goes to the safety of having -- will the park have a fence around it? It goes to the safety of the kids when you got two streets, or two roadways on both sides, whether or not there is some type of barrier there to keep a ball from rolling out and the kids running out into the street.

THE WITNESS: The short answer is absolutely. The city, and we've met with the city to talk about the park specifically, and a local developer that's building homes, regarding what the nature of the park should be. Should it be simply greenbelt, should it be public access.

And the commitment that we've made so far is to make it a community focus point, and without having any further design in place at this point.

COMMISSIONER PERNELL: It will be designed in conjunction with the city's specifications?

THE WITNESS: That's correct.

COMMISSIONER PERNELL: Thank you.

HEARING OFFICER GEFTER: Does the applicant have any redirect of its witness?

MR. ELLISON: I do have one clean-up question, Ms. Gefter.

REDIRECT EXAMINATION

BY MR. ELLISON:

Q Mr. Buchanan, I asked you whether you had reviewed the conditions of certification proposed by the staff in the final staff assessment. I neglected to ask you about the changes in the conditions of certification which are contained in the errata distributed at this hearing and identified as exhibit 29.

Do you have a copy of exhibit 29?

A I do.

Q Have you had an opportunity to review the changes to those conditions of certification specific to transmission line safety and nuisance?

A I have observed the conditions in the errata.

Q And with those changes, are the conditions still acceptable to the applicant?

A Yes, they are.

MR. ELLISON: That's all, thank you.

HEARING OFFICER GEFTER: Is staff prepared to go forward with your witness?

MR. RATLIFF: Yes.

HEARING OFFICER GEFTER: Okay, could the witness be sworn, please.

MR. RATLIFF: Yes, the staff witness is Dr. Obed Odoemelam.

Whereupon,

OBED ODOEMELAM

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. RATLIFF:

Q Dr. Odoemelam, could you describe your position and responsibilities with the staff, please.

A I'm a Staff Toxicologist for the Commission, and advise Commission Staff and Managers on issues related to public health.

Q And you have a doctorate --

HEARING OFFICER GEFTER: Excuse me -- stop. Off the record.

(Off the record.)

HEARING OFFICER GEFTER: Back on the record.

BY MR. RATLIFF:

Q Am I correct in my understanding that

you have a doctorate from the University of California?

A Yes, you are.

Q In what area?

A Ecotoxicology.

Q Okay. Did you prepare the staff testimony described as transmission line safety and nuisance in the staff FSA?

A Yes, I did.

Q Is that testimony true and correct to the best of your knowledge and belief?

A Yes, it is.

Q And you've made some corrections in that testimony that have been presented in exhibit 29, is that correct?

A Yes.

Q And those were referenced earlier by the applicant, is that correct?

A Yes.

Q Okay, could you summarize briefly your testimony for us?

A I have reviewed the plan proposed for the transmission line associated with the project for measures that are necessary to minimize specific health and safety hazards that are

concern to staff with regard to projects like this.

And we are satisfied that the design proposed for the line, as well as the route proposed for the line, are appropriate for a line of this type. And we have recommended specific conditions of certification to the Commission that should be required if the Commission decides to permit the line as proposed.

Q And as part of your testimony did you examine electrical shock hazards?

A Yes, I did.

Q And have those hazards been taken care of, in your view, by the mitigation that has been proposed?

A Yes, they have.

Q The issue that was addressed earlier tonight by the Committee was the question of electromagnetic fields, which is sometimes called EMF. Could you describe a little bit about the background of that issue?

A Beginning in 1979 or thereabouts there was some concern about the possibility of several types of health effects from exposure to the lines, effects from lines such as power lines and

from all the users of electricity.

Many types of effects have been suggested, but the one that has gotten the most attention has been leukemia in children. Certain studies pointed to this possibility.

But there have been very many reviews, and up till now the consensus among regulatory agencies is that although the health effects have not been established as definitely not possible, it is agreed that there is no causal relationship between exposure to fields of this type and significant health effects in humans.

And so most of the regulatory agencies in the meantime have specified ways to insure that the lines are designs to minimize exposure to the extent possible without impacting line design efficiency and so on.

And this is the position of the Energy Commission Staff, as well as the Public Utilities Commission, which specifies the requirements for the design of these lines.

And staff is satisfied that the proposed project has been designed in with this PUC requirement.

Q So you say the Public Utilities

Commission has actually issued design guidelines for transmission lines?

A Yes, they have.

Q What is the principle behind those guidelines?

A The guidelines are intended to insure that the types of designs, design measures that have been established as insuring the lowest field possible are incorporated in all these lines as proposed in issue to the area.

HEARING OFFICER GEFTER: Off the record.

(Off the record.)

HEARING OFFICER GEFTER: On the record.

BY MR. RATLIFF:

Q Are they also designed, in other words, to prevent any increase in new transmission lines of EMF, that new transmission lines would -- the fields that they create would not be greater than existing transmission lines?

A That is true.

Q And those principles have been followed in the design of this line?

A Yes, they have.

Q Could you tell us what the field strength of EMF from this transmission line would

be at the edge of the right-of-way?

A In the area of most concern to us, which is where the line of the most exposure to humans in the underground section of the line, the first trench will be between 2 and 3 milligauss, and these are relatively low; for contacts you get exposure of this level, you can encounter say a video display terminal or an electric clock. So these are relatively low levels of exposure.

Q So you say that the 2 to 3 milligauss level that is expected directly above the line in the median in the underground strip would be about the same as or comparable to the EMF you would expect from a clock, an electric clock or a video display terminal at two feet?

A Yes, that would be.

Q And has the concern been expressed about EMF traditionally being about long-term chronic exposure or short transitory exposure?

A The concerns have been about the long-term exposures, mostly you can encounter in the residential setting.

Q Is a kind of exposure a child would receive, for instance, if he played in the median strip, considered a long-term chronic exposure, or

a transitory exposure?

A It's a transitory exposure.

MR. RATLIFF: I have no further questions.

HEARING OFFICER GEFTER: Does the applicant have cross-examination?

MR. ELLISON: No.

HEARING OFFICER GEFTER: Do any of the intervenors have cross-examination?

Does the Committee have any questions?

PRESIDING MEMBER KEESE: No.

HEARING OFFICER GEFTER: Yes. The Public Adviser has a comment from a member of the public -- or from an intervenor.

MS. MENDONCA: I've received an email from Mr. Joe Hawkins with Community Health First. He has two points to make. One will be at the end, because it's actually air quality, but on the EMF issue he commented that he didn't seem to believe that the applicant would be quite so dumb as to expose all these people to an EMF risk and that as long as the lines are 150 feet from populated areas and work areas there shouldn't be a problem. And he got his information about the EMF exposures at a website.

I will transcribe this tomorrow and docket it and make it available to everybody.

HEARING OFFICER GEFTER: Thank you. I would like to ask the City of Pittsburg representative, Mr. Jerome, regarding the linear park. A question regarding whether a playground is one of the considerations for the design of the linear park?

MR. JEROME: The best I can say is that may be taken into consideration. The park, as Mr. Buchanan stated, it varies in width from 50 feet to as much as, it was over 100, wasn't it -- particularly the wider area, which is adjacent to some single family homes, might be considered for a more detailed park development.

But essentially the section that's 50 feet more than likely will just be a parkway with bicycle and pedestrian trails, and maybe benches and so forth.

HEARING OFFICER GEFTER: But will there be public hearings in the course of designing the park regarding whether the residents of the area would like to see a playground, and what the relative risks are to put a playground above the underground lines?

MR. JEROME: Park designs -- parks within the City of Pittsburg are referred to the City's Leisure Services Commission. It's their responsibility to review and approve all park designs within the City of Pittsburg.

And the approval, itself, will probably have to be approved by the City Council.

EXAMINATION

HEARING OFFICER GEFTER: Regarding the proposed condition TLSN5, which requires the applicant to notify property owners by letter about grounding to prevent nuisance shocks, this appears to be a pretty typical condition that you include in all of your TLSNs.

THE WITNESS: It is standard.

HEARING OFFICER GEFTER: Standard. What does the applicant need to do if a property owner doesn't comply with this particular request regarding grounding metal objects?

THE WITNESS: The applicant will have to inform compliance manager.

HEARING OFFICER GEFTER: I didn't understand.

THE WITNESS: If there is -- metal, an object that could be charged is to be placed after

the line is constructed, and the applicant works with the owner and tells him or her that they need to insure the ground and all the protocols that are required. Typically the owner will agree with the applicant.

But in the rare case when the owner does not agree, then we require the applicant to inform the compliance manager.

HEARING OFFICER GEFTER: And with respect to proposed condition TLSN6, which requires the applicant to be responsible for grounding objects in the right-of-way regarding the overhead line, what is the applicant's responsibility for grounding objects above the underground line, if it's necessary at all?

THE WITNESS: Well, for the underground it really isn't usually necessary. It's mostly in the overhead section.

HEARING OFFICER GEFTER: There was a statement in staff's testimony in the FSA at page 59 in which the comment is that health-based limits on EMF are inappropriate at this time.

Could you explain the meaning of that statement?

THE WITNESS: That's because we don't

know if exposure is significant, if it is above a certain level, or if it is above a certain level for a certain period of time, if it's exposure that's continuous. We just don't know the patterns of exposure. So we don't use the same matrix that we would use for ordinary environmental hazards, in this case.

HEARING OFFICER GEFTER: With respect to the proposed condition TLSN3, which requires the applicant to use field reducing measures if found necessary after applicant conducts a transmission line review, after the transmission line is energized.

What sort of field reducing measures would be appropriate if it is found that they're not the same as they were estimated prior to energizing the line?

THE WITNESS: Well, they may be required to reconfigure the line.

HEARING OFFICER GEFTER: And would they have to then de-energize the line?

THE WITNESS: Yes, they will. So it is in their interest to insure that the design typically is the numbers that would produce very conservative, it is the calculations are made with

all kinds of allowances so that typically they are much lower than design assumptions.

HEARING OFFICER GEFTER: With respect to staff's testimony on audible noise, there was a reference to the Bonneville Power Authority service area as an example for noise complaints.

Why was that particular service area chosen, and how is that relevant to the Pittsburg area?

THE WITNESS: There are the utility area in which specific studies have been conducted. And they've done a lot of surveys.

HEARING OFFICER GEFTER: Is that the only service area where they have surveys done on noise complaints?

THE WITNESS: No, noise from transmission lines of this types are typically not of any significance in the design that are typically used in this country.

HEARING OFFICER GEFTER: Thank you. Does staff have any more questions, any redirect of your witness?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: The witness may be excused. Thank you.

We're going to go off the record for a minute.

(Off the record.)

HEARING OFFICER GEFTER: Back on the record. Before we continue with the evidentiary hearing I want to go back to exhibit 29 which is staff's errata.

There was a section in the errata regarding traffic and transportation, and we had left the record open for that topic. And staff had, in the errata, proposed two conditions which I believe were amendments to the conditions that were -- originally appeared in the FSA, is that correct?

MR. RICHINS: Yes, that's correct, and these were verbally discussed at the hearing on the 5th, and this is just showing those changes in writing.

HEARING OFFICER GEFTER: Thank you. And I believe the applicant had agreed to these changes at the October 5th hearing regarding traffic and transportation, is that correct?

MR. ELLISON: That is correct.

HEARING OFFICER GEFTER: At this point the topic of traffic and transportation is now

closed for the record.

We're going to proceed now to the next topic, which is visual resources. Is the applicant prepared to go forward with your witness?

MR. ELLISON: Yes, we are.

HEARING OFFICER GEFTER: Have the witness sworn, please.

Whereupon,

THOMAS PRIESTLEY

was called as a witness herein and after first being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q Would you please state your name, state and spell your name for the record.

A Yeah, my name is Thomas Priestley, and that's spelled P-r-i-e-s-t-l-e-y.

Q And you are testifying with respect to visual resources, is that correct?

A That is correct.

Q Would you please identify the documents that you are sponsoring as part of your testimony?

A Yeah, I am sponsoring the testimony

titled visual resources.

Q And referring to paragraph D of that testimony there are listed several prior filings which are incorporated by reference. Could you briefly identify those?

A Yes. They include, and you'll see them by the bullet statements, section 8.11 of the AFC and data adequacy filings; responses to CEC data request numbers CEC36 through CEC60; responses to CEC informal data request filed May 7, 1999; and Calpine/Bechtel comments on the PSA filed August 19, 1999.

MR. ELLISON: For the record, the section 8.11 of the AFC is exhibit 2, and it's been previously admitted. The data adequacy filing is exhibit 3 -- let me double-check that.

HEARING OFFICER GEFTER: With respect to exhibit 2, which is the AFC, we were admitting just the portions of the AFC that the witnesses were testifying to. And then at the end of all the evidentiary hearings the applicant may move the entire AFC into the record as exhibit 2.

MR. ELLISON: Okay, thank you for that clarification. In that case section 8.11 of the AFC is a portion of exhibit 2 and that section has

not yet been admitted. We will move it momentarily.

The data adequacy filing is exhibit 3. The responses to CEC data requests numbers CEC36 through CEC60 is actually comprised of two different exhibits, the first is exhibit 6, which was admitted at the October 5th hearing; the second which involves CEC data request numbers 51 and 52 is exhibit 7, which has not been admitted. The responses to CEC informal data requests filed on May 7, 1999 is exhibit 9, which was admitted on the 5th. And the Calpine/Bechtel comments on the PSA is exhibit 18, which was also admitted on the 5th.

BY MR. ELLISON:

Q Were these documents prepared either by you or at your direction?

A Yes, they were.

Q Are the facts contained in these documents true to the best of your knowledge?

A Yes, they are.

Q Do you have any changes or corrections that you would like to make to any of them?

A Yes, to the testimony that was submitted for tonight's hearing there are a few minor

corrections I'd like to make.

If you look under 1 the prior filings, in the first sentence I would like to change submitting to submitted. In the second bullet I'd like to change date to data. And requests, I'd like to scratch the final "s".

And then underneath those four bullet statements there is an internal comment that was inadvertently left in. It begins, what are responses, and then has my initials TP at the end. I would like to request that that be stricken.

And then on page 38, under section 3 summary on page 38 there, paragraph B, at the end there is a reference to footnote 2. And then at the bottom of the page where the footnotes are, the footnote number was inadvertently left off.

So you'll see footnote 1 there, and then underneath it is a new paragraph that starts, As indicated. If you'd please put a small number 2 in front of the As.

And those are my changes.

Q With those changes, do you adopt these documents as your testimony regarding visual resources in this proceeding?

A Yes, I do.

Q Have you reviewed the final staff assessment?

A Yes, I have.

Q And specifically have you reviewed the conditions of certification with respect to visual resources.

A Yes.

Q Are those conditions of certification acceptable to the applicant?

A Yes, they are.

MR. ELLISON: At this point I would like to move that portion of exhibit 2 that constitutes section 8.11 regarding visual resources into evidence.

HEARING OFFICER GEFTER: Is there any objection?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Okay, section 8.11 of the AFC, which is a portion of exhibit 2, is admitted into the record.

(The above-referenced documents, previously marked Applicant exhibits 2, section 8.11 were received in evidence.)

MR. ELLISON: I'd also move into

evidence exhibit 3.

HEARING OFFICER GEFTER: I believe that has already been received.

MR. ELLISON: Okay, I'm sorry, I stand corrected, it has been received.

And exhibit 7.

HEARING OFFICER GEFTER: Any objection to exhibit 7?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Exhibit 7 is now received into evidence.

(The above-referenced documents, previously marked Applicant exhibit 7, was received in evidence.)

MR. ELLISON: At this time at the pleasure of the Committee Mr. Priestley is prepared to give a short summary of the visual resources testimony. If you would prefer to skip that, we can skip that.

HEARING OFFICER GEFTER: I would like to hear a short summary, and particularly with respect to the visual simulations KOP1, KOP2, KOP3 and KOP4.

BY MR. ELLISON:

Q Thank you. Keeping in mind the specific

request just given by the Hearing Officer, Mr. Priestley, could you briefly summarize the visual resources testimony?

A Well, I'll try. I think first off let me begin by saying just a little something about the visual resources, what they are.

Visual resources are the natural and cultural features of the landscape that can be seen and that contribute to the public's appreciation of their environment.

Visual resource or aesthetic impacts are defined in terms of the project's physical characteristics, the project's potential visibility and the extent to which the presence of the project in the setting would change the environment's visual character or quality.

And the visual studies for this project are typical for those carried out for projects of this type with identification of the qualities of the existing site and the surrounding landscape; identification of the areas from which the project might potentially be seen; and then within that area identification of viewpoints which may be particularly sensitive because they would be seen, for example, by very large numbers of people, or

it might affect particularly sensitive visual settings. And then more detailed studies to thoroughly understand the implications of the project from those points of view.

HEARING OFFICER GEFTER: Thank you. I'd like to just go directly to the visual simulations.

THE WITNESS: Sure.

HEARING OFFICER GEFTER: With respect to KOP1, in the staff's FSA actually they had visual resources figure VIS3 and figure VIS11. Those are the ones I'm referring to out of the FSA.

VIS3 is the existing view; VIS11 is visual simulation.

The question is this appears to be an obvious change to the viewpoint in KOP1. Would you tell us what KOP1 is, and what mitigation is proposed?

THE WITNESS: Yeah, KOP1 is representative of views on the Pittsburg-Antioch Highway. And it is also representative of views that can be seen from the area in front of Casa Medanos. And as you probably know, Casa Medanos is a former motel that has been converted into ten residential units.

HEARING OFFICER GEFTER: What mitigation is proposed?

THE WITNESS: The mitigation proposed here, and agreed to by CEC Staff, is several things. One, studies to select final colors for the plant that will integrate it into its settings. Another mitigation involves use of nonreflective materials for the plant, use of nonreflective materials for the fencing that would go around the plant. Development of a lighting plan that would minimize any nighttime lighting visible from this area or other areas off the site, and that would also minimize glow of the plant into the sky.

Then landscaping. Landscaping around the southern and western edges of the plant to integrate it better into its setting. During the construction phase the area in front of the plant would be used as a staging area. CEC Staff has recommended, and Calpine agrees to development of a design for fencing and other screening to screen views of the construction area from the corridor along the highway.

And then perhaps most significantly, staff has recommended and Calpine has agreed to

collaborate with the City and with Dow in the design configuration of a big retention basin that is being proposed for the Dow West Slough area.

And you see those bushes on the left side of the photo? That's a bunch of oleanders, which from this particular view screens the view towards the Dow West Slough area. So in the very near future the Dow West Slough is going to be completely transformed.

And Calpine has agreed to work creatively with the City and with Dow to provide landscaping around that slough, that site having habitat value, would also contribute aesthetically to the improvement of the overall view of that area. And in particular to preservation of a view corridor towards the river.

You know, one of the things that's kind of interesting is that in terms of Casa Medanos is that actually when you're in the center courtyard you're looking straight out. And what you see isn't exactly the plant site. You're looking straight out toward these oleander bushes.

And what will happen with the proposed scheme, the creation of the retention basin in this area, the oleanders will be moved, a view

corridor will be opened up, and the landscaping will be designed to enhance a view towards the river that will become available in the area that you could say would be to the left of, to the west of the plant site.

There's kind of beyond, if you could look beyond the oleanders, in fact, there's kind of a gap in the development that allows you to look out towards the river in that direction. And this mitigation measure then would kind of highlight that view corridor and make it available to the people in Casa Medanos as they look out down the center of their auto court.

HEARING OFFICER GEFTER: What screening will be placed right in front of the view of the plant on KOP1?

THE WITNESS: I'm sorry?

HEARING OFFICER GEFTER: The oleanders are to the west of the plant. What screening or other kind of mitigation are you going to place right in front of the plant?

THE WITNESS: Right in front of the plant? That has not yet been precisely worked out. The condition is that Calpine will be required to prepare a specific landscape plan for

the area around the southern and western boundaries of the plant. And in doing so it will need to collaborate with both the City of Pittsburg and with CEC Staff to agree on a final configuration planting scheme that everyone finds acceptable.

HEARING OFFICER GEFTER: Okay. With respect to mitigation which is described as 50 percent screening at the lower 40 feet of facility within ten years, what does that refer to?

It's described in proposed condition VIS8.

THE WITNESS: That's a performance standard or a design guideline that Calpine and its landscape architects will have to meet in the design of the screening and in the selection of plant material.

So, clearly plant materials will have to be selected that will provide the kind of screening that staff has asked for.

HEARING OFFICER GEFTER: Would you agree that the most obvious visual resource impact would be occurring at KOP1, or did you find other impacts that would rise to the same level in the other KOPs?

THE WITNESS: Yeah, I would say that this impact is the one that is of -- yeah, it's the impact of greatest concern.

HEARING OFFICER GEFTER: Does the Committee have any questions? Does the applicant have any redirect?

MR. ELLISON: Well, technically we're still in direct.

HEARING OFFICER GEFTER: Well, then continued direct, I'm sorry.

(Laughter.)

HEARING OFFICER GEFTER: That was an interjection.

DIRECT EXAMINATION - resumed

BY MR. ELLISON:

Q Well, first of all, does that complete your summary?

A Yes.

Q You stated that the view from KOP1 of the various KOPs is the one of greatest concern. Did you mean by that to say that in your view it is, prior to mitigation, a significant adverse impact?

A No, I did not.

MR. ELLISON: That's all I have.

HEARING OFFICER GEFTER: Is there any cross-examination of the witness?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Do you have any redirect at this point? Does the applicant have redirect?

MR. ELLISON: No.

HEARING OFFICER GEFTER: Okay. The witness may be excused. Is the staff ready to proceed with your witness?

MR. RATLIFF: Yes, staff witness is Mr. Gary Walker. He's been sworn.

Whereupon,

GARY WALKER

was recalled as a witness herein and having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. RATLIFF:

Q Mr. Walker, you did not prepare the testimony that appears as part of the staff FSA tonight, is that correct?

A That's correct.

Q The testimony was prepared by Joe Donaldson, is that right?

A That's right.

Q Did you, at least in some degree, collaborate with Mr. McDonaldson in the preparation of his testimony?

A I reviewed his work and it was revised in response to my several reviews.

Q Were you present at workshops where his PSA sections were discussed earlier?

A Yes, I was.

Q And you discussed extensively the preparation of the testimony with him?

A Yes.

Q So are you familiar enough with that testimony that you can testify as if it were your own testimony tonight?

A Yes.

Q Could you please summarize it briefly?

A Staff's analysis concluded that there's a potential for significant visual impacts from the Delta Energy Center Project. But that the mitigation proposed by the applicant, as expanded by the staff in its proposed conditions of certification, would make the impacts less than significant and would cause the project to be in compliance with laws, ordinances, regulations and

standards.

MR. RATLIFF: I have no further questions.

HEARING OFFICER GEFTER: Any cross-examination of the witness?

MR. ELLISON: I do have one clarification issue.

CROSS-EXAMINATION

BY MR. ELLISON:

Q Referring to page 209, --

A Yes.

(Laughter.)

THE WITNESS: Sorry, yeah, there's a correction that should have been made to the testimony.

BY MR. ELLISON:

Q Okay, since it appears you know where I'm going, I'll just ask you if you have any corrections to page 209.

A Fine, thank you. I neglected to tell my attorney. Yes, on the second full paragraph on page 209, the second and third lines, the phrase, the power plant action committee, should be struck.

MR. ELLISON: That's all I have.

THE WITNESS: Thank you.

HEARING OFFICER GEFTER: Do you have any redirect of your witness?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Does the Committee have any questions?

PRESIDING MEMBER KEESE: No.

EXAMINATION

HEARING OFFICER GEFTER: With respect to the PSA which found significant impacts on visual resources, what were those impacts and how have they been mitigated?

THE WITNESS: The impacts related to primarily KOP1 representing the travelers on Pittsburg-Antioch Highway and the residents of Casa Medanos.

And the additional mitigation that was proposed by staff consisted primarily of the additional landscaping around Dow Slough that was developed in collaboration with the City of Pittsburg and the applicant.

And the addition of construction phase temporary screening that was mentioned by the applicant's witness. And the screening around the power plant, itself, in condition VIS8.

HEARING OFFICER GEFTER: There wasn't a proposed VIS8 before --

THE WITNESS: Yes.

HEARING OFFICER GEFTER: -- in the PSA?

THE WITNESS: Yes.

HEARING OFFICER GEFTER: What's the difference between the PSA VIS8 --

THE WITNESS: I'm sorry.

HEARING OFFICER GEFTER: -- and the FSA VIS8?

THE WITNESS: There isn't any, I'm sorry.

HEARING OFFICER GEFTER: Okay. So the difference between the PSA and the FSA is just the additional landscaping around the Dow Slough?

THE WITNESS: Yes.

HEARING OFFICER GEFTER: And that hasn't been determined yet, is that correct?

THE WITNESS: Well, the specifics have not been proposed yet. My understanding is that the precise configuration of the retention basin hasn't been determined, and so it's not feasible to prepare a precise plan at this point.

HEARING OFFICER GEFTER: Why has that made a difference in terms of the impacts at KOP1?

THE WITNESS: The enhancement of the views of Dow Slough would compensate for the reduction in views caused by the power plant upon other views.

HEARING OFFICER GEFTER: Does staff have any expectation regarding screening the area right in front of the plant at KOP1 at the Antioch-Pittsburg Highway to the east of the oleanders and to the west of the big pole that appears in the visual simulation -- it's figure VIS11?

THE WITNESS: Yes, the original AFC proposal was to plant vegetation screening along the highway, but that conflicts with the plans of the City of Pittsburg, and so that was revised.

HEARING OFFICER GEFTER: Okay. All right, does staff --

THE WITNESS: And so instead the staff proposed that the planting be done on the power plant property, itself, as opposed to along the highway. That's why VIS8 is worded the way it is.

HEARING OFFICER GEFTER: Would you explain what you mean by on the power plant property, itself?

THE WITNESS: Along the western and southern boundaries of the plant site, which is

what you see from KOP1.

HEARING OFFICER GEFTER: In the visual simulation it doesn't show landscaping around the power plant.

THE WITNESS: No, the simulation doesn't show the landscaping.

HEARING OFFICER GEFTER: Okay. Does staff have any redirect of your witness?

MR. RATLIFF: Yes.

REDIRECT EXAMINATION

BY MR. RATLIFF:

Q Mr. Walker, did the City participate in discussions, the City of Pittsburg participate in discussions concerning mitigation?

A Yes.

Q They were interested, as well, in how this viewscape would be mitigated, is that correct?

A Yes.

Q I know the City of Pittsburg is here tonight and can speak for themselves, but is it your understanding that they were satisfied with this mitigation?

A Yes.

Q And they will, as I understand it, will

they be participating in reviewing any future plans for the landscaping?

A Yes.

Q In terms of the mitigation proposal, it's occurring on land that is owned by Dow Chemical Company, is that correct?

A Part of it.

Q Part of it. The other part is where?

A On the, well, it will be on the site, itself.

Q Has Dow agreed to the use of its property for the landscaping?

A I think the applicant should probably speak to that more precisely --

Q What is your under --

A It's my understanding that they have, at least in principle.

Q We don't have that witness before us now, but I want to know what your understanding of --

A My understanding is that Dow has agreed, yes, to work with the applicant to develop mitigation.

MR. RATLIFF: Thank you.

HEARING OFFICER GEFTER: You have no

further questions. Does the applicant have recross of the witness?

MR. ELLISON: We do not have recross, but Ms. Strachan can address the issue of Dow's permission to use their property for the mitigation.

HEARING OFFICER GEFTER: Okay, Ms. Strachan is still under oath.

MS. STRACHAN: Dow Chemical has agreed to some property for the mitigation. They want to be a part of reviewing the landscaping plan, which is incorporated into the conditions of certification.

HEARING OFFICER GEFTER: We have a representative of the City of Pittsburg. Mr. Jerome, would you be able to speak to the question of the City's involvement in the landscaping at this location, KOP1?

MR. JEROME: Yes, we've worked extensively with the applicant and the Commission Staff regarding the impacts associated with our general plan, specifically the view corridor for the Dow Slough. And City Staff working with the applicant and staff to come up with this alternate to landscape around the site, rather than along

the frontage of the road.

To further one of our goals is to keep that view corridor towards the waterfront. And we felt this was best enhanced though the Dow Slough, which will be enhanced through a City project, a drainage project that we are currently under study right now, which would require cooperation of Dow Chemical because it would be their property.

This would be a permanent open space area for wetlands, and also for overflow for drainage. And that will never be developed. It will be open and we're attempting to keep that view corridor again from Pittsburg-Antioch Highway through towards the riverfront.

And by having landscaping along Pittsburg-Antioch Highway that would essentially defeat that purpose. So mitigating that could be by having landscaping along the edge of the property of the Delta Energy Center to tend to ameliorate the impacts of it as saw from the visual aspects of the plant, itself.

HEARING OFFICER GEFTER: What is your position with the City of Pittsburg?

MR. JEROME: I'm the Planning Manager for the City of Pittsburg.

HEARING OFFICER GEFTER: Okay, you're familiar with this discussion regarding visual impacts?

MR. JEROME: Yes.

HEARING OFFICER GEFTER: Okay, thank you. We hadn't put you under oath, and so the comments that you just made were you making them as a representative of the City of Pittsburg, which is an intervenor as well as an agency involved in this case?

MR. JEROME: Yes.

HEARING OFFICER GEFTER: Okay, thank you.

Any other questions of the witness by any members of the public -- I'm sorry, any intervenors? Okay. The witness may be excused, thank you.

THE WITNESS: Thank you.

HEARING OFFICER GEFTER: Off the record.

(Off the record.)

HEARING OFFICER GEFTER: Is the applicant ready to proceed on the topic of land use?

MR. ELLISON: Yes, we are. The applicant's witness on land use is Ms. Susan

Strachan.

HEARING OFFICER GEFTER: Okay, Ms. Strachan has already been sworn.

Whereupon,

SUSAN STRACHAN

was recalled as a witness herein and having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q Ms. Strachan, can you spell your name for the record, please.

A Susan is S-u-s-a-n, Strachan, S-t-r-a-c-h-an.

Q And you are sponsoring the land use testimony of the applicant?

A That's correct.

Q Can you identify the documents which are included as part of your testimony?

A Section 8.4 of the application for certification; Calpine/Bechtel analysis for relocating segments of the transmission line route filed September 1, 1999; Calpine/Bechtel status report number 4, filed on July 22, 1999; response to CEC informal data request filed on May 14,

1999; and response to CEC data request number 28 and 29.

MR. ELLISON: For the record, the Calpine/Bechtel analysis that was just described is exhibit 19, which was admitted on the 5th. The Calpine/Bechtel status report number 4 is exhibit 16, also admitted on the 5th.

The response to the CEC informal data request filed May 14, 1999, is exhibit 10, also admitted on the 5th. And the responses to the CEC data request numbers 28 and 29 is exhibit 6, admitted on the 5th.

BY MR. ELLISON:

Q And your testimony also includes, of course, the land use portion of the applicant's testimony in this proceeding, correct?

A That's correct.

Q With respect to these documents were they prepared by you or at your direction?

A At my direct.

Q And are the facts contained therein true to the best of your knowledge?

A Yes.

Q Do you have any changes or corrections to any of these documents?

A I have one minor change. On page 26 of the testimony under the section electric transmission lines, second line, 3.2 miles should be changed to 3.3 miles for the length of the transmission line.

Q With that correction do you adopt these documents as your testimony regarding land use in this proceeding?

A Yes, I do.

Q Have you reviewed the staff's final staff assessment?

A Yes, I have.

Q And specifically have you reviewed the conditions of certification in the final staff assessment regarding land use?

A Yes, I have.

Q Are those conditions acceptable to the applicant Calpine/Bechtel?

A Yes, they are.

MR. ELLISON: With that I would move the admission of section 8.4 of exhibit 2.

HEARING OFFICER GEFTER: Is there any objection?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Section 8.4 of

exhibit 2 is received into evidence.

(The above-referenced document, previously marked Applicant exhibit 2, section 8.4, was received in evidence.)

MR. ELLISON: And for the record I understand that we are admitting at the end of all the testimony the testimony, itself, as a package, correct?

HEARING OFFICER GEFTER: Right, exhibits 1 and 2, yes.

MR. ELLISON: All right, with that the witness is available for cross-examination.

HEARING OFFICER GEFTER: Does staff have any cross-examination of the witness?

MR. RATLIFF: No.

HEARING OFFICER GEFTER: Do the Committee Members have any questions?

PRESIDING MEMBER KEESE: No.

HEARING OFFICER GEFTER: I have questions, but I'm going to ask staff to present its testimony first, and then I will ask either the applicant or staff to answer the questions.

Is the staff ready to proceed with your witness?

MR. RATLIFF: Yes, the staff witness is Eric Knight.

HEARING OFFICER GEFTER: The witness needs to be sworn.

Whereupon,

ERIC KNIGHT

was called as a witness herein and after first being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. RATLIFF:

Q Mr. Knight, did you prepare the -- I'm sorry, for the Committee's convenience can you summarize your position and responsibilities for the staff?

A Sure. I'm a Planner I with the Energy Commission. And I prepare analyses of the land use and traffic and transportation impacts of power plant proposals.

Q Did you prepare the testimony entitled land use in the staff final staff assessment?

A Yes, I did.

Q Is that testimony true and correct to the best of your knowledge and belief?

A Yes, it is.

Q Do you have any changes to make?

A No.

Q Could you summarize it briefly?

A Sure. The purpose of staff's land use analysis is to determine the project's consistency with local land use plans, ordinances and policies. And determine the project's compatibility with existing and planned land uses.

The Delta Energy Center site is located within the Northeast River Planning Subarea, which is a major industrial sector of Pittsburg. The site is currently undeveloped and designated as general industry in the Pittsburg general plan land use map.

The general industry designation is defined by the general plan to include large areas of major industrial manufacturing uses.

The site is zoned general industrial. The purpose of the general industrial district is to provide sites with a full range of manufacturing and industrial processing uses.

The zoning ordinance specifically identifies power generation plants for the conditional use. The zoning in the immediate vicinity to the site is general industry or

planned industrial district.

Existing land uses include the Delta Diablo Sanitation District water treatment plant; Dow Chemical; and undeveloped industrial zoned land.

I determined that the power plant will be consistent with the general plan -- the power plant is compatible with existing and planned land use, one, because it is consistent with the general plan and zoning designations at the site; and it's compatible with the heavy industrial character of the surrounding land uses.

I determined that the transmission line would also be compatible with existing and planned land use because it will not disrupt or divide the physical arrangement of the community, since it will follow up existing utility easements in industrial areas of Pittsburg. The portion which travels through a residential area will be underground.

And with the applicant's proposed changes to the line, and with staff's conditions of certification in LAND6, which requires the applicant to relocate several wastewater lines, Delta Diablo wastewater lines and to avoid any

conflicts, staff believes that this will not conflict with existing and planned use.

In regards to Commissioner Pernell's question about the design of the 8th Street median park, staff has proposed a condition which is LAND5, which requires that that park be designed to the City's specifications.

I determined that the gas pipeline will also be consistent with existing and planned land use because it will not disrupt or divide the physical arrangement of the community, since it will be located primarily within a railroad right-of-way, and travel predominately through industrial areas in Antioch.

Under cumulative impacts, both the Pittsburg District Energy Facility, a recently approved project by the Energy Commission, and the DEC, will both install their transmission lines within the 8th Street corridor.

To mitigate any cumulative impacts associated with disturbance of the residential and commercial uses in Pittsburg, staff has proposed a condition of certification, LAND7, which requires the applicant to coordinate construction activities with the Pittsburg District Energy

Facility.

And as I mentioned earlier, after construction activities are completed within that 8th Street corridor, both the Delta Energy Center and the Pittsburg District Energy Facility will participate in developing a park within the 8th Street corridor. And this is insured by LAND5.

I determined that the project would be consistent with all applicable LORS with the exception of the City of Pittsburg's height restriction to 95 feet on structures within a general industrial district.

And to resolve this nonconformity the applicant has applied for a height variance. And as this was handled in the Pittsburg District Energy Facility case, the Energy Commission has requested an advisory resolution be drafted or voted upon by the City of Pittsburg, which would advise the Commission as to how the City of Pittsburg would vote a rule on a variance if it had jurisdiction over the project.

And it's my understanding that the planning commission determined last night the consensus vote was to pass the resolution off to the city council for final decision. The

applicant has made a presentation and the planning commission was satisfied, didn't need to hear anything further, and passed it off to city council for final decision.

A meeting is scheduled for October 18th. Calpine/Bechtel will make a presentation. And the final decision will be made on November 1st.

If the Commission approves the project staff recommends that the Commission adopt staff's proposed conditions of certification which are outlined in staff's written testimony.

Q Does that complete your summary?

A Yes, it does.

MR. RATLIFF: The witness is available.

HEARING OFFICER GEFTER: Okay. Does the applicant have any cross-examination?

MR. ELLISON: No.

HEARING OFFICER GEFTER: Do any of the intervenors have cross-examination? Commissioners? Okay.

EXAMINATION

HEARING OFFICER GEFTER: This question is either for the applicant or staff. Regarding a letter from the City of Pittsburg to CEC Staff, which was dated August 23rd, in that letter a

series of requests were made by the City of Pittsburg for a land use compliance, and the question is whether those issues were resolved between the City of Pittsburg and the staff.

And I expect the staff could go first, and then we'd have the applicant. And then I'd ask Mr. Jerome from the City of Pittsburg to respond.

MR. KNIGHT: One of those issues addressed the location of the electrical transition structure, which is required to transition the above-ground line to the underground line. The City of Pittsburg was concerned with its close proximity to residences along -- in the Central Addition neighborhood, Columbia and East Santa Fe Avenue.

Calpine/Bechtel has relocated that, at least 1100 feet east of the center line of that roadway, and the City of Pittsburg's request was that it be moved at least 400 feet.

In addition to moving it further away from residences, the sound wall, which will be constructed as part of the Pittsburg District Energy Facility project would provide screening for that neighborhood.

Other items addressed in that letter required the applicant to comply with certain sections of the zoning ordinance, and those are captured in I think LAND1, LAND2, and LAND3, which require the applicant to comply with specific sections of the district zoning code.

I believe there are other items in that letter that didn't pertain to strictly land use, so they were addressed by the other technical areas.

HEARING OFFICER GEFTER: Does the applicant have a comment on the August 23rd letter?

MS. STRACHAN: We have been and are continuing to have meetings with the City of Pittsburg. I think it's important to point out however that there are items in that letter that are commercial in nature, as opposed to also items that are -- that the Energy Commission had requested, conditions the City would impose if it had jurisdiction over the project.

At this point I think that in terms of those issues that are pertaining to conditions, we've satisfied most of those, if not all of those, and again are continuing to work with the

City.

HEARING OFFICER GEFTER: I'd like to ask Mr. Jerome to come forward and discuss this letter.

And as you do so, I want to identify this letter as exhibit 31.

(The above-referenced document was marked Calpine/Bechtel exhibit 31 for identification.)

HEARING OFFICER GEFTER: The Committee is going to receive this letter into evidence. I believe I'd ask the City of Pittsburg to sponsor it, since it comes from the City.

And it's a letter from the City of Pittsburg dated August 23rd. It will be identified exhibit 31. And I will ask Mr. Jerome to discuss the letter with us, and whether the applicant's responses have been satisfactory.

Also, Mr. Jerome, I would like to put you under oath, even though you are representing a responsible agency at this point. I'd ask the reporter to swear you in.

Whereupon,

RANDY JEROME

was called as a witness herein and after first

being duly sworn, was examined and testified as follows:

HEARING OFFICER GEFTER: The question is whether the City is satisfied that the concerns that you raised in the letter to staff, August 23rd, have been addressed.

MR. JEROME: Not all the points have been addressed as of this time. We are still attempting to discuss these issues with the applicant among senior City Staff to comply with some of the issues that were brought up in this letter, particularly having to do with future planning in the area of the Energy Center. And relative to the plans that the City has in that area.

HEARING OFFICER GEFTER: What were some of the concerns?

MR. JEROME: The concerns are, at this particular stage we are working on an update of our general plan for the City of Pittsburg, and we've identified this area as a potential location for intensely developed employment area.

Now, we are working actually in concert with the City of Antioch now to develop plans, and particular specific plan, to help both Cities and

the East County, in particular, to enjoy -- improve our employment base in the entire East County area. And we've identified this corridor along the Pittsburg-Antioch Highway as some potential for employment opportunities with further commercial and industrial growth.

And we have just begun some of the strategies that would help achieve those goals.

HEARING OFFICER GEFTER: Do you find that the application for certification and the proposed conditions contained in the FSA will meet the land use requirements of the City of Pittsburg? Or do you find that there are holes in the plan?

MR. JEROME: Well, as far as it goes, the issues brought up in the final staff assessment for that portion of the identified conditions are appropriate. But we still have to again meet with the applicant to work out how we hope to achieve these broader goals which are a little bit more difficult, I understand, for staff to put down as conditions.

And we're hoping to do that in the next couple of weeks.

HEARING OFFICER GEFTER: And while

you're under oath, with respect to the advisory resolution from the city council regarding the stack height variance, what is your understanding of the timeline to receive that resolution?

MR. JEROME: I think Mr. Knight gave a fairly good explanation. The applicant did a presentation before the City's planning commission last night. The commission accepted the presentation and their consensus was not to review the height issue any longer. They took their key from what had transpired with Pittsburg District Energy Facility previously where they were asked, at least by city council and city staff, just to review this, the height issue as a recommendation to the city council.

They felt that this application is quite similar in nature to the Pittsburg District Energy Facility and just forwarded it on to the city council. The intention is on the regular meeting of the city council on October 18th, to hear a similar presentation before the commission by the applicant.

And at this particular point I understand that we will refer the resolution of recommendation on the height variance to the

November 1st meeting of the city council.

HEARING OFFICER GEFTER: Thank you. I'd like to ask the representative from the City of Antioch, Mr. Hall, to also respond to some of the concerns in the August 23rd letter, which is identified as exhibit 31.

And Mr. Hall represents the City of Antioch. Could you indicate your position? I'm going to ask you to testify under oath, as well, if you don't mind.

MR. HALL: Sure. Actually I'm not at the staff level that would make those decisions, so I really can't comment.

HEARING OFFICER GEFTER: Okay. And what is your position with the City of Antioch?

MR. HALL: I'm an Associate Civil Engineer.

HEARING OFFICER GEFTER: I see.

MR. HALL: And that would probably be made at the City Manager's Office.

HEARING OFFICER GEFTER: I see. Okay, well, thank you.

In the FSA at page 109 there's a comment that staff had contacted Contra Costa County regarding the transmission and gas pipelines, and

that you were, as of the date of the FSA, still awaiting responses from Contra Costa County.

Have you heard from the County?

MR. KNIGHT: No, I haven't.

HEARING OFFICER GEFTER: Okay. And does that make any difference in terms of the proposed conditions or the findings in your FSA section?

MR. KNIGHT: No, it doesn't.

HEARING OFFICER GEFTER: Why not?

MR. KNIGHT: What I try to do is apply the same -- I sort of pretended that if a conditional use permit were required from the County, which it is not, the permit is in lieu of other local permits. I used the same findings -- or the same criteria that they would use. And I came to the conclusion that it would meet the test and the conditional use permit would be issued by the County.

HEARING OFFICER GEFTER: At page 114 of the FSA the statement about the potential conflict with Delta Diablo's waterlines at the pump station, has that been resolved?

MR. KNIGHT: It's my understanding that the Delta Diablo Sanitation District has agreed to Calpine/Bechtel's proposal to relocate the lines,

the two existing lines. And then to construct a deadhead line for a future expansion. So it would avoid that conflict.

HEARING OFFICER GEFTER: Okay. Is there a proposed condition that would refer to this issue?

MR. KNIGHT: Yes, that's LAND6, which requires the applicant to actually do the work. That's LAND6 on page 119.

HEARING OFFICER GEFTER: And the applicant has indicated -- this is a question for the applicant -- that the underground transmission line will be coordinated with the Pittsburg District Energy Facility, so it will occur at the same time. Do you have a sense of the timeline on that?

MR. BUCHANAN: At this point it is a sense of the timeline. It would be our estimate that the coincidental construction of the lines through the 8th Street corridor would occur in the second and third quarter of this year -- I'm sorry, of 2000, next year.

HEARING OFFICER GEFTER: How long do you think that construction will take?

MR. BUCHANAN: It will be a relatively

short period of time. It might be six to eight weeks, in that particular corridor.

HEARING OFFICER GEFTER: This is the 8th Street corridor?

MR. BUCHANAN: That's correct.

HEARING OFFICER GEFTER: I'm going to receive exhibit 31 into evidence. The letter that we're referring to has been docketed and distributed to all the parties when it was filed August 23rd, and is now part of the record.

(The above-referenced documents, previously marked Intervenor City of Pittsburg exhibit 31, were received in evidence.)

MR. ELLISON: If I can just make a statement for the record that the applicant in this case has done, or at least one of the joint venture partners in this case has done the ultimate in coordinating with the PDEF project by buying it.

(Laughter.)

HEARING OFFICER GEFTER: Are there any other questions of either staff's or applicant's witnesses on land use? Are there any questions from the intervenors? Any witnesses from the

intervenors? The witnesses may be excused on land use.

And now we've come to the conclusion of our hearing this evening. The first thing I want to do is review the exhibits that were admitted during today's hearing so that we can all agree as to which exhibits were admitted.

On my list I have exhibit 7, exhibit 12, exhibit 15, exhibit 23, exhibit 28, exhibit 29, exhibit 30 and exhibit 31. Does everyone agree that those are the exhibits submitted today, other than the portions of exhibits 1 and 2 that were offered by the applicant, and will be included in the entire exhibits 1 and 2 at the conclusion of evidentiary hearings in this case?

Any comments from any of the parties? Ms. Lagana, do you want to come forward. Representing CAP-IT, an intervenor in this case. Yes.

MS. LAGANA: Since the FDOC release date is unknown, and the staff would require two weeks to review this document, I request that a public workshop be held on the PDOC so that the public and intervenors can have an opportunity to pose questions regarding the PDOC prior to the formal

hearing.

HEARING OFFICER GEFTER: Are you referring to the final DOC or the PDOC? The final?

MS. LAGANA: Right.

HEARING OFFICER GEFTER: Okay, so you are requesting workshops to be held --

MS. LAGANA: I'm sorry, did I say PDOC?

HEARING OFFICER GEFTER: Yes.

MS. LAGANA: I meant to say FDOC.

HEARING OFFICER GEFTER: A workshop to be held on the final DOC at the time that it is released or after staff submits testimony on the FDOC?

MS. LAGANA: After it's released, but before the formal hearing.

HEARING OFFICER GEFTER: Does the staff expect to schedule a workshop on the FDOC at the time of its release?

MR. RICHINS: Right now we do not plan to do that. There was a 30-day comment period. We also held a workshop on air quality after the PDOC was released, so we do not plan such an event.

However, if there is significant

changes, we might consider it. But right now we don't see a need to do that.

HEARING OFFICER GEFTER: Okay.

MS. LAGANA: I would respectfully request that consideration, and also that the meeting would be held at night when people can attend.

HEARING OFFICER GEFTER: Thank you.

MS. LAGANA: Thank you very much.

HEARING OFFICER GEFTER: We will take that under advisement.

We had announced a briefing schedule at the October 5th hearing, and I want to go over that schedule again.

The briefs on the topics that were heard October 5th are due October 18th. The briefs on the topics heard this evening, October 13th, are due October 25th. Briefs on the topics scheduled for November 3rd and November 10th will be due on November 17th.

Are there any other comments from the parties regarding any housekeeping matters or any other questions that the parties have?

Any members of the public, do you have any comments or questions for us?

Hearing none, the hearing is now adjourned. We will continue the hearing on November 3rd.

(Whereupon, at 8:45 p.m., the hearing was adjourned, to reconvene Wednesday, November 3, 1999.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of October, 1999.

VALORIE PHILLIPS