COMMITTEE WORKSHOP

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for	)	
Certification for the	)	Docket No. 00-AFC-1
MIRANT DELTA'S CONTRA COSTA	)	
POWER PROJECT	)	
_____	)	

DELTA DIABLO SANITATION DISTRICT

BOARD ROOM

2500 PITTSBURG-ANTIOCH HIGHWAY

ANTIOCH, CALIFORNIA

FRIDAY, MARCH 23, 2001

5:13 P.M.

Reported by:
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Contract No. 170-99-001

COMMITTEE MEMBERS PRESENT

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STAFF PRESENT

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Cheri Davis, Project Manager

Gary Walker

Dick Anderson

Richard Sapudar

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Dr. Stephen R.J. Sheppard
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INTERVENORS

Tony Chapman
Carol Hager, Commodore
Lou Zobb, Vice Commodore
Lonnie Gibson, Rear Commodore
Sportsmans Yacht Club

ALSO PRESENT

Joe Crea, Consultant to CEC

Alvin J. Greenberg, Consultant to CEC

Jim Buckholz, Consultant to CEC

Bill Kanemoto, Consultant to CEC

Jim Buntin, Consultant to CEC

Jenny Manning

Kelly Manning

Joel LeRoy

Charles Worrell

Sandra Williams

Anthony Sinno

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P R O C E E D I N G S

5:13 p.m.

HEARING OFFICER SHEAN: Good evening, ladies and gentlemen. My name is Garret Shean; I am a Hearing Officer for the California Energy Commission.

We are here this evening in the second of three Committee workshops on the Mirant Delta Contra Costa project.

What I would like to do -- first of all, I'm glad we somehow have been able to accommodate most of the people who would like to sit down -- indicate to you that on the back table there are some little blue cards. If you would like to sign up to talk this evening, please go ahead and do that. It's not necessary that you do that, but it will help us if you want to indicate your name and address or your email address to put you on a list of folks who get information with respect to the case.

There's also a sign-up sheet there for those who don't want to speak, but who might want to obtain additional information. Same sort of groundrules there, if you'll give us either your snail mail address or your email address we will

put you basically on the list to receive information about the case.

The purpose of the hearings or workshops that we have been conducting is essentially to go through the substantive topic areas that are generally found in a CEQA review. You might be more familiar with an environmental impact report. The Energy Commission works under special authorization by the California Secretary of Resources to conduct what is generally referred to as a certified regulatory program, or a functional equivalent. We do not put out a document that's called an EIR, but we do put out an environmental document which is yet to come called the Presiding Member's Proposed Decision.

Part of the process is that the independent staff of the Energy Commission, that is independent from the decision makers, conducts an analysis of the potential impacts of the project and the necessary mitigation in their professional opinion to address those impacts.

They have prepared that in the form of a preliminary, and now a final staff assessment. It's this green document here. Which is quite voluminous. It would make a good doorstop or heat

you for the winter next year.

And what we have been doing yesterday and we will do today, and we will return to do on Tuesday, is going through the topics which are listed on the left-hand side of this notice

The ones we have scheduled for this evening are soils and water resources, traffic and transportation, hazardous materials, visual resources, noise and biological resources.

And what we did yesterday, and we will do it again this evening, is basically go in a back-and-forth between myself, and in no particular order, the applicant, Mr Chapman here representing the Sportsmans Yacht Club, and the Commission Staff to determine whether or not there are issues with respect either to the analysis or to the conditions of certification that have been recommended by the staff.

Perhaps I can just have a show of hands of the people who are here -- I'm sure you're all here to listen, but who came here specifically with making some public comment or speaking in mind?

All right, just a couple. What we'll do then is probably take a bit of a break maybe in

about an hour to take the comments from the public as you've seen them develop, and then we'll make sure we soldier on through these topics, because we need to do that to begin to prepare for the remainder of the proceeding, which will be a somewhat more formal proceedings, wherein the Commission will form a record of information upon which to base a decision.

Now, I don't want to do this in a vacuum, so let me just tell you that as a result of yesterday's proceeding, I had a little bit of a hard time going to sleep without thinking about this, and so let me just lay it out for you.

Part of our process essentially is this evidentiary hearing that will be upcoming wherein the parties present evidence. And while this sounds legalistic and very formal, it need not be, but it can tend to become that.

And to some degree there's an issue of what is the role, either with the Hearing Officer or of the Commissioner in applying experience and foresight to this. And so let me tell you where I have gotten.

It appears to me, based upon what I heard yesterday, that there is a significant

likelihood that at the conclusion of the evidentiary hearings, if they were a first round, that we would end up in the position that the applicant had put on its case supporting the location of its power plant project, where it is proposed and where we are considering it, and the staff will make a case for applying mitigation along the eastern boundary of the proposed site, which is intended to reduce the visual effects of the power plant project predominately to the Sportsman Yacht Club, of the noise effects, noise and vibration effects, and lighting effects.

And when we get down to it, that mitigation, which is largely trees, will run into a couple of potential problems.

The staff person who was here yesterday, who was discussing transmission line safety and nuisance, indicated that not only are the trees going to run down the eastern border of the project site, but so will the transmission lines.

And that the effect of that may be that in order to enforce the PUC general order 95, that at the time that the trees would be most effective as a visual screen, they will have to be topped or otherwise trimmed down, because they will begin to

interfere with the transmission lines.

I'm not certain of this, but I at least wanted to explore the idea whether or not the two major PG&E gaslines, line 400, which also run down the eastern side of the property, may be in a circumstance where the root system of these trees begins to invade the easement.

Now, it probably would be under the current plan, that if these trees are planted in a berm, that there's not a serious problem. However, we may end up in the position that after all is said and done from the applicant, Mr. Chapman and the staff, that the mitigation that is proposed isn't up to the task.

In which case, under the California Environmental Quality Act, we are required to conduct, in addition to the mitigation analysis, an alternatives analysis.

Now, the applicant has filed, both in its original AFC, and in subsequent data responses, information requested by the staff as to alternate sites both within the property that they own, and in other locations.

And the staff has conducted an analysis, which can be found in here, which essentially says

that there are other locations on the applicant's property which, if the facility were relocated, would eliminate, or reduce to a level of insignificance, the effects on the Sportsmans Yacht Club, whether they're visual, noise and vibration or lighting.

So, we should probably, because I don't believe an appropriate role for me is to sit back and just let this happen in front of me, but to offer some guidance to the parties, anticipate that there's at least a 50 percent chance that that's where we're going to get.

Now, on the schedule for Tuesday is also the matter of alternatives. And I think it is just prudent, under these current circumstances, to anticipate that we may need to have a review of the alternatives to the proposal, as it is, which might include the relocation of the facility within the property owned by the applicant.

Now, I'm smart enough, been doing this long enough, 25 years, to know that we're going to run into basically the following things:

We are at, if not the eleventh hour, about the ninth-and-a-half hour in this proceeding that is supposed to run for 12 months. We are

also in the middle of a serious energy emergency. And that the sooner the applicant, if they are granted certification, can get its facility on line, the better for all of the State of California.

We are also in a situation where CEQA, however, is applicable to this case. There is no executive order from the Governor saying environmental concerns are suspended, so that we must, under the law, properly and fully and completely address the alternatives issue.

With that in mind, what I would propose for Tuesday is that in addition to the types of discussion we'll have here today, is that we discuss such things as the relocation of the proposed facility, what it would take, what engineering consequences there are, and if there are any consequences, either to the time that the facility would come on line, or the time that the Energy Commission process would be concluded.

It would be my goal, and it is one of the reasons I'm raising this early and now, to not have the consideration and the potential relocation of the facility cause a delay either in the processing of the proceeding that we have

before us, and if it were certified, to do what we could to minimize the delay that might be caused to the applicant with respect to such a relocation.

But the goal would also be that whatever changes were made would reduce the impacts beyond the borders of the applicant's property to a level of insignificance.

So, having said that, I think both the applicant and the staff and Mr. Chapman, representing the Sportsmans Yacht Club, can tailor your remarks tonight about the subjects we have to discuss, keeping in mind that we're anticipating not only the -- you know, in these evidentiary hearings that will be forthcoming, not only the immediate matter before us, but also that they may trigger essentially the leapfrog investigation at the evidentiary hearings to a greater examination of project alternatives.

And having said that, I'm happy to invite any responses, but it seems to me it's appropriate probably to have a more focused discussion on this, as scheduled, on Tuesday.

Okay.

MR. HARRER: Maybe I could respond just

briefly.

HEARING OFFICER SHEAN: Sure.

MR. HARRER: My name is Mark Harrer. I'm with Mirant Corporation. Since the beginning of this process we've only had really one serious intervenor, and that has been the Sportsmans Yacht Club. There have been others, but really you're the most concerned because you are our nextdoor neighbors.

And clearly since the beginning we've wanted to be good neighbors and to do the best thing we could for you.

We have discussed a number of things that would make you happy, and none of those have worked out.

And we now understand that what you want us to do is move the plant. We discussed that internally amongst ourselves. We took to heart Tony's comments to us about a month ago, and we're willing to look at that seriously.

I'm not certain that we can meet every one of your needs, but our biggest concern was the tolling of the project, because we really are on a timeline where we have to complete this expeditiously.

If we're able to do those things within the framework of, you know, making you happy, also, we'll do that.

HEARING OFFICER SHEAN: Thank you. We're making progress then.

MR. CHAPMAN: Tolling of the project? Explain, I don't -- what's that term?

MR. HARRER: Delay, delay.

MR. CHAPMAN: Okay.

MR. HARRER: Usually a movement of the type that you're talking about would require an amendment to the AFC, and possibly a loss of six months to a year in the project, because it's a major change in the description of the project.

If we can work around that, as you've said, and mitigate that, we're more than willing to talk about it.

HEARING OFFICER SHEAN: Well, let me keep talking, then. Because, as I say, I've been doing this for almost 25 years, I should just say probably for too long, and I've helped a few applicants re-engineer their projects. And I'm not sure the engineers like the lawyers tinkering like that, but it's sort of the way life is.

And among the possibilities that

occurred to me, and therefore caused me to drive out both to your site and to the Sportsmans' site yesterday, is that the movement of the plant essentially some chunk of distance to the south, gets it out of your face, leaves it in a circumstance where virtually all of the engineering, drawings, plans and everything that you have, can be used, because it would just be moved like that.

And my basic examination of things such as are there differences based upon the current review in biology, and I don't think there are. In geology, in geotechnical resources, in those sorts of things that might lead to a delay, I do not, based upon my experience, find that there is any significant environmental or engineering area which is going to cause the tolling or delay of the proceeding within the statutory period.

And so having said that, that is my goal. I don't think it's that late. I know there are alternatives of just moving it, you could basically flip and mirror the power train over the cooling tower. If PG&E can construct Diablo Canyon with reverse drawings, I think you guys can, too.

(Laughter.)

HEARING OFFICER SHEAN: And, so, there are -- I think that we do have some options. I am very encouraged to hear this from the applicant. And I'm quite sure that Mr. Chapman is, too, and will respond in kind.

And the Energy Commission Staff, I think, has the interests of the public in mind and will attempt to cooperate in conducting whatever analysis it feels it must in order for this thing to move forward expeditiously and in the public interest.

So, with that, why don't we get down to the business that we've at least scheduled, and start with soils and water resources.

MR. CHAPMAN: Mr. Shean, could I ask one question --

HEARING OFFICER SHEAN: Sure.

MR. CHAPMAN: -- in somewhat of a backup fashion? After yesterday's meeting I'm unsure of, did we come to any agreements on any changes at all? How do we know when we've agreed upon a change? I guess that's my question.

HEARING OFFICER SHEAN: And that would be a change of what?

MR. CHAPMAN: Just on the several issues that came up yesterday. I mean were any of them considered agreed to? Whether the minors or the majors.

HEARING OFFICER SHEAN: I guess the position that I took was in the absence of your having identified an issue, which you wished to make a presentation, and I took that to be in land use, in socioeconomics, and potentially there was cultural resources, and in transmission safety, that every other topic would be submitted with a written declaration where there were no witnesses present to be questioned, either by me or by some other party.

So, right now, those are the four that I have coming out of yesterday.

MR. CHAPMAN: Okay. Maybe as an example, the request for the timeline thing. Was that something that was agreed to yesterday as far as the flexibility in timelines and things?

HEARING OFFICER SHEAN: I'm not certain what you --

MR. CHAPMAN: Lisa's shaking her head no.

HEARING OFFICER SHEAN: -- you're

referring to.

MS. DeCARLO: No, we haven't agreed to that as of yet.

MR. CHAPMAN: Okay. All right, if we do agree to something let's all raise our hand and say we agree to that.

(Laughter.)

MR. VARANINI: I think from our perspective, Mr. Chapman, what we were looking at was the areas where people were okay, and those were being moved to essentially just a paper exchange, and then there's no hearing and no big legal baloney or anything like that.

Then there's another category where we're very near that, but we had language, you know, my business, I got to do something to get paid, and so -- because I get paid whether I do something or not, it's a pretty good racket, so my whole take on this was that those would be things we needed to change or craft, wordsmith.

And then there were areas where there were really, what there appear to be really substantial disagreements. And those we're moving essentially to the administrative proceedings. So they would be, in some sense they were going to

administrative trial.

And by the way, I appreciate your native skills in this, you're very capable in terms of that type of process. And I think you know more about the project and have read more about the project than any of us. It's very obvious. And I'm not saying that to butter you up or anything else, it's just obvious.

But we're removing those issues to adjudication, which means you'd get to question everybody, you know, take them apart. Do what you did, what you've been doing for the whole time.

But I think, from our perspective, what the Hearing Officer is saying is, look, we're headed for a train wreck. And the train wreck is essentially going to be a huge crash as to whether or not we've substantially impacted you folks.

And we're going to prove that we don't, okay. But that's a legal concept, not necessarily real concepts. It's the way lawyers and legal systems operate.

And what's being suggested is that that process, itself, going through that train wreck is going to take time, effort and lots of work, and what we understand is we're being asked to take a

real look at coming up with a plan that simply avoids a train wreck, finds resolution among all of us, and then gets filed in the record.

That's really, I think, what the Hearing Officer -- that's our perspective of it, and that's what we're going to do.

And another thing, both of us, I don't know if you belong to a yacht club, I never have, but both of us were professional Naval officers, and I was also a Marine. And he's a Marine. And we understand an order when we hear one.

So, that's where we are.

HEARING OFFICER SHEAN: And I think that is the best case that this can go, is if they can come up with essentially some sort of anticipated -- in anticipation of an alternatives review, a proposal that they think will satisfy not only that -- let me say, you and the staff, that would obviate the need for going through these trial-type proceedings.

Once everyone pretty much agrees on what's acceptable, then we don't have to go through, march through what literally is the hell of these evidentiary hearings. They are difficult to conduct, they are difficult to participate in,

and rarely -- I've just finished a set in Huntington Beach, which is a far more expedited proceeding than this. And we have been able to trim some of the legalistics out of it. But it's something to be avoided if we can.

And I think clearly if the applicant believes it can find something that will essentially not be in your face, but satisfy what they need to satisfy, that that should largely address the areas, at least under the process, are capable of being identified as significant impacts that cannot be mitigated to a level of significance.

It is likely that if the project is moved, whatever the impact to you as a neighbor, will be at a level less than significant.

MR. CHAPMAN: Okay. My question, more or less, just went to the things of, you know, if I actually had an organized checklist, what items I'd checked off so far.

HEARING OFFICER SHEAN: Okay.

MR. CHAPMAN: You know, and that was where my question was.

HEARING OFFICER SHEAN: All right.

MS. DeCARLO: If I may address one issue

from yesterday, with regard to facilities design, GEN1, I talked with staff and the 1998 code is locked into place upon the first submittal to the CBO. And you have already submitted documents to the CBO, is that correct? So, the '98 code is locked into place.

MR. VARANINI: Thank you.

HEARING OFFICER SHEAN: Okay. What we're going to do now is go to the soils and water matter, which is on page 387. And typically what I would do is ask the parties if they have any disagreement with either the proposed conditions that staff has come up with, or with any portion of the analysis that's in there.

And this can be found on page 387 of the staff's analysis, and we'll just go to it and see if the applicant has any comments or issues with respect to the conditions or the analysis.

MS. DeCARLO: Before we begin I'd just like to introduce the two staff we have here. Richard Sapudar and Joe Crea.

HEARING OFFICER SHEAN: Oh, yes. I'm not a very good host here. I think it's appropriate perhaps to get the applicant to introduce itself. We'll get the staff introduced,

and anyone that Mr. Chapman has, our principal intervenor, would like to introduce.

Mr. Varanini.

MR. VARANINI: I'm Gene Varanini; I'm from Sacramento. And I work with the lawfirm of Livingston and Mattesich. And I'm project counsel to the applicant in the case.

MR. HARRER: I'm Mark Harrer. I'm with Mirant Corporation, and I'm the Project Manager.

MR. ROBINSON: I'm John Robinson. I'm with URS Corporation, consultant to the project.

MR. SHILEIKIS: I'm Dale Shileikis with URS Corporation, environmental consultant to Mirant.

MR. KINO: I'm Ron Kino, Mirant Corporation.

MS. DeCARLO: I am Lisa DeCarlo; I'm the Energy Commission Staff Counsel for this project.

MS. DAVIS: My name is Cheri Davis; I'm the Project Manager from the Energy Commission.

MR. SAPUDAR: I'm Rich Sapudar with the California Energy Commission.

MR. CREA: Joe Crea, Aspen Environmental Group; consultant to the California Energy Commission.

MR. CHAPMAN: Tony Chapman, Sportsmans Yacht Club. And in the spirit of taking orders, I want to introduce the Commodore of Sportsmans Yacht Club, Carol Hager; the Vice Commodore, Lou Zobb; and the Rear Commodore, Lonnie Gibson. Thank you.

HEARING OFFICER SHEAN: Great. All right, with that, why don't we ask the applicant, do you have any comments about the staff analysis and proposed conditions on soils and water?

MR. HARRER: In soils and water we have some questions about the HCP, but since it's also involved in the biologic section, we'd like to postpone that until we reach that section.

HEARING OFFICER SHEAN: Okay, that's fine.

MR. HARRER: So, no other questions.

HEARING OFFICER SHEAN: Mr. Chapman.

MR. CHAPMAN: My questions go to the HCP problem, and I want to pose them just in going in the terms of going back to the PSA meetings and workshops.

And I'm not sure which one of you gentlemen want to take on the -- because the person that I was asking the questions to at the

hearings, or at the workshops of PSA is not here tonight.

But at those workshops I was trying to ask some questions about sedimentation in the Sportsmans Harbor. And on your page 395 you talk about erosion and sedimentation.

And the answers that came through into the FSA deal with the erosion issue pretty well. And what I want to come back to is I think I was misunderstood as to what my questions were about.

My questions that I was trying ask about had more to do with sedimentation in the river, itself. And the effects that the aquatic fish barrier might have on those sedimentation problems or patterns.

That item, and also the other item that at the PSA workshops that I was talking to more specifically was the issue of if you add, if the trees are adding in biomass into the bottom of our harbor, how that affects sedimentation.

MR. SAPUDAR: As far as the biomass produced from the trees, the tree barrier they're going to put in, that's one of those things that is pretty much a function of how much foliage the trees produce, when they drop it, and how much

they drop it; how much of that is going to get into the harbor. And also the rate of decay of that organic material in the water.

And I think that's one thing, if it's determined that that's an issue, that needs to be looked at further. We're going to have to take a more, almost of a biological approach.

From the water aspect we can predict maybe how much will be transported there based on the flows. Although most of those flows are going to be contained in the storm water drainage system that's going to be required for the project. And that will be permitted by the regional board.

As far as how much material is going to be produced by the trees, we're going to have to, like I say, take a look at that particular species of tree and see what it's foliage characteristics are, I think. There's really no way to predict that at this point without doing that, if that's a concern.

Does that kind of --

MR. CHAPMAN: Okay, and we've asked that question, and I'm hoping the applicant can help with some of those numbers.

What I tried to do is each of these

specialties, try to let you do your thing with your part of this equation. And the question that I'm asking of you has more to do with once you have a tree leaf in the water, how it would accelerate the deposition of sediment just from the friction of that leaf in the water, attached to the bottom.

That, as well as the addition of the fish barrier, itself, and how it might change the current patterns. And, as we understand it, and without getting into the fish barrier too much, because I know Mark wants to save that for biology, but from what I understand, with the cleaning of the fish barrier, you will have this air blast that will clean a particular mat.

Well, when you have the sediment that has collected on that mat, during whatever period in between cleanings, that will now collide with sediment in the water, attach together, and now possibly create a particle that's willing to drop out of the water. As opposed to a particle that was passing by.

Now, at the PSA workshops I probably didn't have as good an understanding of this issue as I have now, so I didn't ask a good enough

question there. But that's kind of the question that I'm hoping that you can help us with in describing that more, as a possible impact.

MR. SAPUDAR: Well, there's a couple things to look at. There actually is an NPDES permit, the water quality permit, aspect of that, the AFB.

And that is the way the regional board wrote that permit, we met with them and discussed a lot of the issues that they're going to have to look at when they were going to write the permit for this project, so that they understood what our concerns were. And some of those were concerns that we relayed from what we heard in our workshops.

And one aspect that they did is when they wrote their permit, the current draft NPDES permit contains what they call a reopener for that particular aspect of the project the way it's written.

And that is if the AFB, the aquatic filtration device -- barrier, alters the characteristic of the wastewater discharge, and that could be a factor of the intake, also, that they will reopen the permit and examine those

impacts.

And if the impacts are determined to be present, let's say it causes an alteration in the thermal characteristic of that plume upon discharge, that they'll reopen that permit. And they can revisit that issue and determine whether the permit needs to be adjusted. And they'll write new conditions or limits for the permit based on the AFB.

So there is a little bit of that in there. And that is going to be addressed in that fashion.

As far as the sedimentation aspects, we did include a condition, and it's soil and water condition 6, that could be modified, depending on what we agree on, if it's determined that we need to agree on such a thing, that we required a workplan from the applicant that basically discusses how they're going to install this AFB.

Materials, methods, equipment, installation. It's going to have to comply with all existing laws and that type of thing.

And we have some language in there that requires them to discuss how they're going to install the barrier; and if there's any deviation

from their workplan, they have to explain that.

Now, if there's something that needs to be done in addition to what we've required, to get more of the sedimentation rate, there might be something that we can come up with, you know, if it's determined that we need to do that.

It might just be a matter of adjusting the condition in some way.

MR. CREA: And the applicant has also noted that this is a trial, and if problems are encountered, then they will revert to a velocity reduction system.

MR. CHAPMAN: I'm familiar with that. And as fishermen, we're really hoping this thing works. Because what it has the potential to do is a good thing, the potential to help the Delta, as a whole.

We're still in that situation about just trying to talk about what it will do to the neighbors. And just talking about being able to watch that and try to prevent it if we see it coming.

You bring up soil and water 6, and that was where I wanted, and I thought that this might apply, is part of that workplan, if we could just

include in that workplan that some modeling of the water current changes, and also the modeling of the deposition of sediments caused by the fish barrier operation. If that could be included as part of that condition.

I understand that the workplan is there. I'm just trying to put in some specifics, this is something that needs to be watched and worried about.

HEARING OFFICER SHEAN: Let me ask you, Mr. Chapman, just because we're going to get a little bit behind time if we don't do this, shifting back to your biomass question about the leaves from the trees, do you have a specific concern that the leaves, themselves, are going to add to the volume of the bottom, and the required dredging? Is that something you want to make a presentation on on this topic?

MR. CHAPMAN: Well, the leaves, themselves, will be presented under visual. But this specialty is more equipped to talk about what that leaf does to the river bottom.

HEARING OFFICER SHEAN: Okay, you think under visual --

MR. CHAPMAN: It's a multi --

HEARING OFFICER SHEAN: -- we're going to get to the issue?

MR. CHAPMAN: Excuse me?

HEARING OFFICER SHEAN: You want to address under visual the possible --

MR. CHAPMAN: Elimination of the problem. Or prevention of the problem.

HEARING OFFICER SHEAN: And that being that it will add --

MR. CHAPMAN: Find a way to not bring the leaf in.

HEARING OFFICER SHEAN: Right.

MR. CHAPMAN: And that would juggle the issue of how much sedimentation is going to be caused by the leaf. But we're going to still have the question of, and the only thing that I'm asking for under SOIL6 is the sedimentation with regards to the aquatic fish barrier.

HEARING OFFICER SHEAN: To the barrier. Right. Okay.

MR. CHAPMAN: The other one then would come up as an additional soil and water request as to whether we need to ask the project owner to submit modeling and monitoring plan for the increased sedimentation in the harbor, itself,

caused by whatever issue, just as an overall. A monitoring of an increased problem.

Because we might be able to catch the problem out in the river if we're able to identify the changes. Or we may have to come inside the harbor and watch the problem from the inside. I'm not sure which one of those would be the most effective.

HEARING OFFICER SHEAN: So that I understand clearly, are you asserting that the downstream barrier may have, in your view, an upstream siltation effect in the harbor?

MR. CHAPMAN: Very much. We have tidal flow going both directions in the river, in this part of the river. The tidal flows going upstream are going to be at a decreased velocity from tidal flow coming downstream.

So if you have a -- let's just imagine a cloud of sediment in the river. It's going to have more -- be more likely to be swept towards shore on an upstream current. The downstream current is going to sweep everything down to Suisun Bay. It's going to end up down there.

But it's going to be that reverse current that would be the concern as to how that's

going to model around the barrier. And then eddy into our harbor.

HEARING OFFICER SHEAN: Okay.

MR. SAPUDAR: I have a couple things to add, just observations. I've been thinking about it as you were talking.

If there were to be any type of sedimentation study conducted, first we'd have to determine what the baseline is now without the project or the Gunderboom in place. That would have to be established so that we have something to compare it to if there were to be additional data gathered.

The other thing is another aspect that could be looked at would be to look at the management practices of how that Gunderboom is maintained, when it's cleaned. It would have to be one of those things where you'd have to take a close look at whether it could only be cleaned when the current is favorable, away from the harbor.

There are some things like that that perhaps we could look at, too. Or a combination of things.

MR. CHAPMAN: See, I think that's, you

know, that consideration, I think, is what I'm asking for. Is identifying that there could be a problem here, and seeing how it washes.

HEARING OFFICER SHEAN: Okay. Our purpose today is just to find out that that's something you want to present. We'll afford you that opportunity when we get to it.

MR. CHAPMAN: Well, is there a possibility that we --

MR. VARANINI: Yeah, just can I interrupt you for a second. I think, Mr. Hearing Officer, there may be a way to sit down with him and to have our experts understand exactly what his concerns are.

I've sat in on some of the discussions, and having had some engineering training, it got past me pretty quickly, but they were talking about lamaner flow and lots of other things as to how the physics work, and what it does in the water and so forth and so on.

People have thought about these things. They may not literally have thought about your thing, and I think what I'd like to do is to suggest that we sit down with you. This is not -- I mean even at trials this is done all the time --

sit down, understand what you want us to do, and then it may very well be possible, a) it's already done; b) it's not a problem.

But even if you don't trust that, that it can be part of a process, an incidental -- mandated part of a process where we're looking at things like that anyway. And we can put that into the process so that it's literally put on a punch list so when we go through it, those concerns are explicitly looked at. They're not, you know, taken over by some other concerns.

We could do that, I think, and satisfy your concerns and save all of us about two tons of Rolaids.

MR. CHAPMAN: Well, see, that's what I think I'm asking for tonight, is if we just included that as an issue that needed to be part of the workplan.

MR. CREA: Is your concern, sir, the aquatic filter barrier and the cleaning? In other words, they're going to clean this aquatic filter barrier, and your heavier sediment, such as the sands, are going to settle out.

But with the tidal action flowing towards the east or north portion of the river,

it's going to carry the clay, the finer materials, which are going to stay suspended.

And your concern is that that plume is going to work its way up towards the marina and cause problems up there.

So, maybe it's something that staff may need to look at from a cleaning standpoint? And an approach to insure that no plume occurs, or that it's monitored and mitigation is done for that? Is that what you're looking for?

MR. CHAPMAN: I believe so, yes.

MR. CREA: That's your main concern, is the cleaning of the mesh, where your finer materials can stay suspended longer than the heavier stuff that drops out?

MR. CHAPMAN: Yeah. My understanding would be it would be the cleaning process that would create the accelerated sedimentation.

Now, the shape of the boom, itself, creates the change in the current. So, between the two of them -- the cloud may occur, and then the current may be redirected right into my harbor. On the flood tide.

HEARING OFFICER SHEAN: Okay, now, so the audience understands. Our goal is not

necessarily to solve or get to an answer, it is to identify that there are issues or questions. So the principal function tonight is identify the issues and the questions and concerns, and that will, essentially becomes a place-holder in a later meeting.

MR. CHAPMAN: Okay.

HEARING OFFICER SHEAN: Okay.

MR. CHAPMAN: The only other thing I had is I'd like to propose a soil and water 10 that would, most of the other specialties have a closing item. And I'm wondering, do we need a soil and water closure plan with --

HEARING OFFICER SHEAN: I should just indicate to you, Mr. Chapman, the Commission is generally working the other way, to take and put into a general order on compliance and monitoring, a closure plan formation that, in the absence of something that individually would apply to a particular project, and it may be that your suggestion does, but -- so with that, if you're looking for something in particular --

MR. CHAPMAN: Just a reference to the fact that the aquatic fish barrier should be removed upon the closure of the plant. We don't

want to abandon that thing in the river.

HEARING OFFICER SHEAN: Okay. Well, we'll put you down for the two other matters on this subject. So you've got your time and space reserved.

All right. How about we do traffic and transportation, which is on page --

MS. DAVIS: I would just like to note that that's one for which we were not able to arrange for staff to be here tonight. But they are available Tuesday night if there are issues that revise --

HEARING OFFICER SHEAN: All right, let's just go ahead. It's on page 213.

Anything from the applicant's side?

MR. HARRER: Nothing.

MR. CHAPMAN: Where are we going?

HEARING OFFICER SHEAN: Traffic and transportation.

MR. CHAPMAN: Okay, I have that marked down as moving to Tuesday. I've got some serious traffic and transportation problem here.

HEARING OFFICER SHEAN: All right, well, then why don't we take it on Tuesday.

MR. CHAPMAN: Okay, thank you.

HEARING OFFICER SHEAN: Okay, that takes us to hazardous materials handling. And that's on page 155.

MS. DAVIS: I would like to introduce Alvin Greenberg to my left. He was the staff person who did the analysis for hazardous materials, as well as worker safety.

HEARING OFFICER SHEAN: Just for the general understanding of the audience, this has to do with the transportation, the handling, and disposal, if necessary, of hazardous materials that would be used for either the construction or operation of the facility. And there are conditions that relate to creating plans for the handling -- as I say, transportation, handling and disposal of it.

So we're going to the applicant initially and see if you have anything on hazardous materials.

MR. HARRER: I've got a note here that HAZ5, 6 and 7 are ambiguous. And that we'd like to change the number of days.

HEARING OFFICER SHEAN: Okay, so this you want to include in the terms the numbers of days prior to -- why don't we go over that.

Is that for HAZ2 deals with 60 days? Are these the issues you're talking about? And HAZ3 is 60 days, as is 4 and 5.

MS. DAVIS: I'm sorry, but those --

MR. HARRER: And then the ambiguity I was talking about is HAZ1, 2 and 3, specifically refer to unit 8. In the ones I've cited, unit 8 is left out.

MS. DeCARLO: So you just want it specified that they all apply to unit 8?

MR. HARRER: Right.

MS. DeCARLO: Now, with the 60 days, those refer to receipt of aqueous ammonia and hazardous waste. That wouldn't necessarily impact your timeline for start of construction, would it?

MR. HARRER: Not necessarily.

MR. VARANINI: I think just clarify unit 8 --

MS. DeCARLO: So just clarification --

MR. VARANINI: Yeah, it's really a detail, it's just making sure, because we have other things that we were ordered to do on the site by other entities that this applies to unit 8.

MS. DeCARLO: So there's no timeline

issues, then, in hazardous materials. Okay.

Alvin, do you have a problem specifying unit 8 on those three conditions?

DR. GREENBERG: No, just as long as it's understood that the aqueous ammonia tanks, I understand, are -- excuse me just one second -- are also going to be used for existing units. So it has dual purposes.

And so this is prior to the delivery of aqueous ammonia regardless of whether it's ready for use at unit 8.

MR. HARRER: Okay, so you want us to do this for units 6 and 7?

DR. GREENBERG: That's correct. In other words if you're delivering aqueous ammonia to these tanks, and you're going to use them for 6 and 7 long before, or even a short time you use them for unit 8, we need to have these conditions met.

So as long as that's understood. That's why it was worded the way it was. And I apologize if it was unclear, but that's the intent.

MR. HARRER: Okay.

MR. VARANINI: And there are some details here I don't think we need to discuss

because they're kind of the usual thinking of a complex, compound hypothetical, and then try to write it in here.

Essentially all of those materials are in the verification. So, if a detail came up or something very odd -- I could see a situation, for example, where they're rolling in ammonia. We know what you want us to do. But we literally don't have a particular plan as related to 8 at a stage that it would make sense to give it to you. We'd give you what we had.

But it seems to me, at that point, the real -- the condition says we don't want you putting this stuff 100 feet from this and that. And we could basically tell you, notify you and tell you what's going on. And then if it made sense you could adjust the verification.

In other words, verifications, as I understand it, aren't literal, but the conditions are. And the verification has flexibility, the staff can adjust it based on the rule of reason and common sense, and that that's the way it operates.

DR. GREENBERG: Which one are you referring to?

MR. VARANINI: I'm thinking just -- as I said, paid to dream things up, okay. And I'm dreaming something up, that effectively we know you don't want us underfeet from something --

MR. CHAPMAN: You can get paid for that?

(Laughter.)

MR. VARANINI: Some people allege the practice of law is a racket. I mean I wouldn't --

DR. GREENBERG: Can you tell me which proposed condition of certification you're looking at?

MR. VARANINI: It's in 5, number 5.

DR. GREENBERG: Okay.

MR. VARANINI: It's the verification.

DR. GREENBERG: Um-hum.

MR. VARANINI: You might not have planning elements completed, or exactly ready to go on 8, but you're rolling stuff in for 6 or 7.

DR. GREENBERG: I see what you're talking about. I think that that's perfectly okay that the CPM would have some flexibility there. But if the -- as you have correctly pointed out, the condition of making sure that you don't have combustible or flammable materials within 100 feet of the sulfuric acid storage tank is the key

issue.

HEARING OFFICER SHEAN: Let me just indicate for the general audience that when they're discussing this aqueous ammonia, that this is a substance which is used as part of the air pollution control system.

And in days gone by, because it was -- facilities used to use anhydrous ammonia, which was a much more concentrated type of ammonia. And when stored, if there were a rupture to that type of tank, you would have a violent release, based upon the pressurized nature of the ammonia in the vessel.

Currently I don't know of any Commission-approved project that would be allowed to use anhydrous ammonia. What is used now is this aqueous ammonia, which is a -- if you want to figure it this way, is essentially a watered down, and by water, ammonia which, if there were a rupture in either a vehicle transporting it, or a storage tank, would not cause this violent release because it's not under high pressures.

What you do to address that issue is when, in the delivery area there is a sump, essentially which, if there is a spill while

things are being transferred, or a hose breaks, or any other thing like that, the sump will pick this up. And the tank, itself, is surrounded and in a berm, so that should there be a rupture or release from the tank it is captured essentially in what you might think of as a way overgrown swimming pool, so that there's no release either to the ground. And because it is aqueous, releases to the air generally are going to be dealt with immediately and would not cause any downwind to public health consequences.

So, I just want to assure you that with respect to things of this nature, the Commission is on top of it. We do not, any longer, deal with anhydrous ammonia. The applicants don't even suggest it any more.

So that's the situation with that. I hope that will allay any concern that you might have with respect to the use of ammonia at this facility, for a very beneficial purpose in terms of controlling oxides of nitrogen.

So, with that, Mr. Chapman, do you have something on this topic?

MR. CHAPMAN: Just a few real quick questions. One we've already answered here.

On page 163 under the worst case there's a catastrophe failure discussion. And I want to thank you for including the numbers at the fenceline that had been asked for during the PSA.

The only thing that still hangs around in my mind at all is how much that would change with a three-tank failure, as opposed to the one-tank failure.

I would think that worst case would be all three tanks fail.

DR. GREENBERG: If I can respond to that, when we do these types of assessments, we are assuming that there is a failure, now what. What we left out is the step of what we call the probablistic assessment. What are the chances that there will actually be a tank failure.

Now the changes that there'll be a tank failure are so low and remote that whatever analysis we do it's going to not affect the outcome.

The changes of two tanks failing, you can see, is even more remote. And the chance of three tanks failing is even less than that.

I have asked the staff at the California Energy Commission that have some historical

experience, and there has not been a single release or failure of an aqueous ammonia tank at a California Energy Commission-certified facility, a power plant. Nor has there been a transportation upset.

And so when you're looking at probabilities of failure, it's essentially nil. And the data shows that.

So what the applicants did is they assumed one tank. But there's also, the volume of the catchment system is more than that. And just said let's see what would happen if that did happen, what would be the outcome.

MR. CHAPMAN: This is one of those areas as long as you're comfortable.

On page 170 where you're responding to questions that were asked. There on the last paragraph you talk about where the question was asked about the mixing of ammonia and sulfuric acid. And you indicate that there was -- the question was probably a little confused because it should have been the mixture of ammonia and sodium hypochlorite, or bleach.

The question may not have been asked correctly, but it's still a very appropriate

question, given the fact that the only thing that -- the next item that they have the most of chemically on site is hypochloric or sodium hypochlorite.

Referring to your table 8.1-4. That, in the quantities that are listed there, that is the next largest item on the site.

So there still is, I mean the concern of the question asker, --

DR. GREENBERG: And I'm not sure now I understand what the concern is. Because I thought I addressed that about hypochlorite.

MR. CHAPMAN: The question was asked about the production of chlorine gas. And in the answer that you gave, you said, oh, by the way, it's not ammonia and sulfuric acid that create that, it's ammonia and sodium hypochlorite.

Well, the answer to the question will stop there. You've got the wrong chemical addition there.

DR. GREENBERG: Mine goes further.

MR. CHAPMAN: Okay.

DR. GREENBERG: My response is that those are incompatible materials. And there is a potential for release of chlorine gas. In fact,

there's, you know, there's a problem if you use household cleaners and you mix your household bleach and you take 409, for example, which is an ammonia cleaner, or Windex, and you mix the two. You can generate a little bit of chlorine gas that way.

These are incompatible materials and the applicant stated in the AFC that they are acutely aware that they are incompatible materials. And I look at that very carefully. You make sure, through engineering controls, as well as administrative controls, that you don't have any chance at all of mixing these two.

You don't store them in the same area, so they're in separately bermed and contained areas. You want to make sure that you don't have a delivery truck of aqueous ammonia roll up to the hypochlorite tank.

And so what you do is you have different valve fittings. Kind of like the old days when unleaded gasoline first came out, remember the gasoline nozzle was, you know, it couldn't go in your gas tank if you were going to put leaded gasoline -- try to put leaded gasoline into an unleaded vehicle. Now everything, of course, is

unleaded.

So you have those types of controls. You have placarding; you have color coding; and you also have training and supervision. So, those are the types of mitigations. And, again, those mitigations do work.

MR. CHAPMAN: Just for the benefit of the audience, tell me if my understanding is correct. The sodium hypochlorite is only used over in the wastewater treatment plant, or does it ever pump to the plant, to the -- it's not used as part of the NOx control or anything like that, is it?

MR. HARRER: No, it's not.

MR. CHAPMAN: So there really, I mean the chemicals are used in completely separate operations, is that correct?

MR. HARRER: Right. The water treatment plant.

MR. CHAPMAN: Right. I mean the chlorine's over at the water treatment plant, or the bleach, whatever. And the ammonia is over there for the NOx control.

MR. HARRER: Right.

MR. CHAPMAN: The only other question I

had, and this just goes back to your table 8.124. There in that table you label the aqueous ammonia as a corrosive. What I want to ask about is, and this really -- the emission will come under air quality, I understand that.

But what I want to ask you about is going back to the PSA hearings and things, there got to be quite a conversation about the fallout problem that comes from the old plant.

And the comment came up that, well, if whatever ammonia slippage might fall out as part of the PM10 problems and things would actually help clean the boats. And I don't want to argue that. But --

(Laughter.)

MR. CHAPMAN: This is what we were told. What I want to ask you about is any type of an ammonia fallout on a galvanized roof. Labeling this as a corrosive, are we dealing with something that over 40 years would create an increased corrosion problem on our berth roofs?

DR. GREENBERG: Let me clarify something, first of all. I'm not the author of table 8.12-4, the applicant is. So when you say my table, I guess you're referring to --

MR. CHAPMAN: Oh, okay.

DR. GREENBERG: -- their table, and they labeled it a corrosive. Also, the ammonia slip that comes out of the stack, you know, as a result of aqueous ammonia injection for selective catalytic reduction to control NOx, is not handled or reviewed and evaluated by myself in hazardous materials. That's an air quality.

I could talk to you about the toxicity. I can't talk to you -- I'm not a metallurgist, so I don't know, you know, what concentrations would come out and what concentrations would be necessary to damage any kind of metal.

So, I'm sorry that I'm not the right guy to answer that question.

MR. CHAPMAN: That's all I have.

HEARING OFFICER SHEAN: Okay. Well, we'll consider that to be uncontested and take it on declaration.

Yesterday we postponed the worker safety topic. Since the staff person is here tonight for that, Mr. Chapman you had some questions or comments. How would it be to go to that now?

MR. CHAPMAN: My questions for worker safety come on the fire protection side of the

chapter.

There on page 133 where you talk about fire hazards. And you identify several fire hazards there.

I think it's appropriate, or I want to ask you to include as fire hazards the proposed trees, and the Sausalito Ferry, itself, given the prevailing wind and the way that that would all work together.

Because when you get to your conclusions on 139, you indicate that, okay, the fire risks are the same as the existing plant. And I want to challenge that in saying that the existing plant is over 1000 feet away from the property line.

So, the proposed plant does not have the same fire risks associated with it, or it doesn't have the same characteristic, given the change in location to potential flammable material.

DR. GREENBERG: Usually, because of the setbacks a facility or a fire or a spark or explosion at the facility doesn't impact beyond the fenceline. In fact, usually it doesn't get anywhere near the fenceline.

However, at your request, let me look at that and see if it is, indeed, -- I want to make

sure that I'm 100 percent certain at this particular location.

MR. CHAPMAN: Okay. In looking at it there, what I'd like to propose is, and I labeled it Fire-1, would be a requirement for Mirant to indemnify the Sportsmans Yacht Club against fire and property damage, given this particular fire hazard.

MR. HARRER: What's the nature of the fire hazard?

MR. CHAPMAN: The plant, itself, in just the closer vicinity to us. What I'm most concerned about is the fire hazard as it could ribbon its way through the treeline, and then move up to -- then jumping over to the ferry.

Anything that happens on the site is going to, I mean, blow toward us 40-something percent of the time. And if you get the wall of trees that we've proposed, if they ever light up, they're going to move faster than I think your own fire department can handle, or the other fire department.

And I don't know whether this is appropriate or not, but one concern I have that I want to get out right now. If fire responded to

your site, offsite fire support, I am very concerned as to how long it would take them to move around from your site and come to my site to help protect it from jumping out of the site.

Some several people have taken that trek to get our of your site, come around the fences. Now, I know firemen might just cut through the fence, but is there any way to make a request of the fire department that if you ever responded, send an engine down both sides of the fenceline? Can you make a request like that?

MR. HARRER: Yeah, I suppose.

MR. CHAPMAN: Just because, I mean, one of the members was telling me a story about one of your survey crews that needed to come around and work on our side of the fence. And, you know, he talked about the fact that it took him 20 minutes to make it around from one side of the fence to the other.

And you translate that into a fire danger issue --

MR. HARRER: He was on overtime.

(Laughter.)

MR. CHAPMAN: But, I mean more to the point, it's the issue of just coming up with some

type of a -- the only thing I can imagine is some kind of an indemnification plan.

HEARING OFFICER SHEAN: Okay, we've got the concept. We'll throw it in the mix and give you an opportunity to present it --

MR. VARANINI: Yes, we'll also do a review of our insurance and whether we have, what type of policies and what level is self insurance.

HEARING OFFICER SHEAN: Okay. So, --

MR. CHAPMAN: That's all I have.

HEARING OFFICER SHEAN: All right, thanks.

We had a request here from the staff to take biology next in order and then take a break. I think what we'll do is we'll take biology.

We'll give those who are here to make public comments an opportunity to do that.

Then we'll take a break because we're, I guess, trying to set up a teleconferencing machine. And so, we'll do that, biology, public comment and then a break.

MR. HARRER: We're all set up to do visual resources, but we can switch.

MS. DeCARLO: I think we're waiting for our visual people to show up. Cheri, has visual

shown up yet?

We're still waiting for our visual staff to show up.

MR. HARRER: Okay.

HEARING OFFICER SHEAN: Okay.

MR. VARANINI: There's something ironic about that, but we won't go there.

(Laughter.)

HEARING OFFICER SHEAN: All right. Let's do bio. And that's page 357. I think you'd already given me the heads up that --

MR. HARRER: Yes, --

HEARING OFFICER SHEAN: -- you do have some --

MR. HARRER: -- we have some significant issues. John Robinson is going to handle it for us.

MR. ROBINSON: Actually, our issues are not so significant. We just would request some wordsmithing or clarification.

BIO1 through 4 we don't have any changes that we would request. In BIO5 there is reference to biological opinions and incidental take permit, which are key to a section 10 consultation under the federal ESA.

MR. VARANINI: ESA is the Endangered Species Act.

MR. ROBINSON: I'll try not to use acronyms. In working through that process with the federal services, that is now transitioning --

MR. VARANINI: Tell them, John, who the federal services are.

MR. ROBINSON: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service both are reviewing an application that Mirant has made to acquire an incidental take permit to deal with the rare and endangered species fish that are in the river.

That process is transitioning to produce and incidental take statement as opposed to a habitat conservation plan or HCP.

And we'd just like to have the clarification that we had or incidental take statement in the language. We get to the same end point, it's just going to have a different label on it.

And that would apply in BIO5, in BIO7.

And then two other clarifications. I'm sorry, it would apply in BIO6, I can supply the specific points and language, or points in the

text.

Also, on BIO6, protocol item 7, the last sentence reads: The project owner will submit an impingement and entrainment study plan for CPM approval prior to certification.

This is related to the aquatic filter barrier installation, and we believe that the intention here might have been prior to AFB construction.

HEARING OFFICER SHEAN: Okay, let's just ask that question. Is that what staff had in mind, or prior to the certification of the application for certification?

MR. ANDERSON: My name is Dick Anderson, staff biologist.

MR. BUCKHOLZ: Jim Buckholz, Wetlands Research Associates, consultants to the Commission.

MR. ANDERSON: I think that at the time prior to construction of the aquatic filter barrier would be fine. It's not a real -- it's not something that we really are concerned about. I think we usually say at certification, or prior to operation. And prior to the construction of the AFB is fine.

HEARING OFFICER SHEAN: Is that fine with you?

MR. ROBINSON: That's fine with us.

HEARING OFFICER SHEAN: Okay.

MR. ROBINSON: The last clarification is BIO7 --

(Off-the-record conversations.)

MR. ROBINSON: -- BIO7 and in BIO10, and I'll just deal with BIO7 first. At least 90 days prior to the start of CCP unit operation, to be consistent with earlier language, we suggest inserting the phrase "by itself."

MR. CHAPMAN: In BIO7? By itself is already in BIO7.

MR. ROBINSON: BIO7 verification.

MR. CHAPMAN: Oh.

MR. ROBINSON: And that's just to make it consistent with earlier language. And we'd like to request that the same clarification be made in BIO10 verification, prior to the start of project operation by itself.

MS. DeCARLO: Dick, is that fine with you?

MR. CHAPMAN: I'll be contesting that.

MR. ANDERSON: I'm still thinking about

that one, just a second.

I'm making a note there so I can think about it later or tomorrow. But I don't think you're going to know 90 days ahead of time, once unit 8 is operational, whether or not you're going to operate it by itself.

That's something that seems to me could happen quickly, that units 6 and 7 won't be operating, so only unit 8 will be operating.

The intent of this is that the pump would be -- one pump would be running at half speed just for unit 8. And so I think that I'd prefer to see it stay the way it is. I don't think you can predict 90 days in advance when your units might shut down.

MR. CHAPMAN: If that's the case, then the first sentence of BIO7 you would need to take out the words "by itself."

MR. ANDERSON: Well, no, that one is okay there. It's because when unit 6 and 7 are running there's practically no difference when 8 runs. But if 8 runs by itself, more water is needed, half of the pump of water is more than unit 8 needs, but that's how much water has to be pumped. And that's the concern here.

MR. VARANINI: What I would suggest is that we get together and -- think about this and get together Tuesday for all the, you know, for all the conforming language, so we don't get stuck on some prepositional phrase or split infinitive tonight.

HEARING OFFICER SHEAN: Okay.

MR. ANDERSON: What's the second one, BIO10?

MR. ROBINSON: Yeah, the second one, Dick, was BIO10 verification, first sentence ends with the word operation, and add by itself is there, as well.

And that has the same -- 60 days here rather than 90 days.

MR. ANDERSON: Okay, are we going to revisit this tomorrow --

HEARING OFFICER SHEAN: Tuesday.

MR. ANDERSON: Or Tuesday, rather.

MR. ROBINSON: And those are the only -- those are the changes, the wordsmithing we'd like to see for the biological conditions.

HEARING OFFICER SHEAN: Okay. Mr. Chapman.

MR. CHAPMAN: Let me start with that.

There are, on BIO7, where it did show up as part of the first sentence, there -- I don't think that's appropriate because in the AFC there, in appendix D, page 73, is the one place where they talk about the fact that when 8 withdraws water from 6 and 7, the significant number of larvae and things that survive the route through 6 and 7 are pretty much guaranteed not to survive the route through 8.

So, the requirement of not having this in until 8 operates by itself doesn't really go to the issue of the striper kill. Now, the striper kill, I understand, the striper's not the endangered species here. But it is the biological impact --

MR. ANDERSON: What did you reference? Where did you get this information now? You said page 73 of what?

MR. CHAPMAN: Of appendix D of the application.

MR. ANDERSON: Okay, and this was a study that talked about some percentage of survival of entrained creatures?

MR. CHAPMAN: Yes.

MR. ANDERSON: And so you're saying that

a small amount of those, the several percent of water that is withdrawn for unit 8, only? What is --

MR. CHAPMAN: What they predicted in that appendix is that unit 8 would kill an additional 100 to 243 six-inch equivalent striped bass, is what the application stated.

Now, I can -- I believe I understand that the aquatic filter barrier is designed for the endangered species, which this isn't, but this would be an opportunity for biology to protect this little animal.

And that's why I would encourage you to take out the by itself and say it has to be in when 8 starts operating.

MR. ANDERSON: Well, what I'd like to do is look at the AFC and read that section, and -- actually study that and understand it more. Because normally we consider everything entrained as dying. That's not true. There's usually some percentage that doesn't.

And so, if, in fact, there are as many as you say surviving, then I'm willing to consider that. The intent of this is that unit 8 isn't causing any problems when it's running in

conjunction with 6 and 7 because everything's dead already in the water it's using.

MR. CHAPMAN: And to my understanding that was factored down. So, you know, there was some much larger number than that surviving in the pass through 6 and 7, and they factored it down just based upon the part of the water that 8 grabbed ahold of, which is like 5 percent or something like that.

The other item, backing up, page 374 you respond to a whole arm's length full of questions that ask -- plant responded to questioners asking the same question with regards to getting more information, with regards to the aquatic fish barrier.

And you referred -- 374 -- you referred the questioners to the U.S. Fish and Wildlife Service. And maybe the applicant can help us with this question.

I got ahold of them, and the people that I talked to here more or less indicated to me, said, yeah, we know the name of the company; we know they're proposing something. What they're proposing we haven't seen.

Is U.S. Fish and Wildlife Service the

wrong people to catch up with? Should we be with a different department?

MR. ROBINSON: Yeah, we'd need to know who you contacted there, because there has been an ongoing process a number of years, a very active process with the staff at the U.S. Fish and Wildlife Service.

MR. CHAPMAN: Do you recognize the name Sheila Larsen?

MS. IKUTA: Sandra Ikuta; I'm representing Mirant on the take permit process. Sheila Larsen is the case manager now for this matter at U.S. Fish and Wildlife Service, but she is quite new and has just been there for a few weeks.

We've been in discussions with the U.S. Fish and Wildlife Service since Mirant purchased the plant in '99 I guess it was. And so they're quite familiar with our submission and our materials. But Sheila Larsen is quite new on that matter.

MR. CHAPMAN: But she is the correct person to contact for information?

MS. IKUTA: The major person who --

MR. CHAPMAN: Or the best person?

MS. IKUTA: -- has had the most experience on the matter is named Mike Thabeault. And he has been familiar with the project since PG&E was the owner of the plants.

MR. CHAPMAN: Okay, do you know the spelling of his last name?

MS. IKUTA: It's T-h-a-b-e-a-u-l-t.

MR. CHAPMAN: Thank you. On page 383 where you refer to a possible temporary closure plan, could we add the aquatic fish barrier as a line in that temporary fish for removal from the river?

MR. ANDERSON: I listened to that discussion in the water area, and I understand what you mean. We are dealing with unit 8, and so I think you're thinking about the whole power plant somehow.

And if we can make a differentiation and a condition on unit 8, --

MR. CHAPMAN: Okay, I understand.

MR. ANDERSON: -- if there's any part of the power plant, you know, different units still operating, we would like the barrier there obviously for the reduction of fish kill.

So, I don't see any problem -- your idea

is a good one, you know, we obviously don't want it abandoned and left there. But we have to figure out how to craft this for unit 8, Okay?

MR. CHAPMAN: Okay. The only other thing I had was under BIO11 you go through a list of agencies. You indicate, okay, we want to comply with all LORS including, and then you list off several agencies.

I want to recommend that we add U.S. Army Corps of Engineers section 10 to the agencies list.

MS. DeCARLO: I believe that's handled in soil and water. Would there be any problem --

MR. ANDERSON: No. It could be handled either place. You don't care which section it's in, as long as it's included somewhere?

MR. CHAPMAN: You had the condition that started listing off agencies. So, in the list I just wanted to add that agency to your list.

MR. ANDERSON: Yeah, and that's not a problem.

MR. CHAPMAN: And that's all I had, Mr. Shean.

HEARING OFFICER SHEAN: All right, so if staff can address this on the closure thing, and

let's see, the open question then is on BIO7, is that right? The "by itself" language.

MR. ANDERSON: That's in 10.

MS. DeCARLO: Item 10.

HEARING OFFICER SHEAN: So that will be the area that we discuss at the future hearings. Okay. We'll indicate that.

All right, why don't we, in anticipation of trying to set up this teleconferencing thing by the staff, have an opportunity now for members of the public who have come and would like to speak, to do so at this point. And then we'll all get a little stretch of our legs, and a breath of fresh air and come back to it.

So, is there anyone who is present now who would like to come forward? We'll give you an opportunity at the conclusion of the meeting, but if you would like to speak now, feeling you may want to be doing something different for the rest of the evening, the microphone is open.

All right.

(Pause.)

HEARING OFFICER SHEAN: Now don't be nervous. You need to talk into the microphone and say your names and then go ahead.

MS. MANNING: Mr. Chairman, Davis and Committee Members, I am Jenny Manning, and this is my sister, Kelly.

We live in Antioch and go to John C. Fremont School. We go to Sportsman almost every weekend with our grandpa. On Saturdays we have breakfast at Charlie's Galley, put on the grounds, and fish off grandpa's boat.

Every year just before Christmas Santa Claus comes to the Club on Mr. Dawson's boat.

MS. MANNING: Next month we are going to have an Easter egg hunt. July 4th we have a big picnic and watch the fireworks from the fishing pier.

MISSES MANNING: (In unison) Please do not let them pollute and ruin our Club, thank you.

HEARING OFFICER SHEAN: Thank you very much.

(Applause.)

HEARING OFFICER SHEAN: All right, that's the future citizens we want to raise. Okay.

All right, we'll take a brief break. Let's take about a 15-minute break.

(Brief recess.)

HEARING OFFICER SHEAN: If we can come back to order, please. We had one more speaker than we got to the podium before we left. So the gentleman is here, and his name is Joel, correct? All right, we'll go back on the record and Joel has something to say.

MR. LeROY: Stop messing with my world. You're going to have to live it. You're not fooling anybody. You're poisoning the air where my family lives and I don't want to move.

Why not people before the power plants? Air is not for sale. This is home. I came on, yeah, we came -- yeah, I came here to see -- yeah, checking to see, making sure we have a -- okaying a power plant.

Wow, I'm done.

HEARING OFFICER SHEAN: Thank you, Joel.

MR. LeROY: You're welcome.

(Applause.)

HEARING OFFICER SHEAN: Okay, let me just say I hope the parents of these kids who have appeared tonight are as proud of them as I think they would be. And I want to commend them for their moxie to get up and speak in front of a large crowd.

Okay, we're going to go now to visual resources. And that is on page 267.

I'm going to go initially to the applicant.

MR. VARANINI: I think that reserving the obvious issue that visual impacts are modified if there's an alternative site, that what we'd like to do, just for the record at this point, have one of our experts talk a little bit about movement towards some of the solutions the staff has proposed in VIS4.

And then to say for the record that VIS6 is not acceptable to us, and we believe that at this point we'd have to enthusiastically litigate that matter.

HEARING OFFICER SHEAN: Okay.

DR. SHEPPARD: I'm Stephen Sheppard, one of the visual resource specialists working with URS on the project.

I just had a few comments on some of the other conditions on visual resources. Specifically the mitigation VIS3, which has to do with lighting impacts and refers to modifications in lighting plans for the units 6 and 7, the existing power plant that is there now.

The applicant would, I think, be willing to look at that pretty seriously, but I guess with one caveat, which is the operational safety considerations, just to make sure that the lighting plan that's proposed in VIS3 is consistent with safety and operational considerations. That's really the only concern there.

And I think we've had some precedence on that for previous discussions that we've had, Gary, on the cooling towers.

Maybe I could also jump quickly to VIS5, which is a similar issue. VIS5 refers to visual mitigations for construction. And, again, there's an issue, one of the issues there is in dealing with nighttime lighting for construction. And, again, we would just like to make a minor modification to that along the lines of the lighting controls being, again, subject to operational and safety considerations for construction.

The other main comment would be on VIS4, which is the mitigation that has been subject to quite a bit of discussion on the trees. The visual screening, the permanent visual screening

from trees planted along the eastern edge of the site, close to the Sportsmans Yacht Club property.

There I think we're certainly looking at these issues. You've raised a couple of issues. One would be of a berm to raise the height of the visual screening, so you could get effective screening a little faster.

And we've certainly are looking at that, and for instance, have considered perhaps expanding or extending the raised pad out towards the roadway which would gain you at least four feet and avoid having to do a separate berm.

So I think there was some design possibilities there that can be explored to achieve at least some of the things that those conditions are trying to achieve.

And I guess there is something of a concern about the minimum tree height for the planting. One of the issues would be whether it's actually better to plant younger, smaller trees that grow faster and more robustly than large trees. I think the idea of trying to attain that increased height is a good one, and I think we should obviously look at that pretty closely. Maybe have the arborists get their heads together

about the best way to get that screening as fast as possible.

So, I think those are probably the only real concerns that have been raised at this point. I just wanted to make one comment as we were talking a little while ago, just about the cross-section in that area.

There was some earlier comments about possible problems with transmission line, proximity to transmission lines or to the gas lines. And that has been looked at pretty closely, and both the arborists and the engineers feel that that's an issue that can be resolved. There is enough setback from the pipelines to avoid root problems, for example, and without topping of trees, there's enough room to avoid a fire hazard or any contact hazard with the power lines.

And I think the cross-section that was included in the last data sets shows that relationship.

I think that was really all that we wanted to say at this point.

MR. WALKER: Did you take into consideration if you extend that pad --

HEARING OFFICER SHEAN: Why don't you identify yourself, first, Mr. Walker.

MR. WALKER: I'm Gary Walker with the staff. Did you consider that if you extend the pad, though, farther east, that will raise the height of the tree, of course, and that's not what was shown in the cross-section. And will that still avoid the problem of, you know, conflict with the lines?

DR. SHEPPARD: Yes, I think that still is going to -- it shouldn't affect the conflict with the line issue. I think that we recognize that if the crown width of those trees, as they approach maturity, gets too wide, then there could certainly be some limbing on that side if it's getting at all close to the safety tolerance for the lines. But should not involve topping of trees, and therefore reducing the screening.

Those are very dense trees, the compact blue gum that's being proposed, they're very dense effective screening. And so we don't think that would compromise the visual screening.

MR. KANEMOTO: Bill Kanemoto. I'm a consultant with the CEC. Just for the record, we were talking a little bit before during the break

to clarify some apparent inconsistencies with the -- between the cross-section that you're referring to in the plans that show the landscape proposal, and we were told that the cross-sections are correct.

That it would be possible to move the transmission poles to the west, as shown in the cross-sections, but not in the plans.

MR. SHILEIKIS: Yes, Bill, that is correct.

HEARING OFFICER SHEAN: Can we go to Mr. Chapman at this point?

MR. CHAPMAN: I've got a couple of housekeeping issues with regards to this chapter. The first one being on page 274, regarding KOP number 4. This is the KOP from San Joaquin Yacht Harbor, and it says that it's approximately 200 feet east of the proposed cooling tower site.

I was going to -- I want to refer you to the drawing that was given as part of data response 171. It was our first more or less smaller scaled drawing, had a scale of 100 feet equals an inch, to where we could actually -- and it also included offsite facilities and things over the fenceline.

There you say that it's approximately 200 feet east of the cooling tower. Based upon my own survey I can assure you it's 550 feet away from the cooling tower. The cooling tower is 150 feet inside the property line.

And then Sportsmans property is 200 feet wide at that point. And then the KOP is further into the site from the there.

Now, that'll come up in a minute where that footage difference is important. But, the 200 feet is in error by a long ways.

On page 285 you make a reference to figure 8C. Now that's from KOP1. I believe that should be either 4B or 4C, one or the other. I didn't have a 4C in my packet. I don't know if everybody else got a 4C or not, but I believe if that's coming from KOP1, that should be one of your 4-series pictures.

You see where I'm at there, Bill?

MR. KANEMOTO: Yeah, that's an error.

MR. CHAPMAN: The next thing on the same page, and I don't know whether this is an error or a disagreement or what it is. But you refer to the trees at maturity, and in your report you say approximately ten years.

In the data response to 171 the applicant said at maturity, 25 to 30 years. Now, are you disagreeing with their -- how much water or how much fertilizer they're putting on the tree, or is it a mistake?

MR. KANEMOTO: We're proposing much larger plant material at installation, that's part of the calculation there. And also we're assuming a higher installation height. Both. That's what we're calling for in the conditions.

MR. CHAPMAN: So you're including the height of the berm in the height of the tree, is that what you were thinking?

MR. KANEMOTO: Yes, well, the height of the berm and the height of the tree at installation, that's right.

And then we based on a growth rate that we got from speaking with a couple of fairly well known arborists.

MR. CHAPMAN: Okay, so you're disagreeing with their --

MR. KANEMOTO: We acknowledge that this --

MR. CHAPMAN: -- number then? It's not a mistake, it's that you propose that it will grow

faster?

MR. KANEMOTO: Right, and we'll have to acknowledge the fact that there's a little bit of uncertainty in all these estimates about growth rate and so on, because these are the best guesses of pretty knowledgeable arborists, but they can't guarantee that the performance is going to match those estimations.

But I've -- yeah, this was based on expert opinion.

MR. CHAPMAN: That more or less rolls through the whole thing, as not being sure what the age or the number of years until, quote, maturity. Or the number of years until a 40-foot height, whichever one of those you want to tie that to.

But on page 288 when you're referring to the KOP, back to KOP4, and you make reference to the -- you're describing the visual resources on figure 8. They're -- I don't see any reference in there to the loss of a view of Mt. Diablo from that position.

And the same thing comes up when you start talking on the same page from KOP9. There, as far as -- and that just comes up because of the

LORS from the City of Antioch.

Now, I know there's a question of whether that applies to us or not. But, they have in theirs where they talk about saving the view of Mt. Diablo. And that is not addressed in either one of those issues.

The other item I had was -- and we've more or less already gone through this, is the idea that the trees will never be allowed to be 40 foot high, based upon the transmission line restrictions.

On page 289, another housekeeping thing. You referred in your response -- excuse me -- in the second paragraph that starts: In response to staff. Down through there you refer to figure 8C, I believe that should be 9C. 9C would indicate all of the KOP9.

MR. KANEMOTO: Yes.

MR. CHAPMAN: On page 290, and it sounds like we've got a real contentious thing here, because with regard to the ground contact plumes, and you described them as highly intrusive, significant -- effect. And that you're going to propose to eliminate them between 6:00 a.m. and 12:00 midnight.

My question there is what about between midnight and 6:00 a.m.? If you can eliminate them the rest of the day, the hours between midnight and 6:00 a.m. for the area that we're talking about impacting here, is just as important as the rest of the day.

You're looking at a very dangerous situation that's going to be impacted in entering and exiting the access road in and out of Sportsmans and San Joaquin Harbors there.

You're going to have a situation where a lot of people will be leaving late at night, after evening events. And you also have the situation where you have people arriving very early in the morning, going on fishing and hunting trips and things.

And that six-hour period being carved out just doesn't work well for us in that we need that six hours, also. It's just as important to us.

The request for a change in the conditions area, under VIS4, item H, on page 303, you talk about the maintenance of the landscaping. In there you say annual tree and landscape maintenance.

Well, annually is going to be of no service to us at all. What Sportsmans needs that to say is that they'll develop a plan to mitigate or prevent that tree debris from entering our harbor. And an annual requirement like this will never succeed at that.

MR. WALKER: Could I ask, are the present trees causing that sort of a problem?

MR. CHAPMAN: You know, I -- and in conversation, or in one of my data requests I refer to just the section of the harbor from the ferry to the south, to the end of it. And because I really only envisioned having a debris problem coming from there.

As luck would have it, I pulled my boat out of the water today and I was parked on the east side of the ferry. And the few eucalyptus trees that are there now are blooming, and the blooms are drying right now.

That dust, as I understand it's referred to, has blown all the way -- blows all the way across the ferry, and then swirls and lands there. And I found my boat full of it.

In the data request that I sent to the applicant I had talked about a 300-foot section

which, you know, that'll give us a reference. But it actually blows all the way across that ferry and into the harbor under our prevailing wind situation.

An idea that I had that comes under VIS5, where it's talking about building a temporary barrier. The one thing that came to my mind is if in the -- if that was built as a permanent feature it would take care of the understory problem that the trees would have, in that the trees are going to limb up over the years and it's identified that this particular type of tree is pretty aggressive, and they're not going to allow another plant to be planted to cover that understory vision problem.

So the thought was if we're able to create a temporary barrier there, if it was designed as a permanent feature then it would take care of that understory visual mitigation.

If that's, you know, a thoughtful request.

MR. WALKER: Do you have any particular sort of structure or material in mind?

MR. CHAPMAN: Coming from where I'm at I'm thinking, you know, that probably the proposal

that you would see to meet this would probably be a chainlink fence with slats in it is probably the way they would meet this requirement for the temporary barrier.

That's probably only a change in the concrete the post's in, rather than just driving them in. You still have the same fence there. You just build it with the intentions of leaving it there rather than pulling it out at the end of the project.

I don't think this is going to be very effective, but I had all my notes under VIS6 to take out the words between 6:00 a.m. and 12:00 midnight.

The only other item was a VIS7 that would require the transmission line to be undergrounded in order to allow the trees to grow full height.

The one other caveat that would come with that is then you'd be able, and have room to berm the whole length of the property line along the east side there.

That's what I have.

HEARING OFFICER SHEAN: Okay. Does the applicant want to say any more about VIS6, other

than you're going after it?

MR. VARANINI: No, not at this time. There's been a lot of technical information, and lots of modeling disputes, and status of models and so forth. And what one can really adduce from a model.

And I think if we have to -- then the operability of the plant, and so I think that it might make sense, if we can do it, we'd like to sit down with all the parties and talk through it. But I think we need to factor that in light of potential alternatives, and see where we are.

HEARING OFFICER SHEAN: Okay. That leaves us with noise, then. And that's on page 231.

SPEAKER: Mr. Shean.

HEARING OFFICER SHEAN: Yes.

SPEAKER: Are you going to have public comment on visual?

HEARING OFFICER SHEAN: We're going to take the public comment at the end of the proceeding, and this is our last topic.

SPEAKER: Is vibration covered under noise?

HEARING OFFICER SHEAN: Yes.

All right, how about the applicant?

MR. HARRER: We have one minor issue that we're trying to figure out right now. Other than that we have nothing.

Maybe Sportsmans could go ahead.

HEARING OFFICER SHEAN: Sure. Mr. Chapman.

MR. CHAPMAN: I'm going to start out by being a little concerned, this chapter we lost the expert that went through the preliminary hearings with us. A lot of hand-holding went on during preliminary workshops in trying to straighten out where people were, and where they were associated with this project.

And I'm just concerned to see a change in author in this chapter. It would have been more comforting to see the same person back for the final.

And along those lines, on page 236, where reference is made to the closest sensitive receptors, and now has been added, and the historic Sausalito Ferry reads located from 200 to 350 feet east of the project boundary.

That's incorrect. The Sausalito Ferry is 50 feet east of the project boundary. And you

can scale that off of the figure 171.1, which was part of the data response.

I have a question here, on 243 under community effects, there's a reference to DNL and CNEL, are those the same, or is that a different scale?

MR. BUNTIN: They're a little different but -- I'm Jim Buntin with Brown Buntin Associates, consultant to the Energy Commission.

The difference between DNL and CNEL is just in the weighting that's applied, or penalty, if you will, to the evening hours which is 7:00 p.m. to 10:00 p.m. Under CNEL, which is California's unique descriptor developed for airports originally, that period from 7:00 to 10:00 p.m. has a penalty applied to the noise levels of a factor of almost 5 decibels.

And the effect of that is if you have two, let's say you have something like a power plant where it runs continuously for 24 hours, and you do a measurement and you report it as LDN, or in here it's called DNL, sorry they mixed them up on us, depending on who you talk to.

But if you compare CNEL and DNL for the same source running continuously over 24 hours,

the CNEL is one decibel higher than the DNL. And that's just because of that evening weighting.

MR. CHAPMAN: Okay, thank you.

MR. BUNTIN: And let me just make a comment. If I switched around in here between DNL and LDN, it's because oftentimes the documents, themselves, the standards, will switch back and forth.

They mean the same thing, but the nomenclature changed over the past. That's been around for about 26 years, and it's changed, depending on which agency uses the term. They mean the same thing.

MR. CHAPMAN: Okay, where that question comes up is on the same page, 243, you refer to, and it starts out: However, at the residences.

MR. BUNTIN: I'm sorry, which paragraph?

MR. CHAPMAN: You're in the -- under community effects, second paragraph.

MR. BUNTIN: Yes, okay.

MR. CHAPMAN: They're --

MR. BUNTIN: However. I have it.

MR. CHAPMAN: Okay. And you say will exceed 60 db DNL. Well, on your table 3 on page 245 you indicate that those residences will exceed

70 CNEL. I understand the change there, but if there's only 1 db difference between the scale, that's a significant issue in describing how the community's affected by it.

If you consider that 10 db's worth doubling the noise.

MR. BUNTIN: Well, the actual language is that the predicted noise levels will exceed 60 db CNEL, so that's still true.

But one of the confusing things about --

MR. CHAPMAN: But they will exceed 70, correct?

MR. BUNTIN: That's true. You could even say they'll exceed 61, you know, so what we're saying is that the standard that has been referred to in Contra Costa is 60 db DNL. And so these levels are higher than that.

MR. CHAPMAN: Okay. On your table 3, going back to your table 3, --

MR. BUNTIN: Okay.

MR. CHAPMAN: -- where you refer to the number 5, 6 and 7, and they run 71, 73 and 71 respectively.

I'm curious where on, if you use the state table, table 1, where does over 70 CNEL not

fall as a normally unacceptable level of noise?

MR. BUNTIN: Probably nowhere.

MR. CHAPMAN: Wouldn't then under the requirements for analyzing this site, wouldn't that then become a significant impact?

MR. BUNTIN: The test that's being applied is one which the Energy Commission has been using for some years, that a 5 decibel increase is considered to be significant. And that's being applied actually to the L90 value rather than CNEL or DNL.

So, these levels, of course, are higher than what you have, but not by very much. And that's the real key, is how much of a change is it in either L90 values or CNEL, and so the condition of certification that applies to this is written to limit that change, whatever it ends up being. Whether we measure it as L90 or CNEL.

MR. CHAPMAN: Okay. This comes to something that I've been having a real problem with, on talking about noise on this case. On page 246 where you talk about cumulative impacts, and where you're talking about this 5 db increase and things, I've been trying to explain the noise issue here, and I think I finally figured out why

I wasn't being understood, is that I hadn't used the right lingo to talk to everybody.

Let me ask you this, if you went from 48 dba to 66 dba, would that be a significant -- be considered as significant noise level change?

MR. BUNTIN: In most cases, yes.

MR. CHAPMAN: Okay. And if I understand cumulative impacts, that's a deal where you talk about, okay, one source and another source, each one on its own, when it's analyzed, is not significant. But if you put the two together it is?

MR. BUNTIN: That's correct.

MR. CHAPMAN: Okay. And in trying to learn what this meant, and learning what CEQA was, and this, that and the other thing, I ended up at the environmental impact report for when this plant was sold to Southern Energy.

And in that report they did a noise analysis. And at that time, we're talking about two years ago, at that time the loudest noise at the fenceline that they could get was 48 dba.

MR. BUNTIN: This is --

MR. CHAPMAN: And we're now going into a proposal that's proposing some 66 dba.

MR. BUNTIN: This is at the east property line?

MR. CHAPMAN: I'll give you a copy of their --

MR. BUNTIN: Okay, yeah, I'd like to look into that document.

MR. CHAPMAN: And I've got some other copies for anybody who would like it.

This is coming out of the application 98-01-08. And their noise monitoring.

It's the first paragraph there where they say they've monitored a range from 41 to 48.

MR. BUNTIN: I'll look into that. I'm wondering what exactly they're referring to when they talk about existing noise levels. Let me just ask the question, in your experience has there been a time in say two years ago that it was substantially quieter than it is today?

MR. CHAPMAN: Yes. That's what -- in the last two years?

MR. BUNTIN: I'm just trying to put it in the context of --

MR. CHAPMAN: Previous to that --

MR. BUNTIN: -- when they did this.

MR. CHAPMAN: Previous to that we

considered that plant pretty much shut down.

MS. DeCARLO: If I might ask --

MR. CHAPMAN: It was -- yes.

MS. DeCARLO: I was going up through the area today and I think, I'm not too sure about this, but I think that when they did this analysis neither 6 nor 7 were running.

MR. CHAPMAN: That's correct.

MS. DeCARLO: It was just the synchronous condensers. So that might account for the lower dba.

MR. BUNTIN: That certainly would be expected to do that.

MR. CHAPMAN: That's what I understand, too. And that has been what we've been more or less referring to as the problem that with 6 and 7, and now adding on 8, it's a monstrous problem, and we haven't even got over the significant problem yet.

You know, everybody said, it's not significant. And we're going, not significant, it's horrible. Well, it's where you get into this cumulative impact is the way I can try to describe it now.

There --

MR. VARANINI: Could I interrupt you just one second? I think if we do that, we're going to have to get into things like the Delta Dispatch and a lot of other characteristics that were done from time to time when PG&E operated the plants.

One example is they actually honored the San Francisco operating criteria years ago when they were running the plants. And just as an example, that meant certain machines had to be on in San Francisco, and they would cycle these machines down.

And they would do that, and basically cost the ratepayers more money, but it was done for reliability purposes. And there are several other elements to the Delta Dispatch beyond that.

So we would, if we're really going to get into this, we would want our reliability expert, who was, fortunately in this case, only had a light motif, to take a pretty hard look at that.

Because I think what's going on here is at any particular point in history, at any particular point in time remember that the work going on in that EIR was pretty much generalized

by the Commission into if it isn't any worse, then the worst case on the site, sell it.

Because what they were looking at was the owner, the new owner, would basically virtually couldn't do more than optimize or maximize the plant output with the exception of the peakers, or retired units.

And I think when you actually dissect that EIR, it's a very interesting thing. I wouldn't want one expert to go off with an assumption that there's anything particularly relevant about that EIR, other than move the product.

And if we have to go into that, we're fully prepared to do that to show the experts that, in other words, the environment out here went up and down depending on what was going on in PG&E's heart and mind at the time.

But they had it approved at certain maximums. And those maximums were what they peddled. And so they didn't peddle a unit 6 and 7 shutdown, and if they analyzed the situation where units 6 and 7 were shut down, it just simply doesn't correlate.

They did what they had to do on a crash

basis, put these documents together, and basically approved them under a very accelerated program to get them sold.

And I would just say go to the conclusion and see what the PUC actually determined. And I think the whole analysis was basically subsumed in the decision.

In other words, there's an assumption in the decision that makes the analysis probably irrelevant, let alone immaterial.

I mean that sincerely. If you look at what they actually did, they wanted to get something done and get it out the door, so they weren't waiting around like the Energy Commission when it focuses on a problem, and basically forces you with a chokehold or whatever appropriate methodology, to do the worst case.

It was really just get these things out of here. And, you know, you can take my word for it; read it, yourself. But I want the analysts to know that there's a whole set of conditions that it's just not that they went out and measured noise and then got a different -- it's nowhere near that simple.

MR. BUNTIN: So also they used that for

precedence in defining what's ambient. They're not. I mean we have noise measurements that we did. We have measurements that the applicant did. We have measurements in the EIR, and they're all under possibly different operating conditions.

So we need to know exactly what constitutes the ambient, and where we go from there.

That's what we'll be basing our comparison on, is what's the actual change. And I should say there's another table in here, just for your edification, and I've already lost the number, -- here we go -- well, it is table 3, I'm sorry.

There you can see that there's an estimate of what is the ambient noise level in terms of L90, what's the project going to produce, and what's the cumulative effect of that.

And actually in this document there's two different ways of looking at cumulative. There's this language that I just mentioned in table 3 that's saying what happens when you add the new project to the current one, assuming it's you know, the ambient condition is what was measured recently.

And then the other question that's covered on page, I think it's 246 of yours, it's cumulative impacts. And that's really looking outside the site. Is there anything else going on next door that's going to substantially affect the noise levels at any sensitive receiver.

MR. CHAPMAN: Okay, I understand that's what was done. I'm just questioning the appropriateness of that when you have the EIR from the sale, and the information that it contains. And the appropriateness of using it.

I can see where it may not have come to mind to go, well, wait a minute, what about this project, the project being the sale of the property. You know, it's more expeditious and things like that, just to go down to the County and say give me a list of building permits in the last six months, and that's the only thing I consider.

There's other agencies that have permits, and in this case, an EIR, that could have been considered.

In the interest of the alternatives conversation, I think I'm going to skip over some of the conditions that I had to talk about here.

But one thing that I think is still an issue, under NOISE5, and this is with regards to the steam blows and things.

I want to make a proposal here of just something that could work. The access road coming into the two harbors, the way you're more or less, you're going to end up right in the middle of this steam blow effect situation before you realize you're there.

And what I would like to propose is possibly some kind of an informational kiosk or something at the end, out at Wilbur, that would contain some ear plugs and a little informational warning, rather than having guests or even members that weren't prepared, they didn't bring their ear plugs from home.

And have that out there to where people can have access to the protection before they are affected and really faced with it.

The one other item of importance is in NOISE9 and NOISE10, I believe that we are operating under the guise of cultural resources, who have identified the Sausalito Ferry as a historic site.

And if that is the case, then the

vibration rates proposed in 9 and in 10 right now read .2. And according to the chart that is given on 236, I believe it is, or no, excuse me, the chart that's given as part of the response --

MR. BUNTIN: It's 245 or '1 -- is it 241 or 245?

MR. CHAPMAN: 241, yes, thank you. Where they say that the criteria for historical sites should be .1.

MR. BUNTIN: I might add, that there is an error on that page on the second paragraph. I have an incorrect citation, second paragraph, fifth line I say that according to the applicant the range of peak particle velocity would be between .3 and .9 inches per second.

Actually the numbers in the transmittal from the applicant are .03 and .09. So I apologize for that. I'm at a loss as to why that happened, but I did it.

So we're going to change the text in that regard.

MR. CHAPMAN: Okay, because I believe, yeah, I agree, I think their understanding was that they were going to be able to meet the .1.

MR. BUNTIN: Yeah. I don't have any

objection to that. Let me just give you the logic real quickly why I ended up with the .2.

The Federal Transit Administration criteria that we're citing here -- and you may wonder why Federal Transit Administration, but it's the most recent compendium of vibration issues that we can find published that has any official stature. So that's why we used that.

They actually say that the threshold of damage is 100 db. And if you do the math that works out to .1 inches per second.

If you read the next page they actually say the criterion should be .2 inches per second. So, you know, not that I doubted the math, I was just saying here's something I can document and pull out the standard.

But I think in the context of what the applicant has provided with recommendations for historical sites, and I think the issue here is critical locations. Because we don't know much about how that structure is -- what its foundation is like or what kind of shape it's in structurally.

In that light I have no objection to changing that to .1, and we'll talk that over.

MR. CHAPMAN: Thank you, that's all I have.

MR. VARANINI: Tony, you may want to contact some people over in Crockett. My understanding there was they had a barbecue to celebrate the thing. It was like firing the 1812 Overture. And they literally invited people and had a barbecue and let them sit there when they blew that sucker off. So, you know, I don't know what happened. I wasn't there. I was safe, away from the area like most people in my profession, stay away from the action. But that's my understanding as to what happened. And they fired the sucker and there was a big cheer went up, and that was it.

MR. CHAPMAN: I'm sorry, what are you talking -- what did you fire?

(Laughter.)

MR. VARANINI: For this blow. The system blow at Crockett, okay?

MR. CHAPMAN: Oh, a steam blow? Oh, okay.

MR. VARANINI: Yeah, for the steam blow, okay, --

MR. CHAPMAN: Okay.

MR. VARANINI: -- they -- I'm sorry, get confused, things go fast, but anyway for the steam blow, they actually had a big celebration and blasted the thing off, as far as I understand. It wasn't literally a practice for the old 1950s practice for avoiding being hit by an A-bomb.

MR. CHAPMAN: And we'll get notice of that, right?

(Laughter.)

MR. VARANINI: If he wants to throw a party --

MR. CHAPMAN: No, I just want to know when the blow's going to happen.

MR. VARANINI: Sorry, I was kind of laughing.

HEARING OFFICER SHEAN: Okay, so that's pretty much it. All right, well, we'll conclude that as another topic area.

MR. CHAPMAN: I think I went first there. They had -- you had something and you never got to it.

MR. HARRER: Yes, Mr. Buntin caught our objections. The change to the acceleration rating.

HEARING OFFICER SHEAN: All right.

MR. HARRER: Page 241, he already mentioned it.

HEARING OFFICER SHEAN: 241, yes. All right, well, we'll hold that open for noise on the -- for Mr. Chapman on the steam blow matter, and we're going to get back on the vibration thing.

MR. CHAPMAN: Okay, at this point I need to reserve it open, yeah, okay.

HEARING OFFICER SHEAN: You've got a place-holder there.

MR. CHAPMAN: Okay.

HEARING OFFICER SHEAN: You bet. And let's see, so we've basically completed tonight's list other than traffic and transportation, which we've moved to next Tuesday.

So let me just indicate those of you who have nothing better to do on Tuesday night, we will be covering air quality, public health, alternatives. We will also have traffic and transportation, as I indicated. And let's see if we have any holdovers from before. How about transmission system engineering, what happened to that?

MS. DeCARLO: We're going to it Tuesday.

HEARING OFFICER SHEAN: Transmission system engineering, I believe, was also moved to Tuesday. We've covered some stuff, but there was this -- was it the DWR matter?

MS. DeCARLO: Yes, I believe it was.

MS. DAVIS: Do we need to have staff here for that?

HEARING OFFICER SHEAN: I don't think so. All right, so now we're prepared to hear from you. So, we have an open mike. I've got a couple of blue cards here. I guess those are from the young ladies, so this will be a treat. I'm going to give these to our Public Adviser, and she can know that our young citizens are coming forward.

So, if at this point anybody would like to make a comment before we close tonight's meeting, please come forward.

MS. HAGER: I was just wondering, I'm Carol Hager, Commodore of Sportsmans Yacht Club. I was just wondering what category construction noise and vibration come under.

HEARING OFFICER SHEAN: The one we just did, the general category of noise.

MS. HAGER: Oh, okay. Because we have definite concerns about pile driving and our

ferry.

HEARING OFFICER SHEAN: Right. And I think that's --

MS. HAGER: That is a big --

MR. CHAPMAN: That's what we were just talking about.

MS. HAGER: Okay. Good. Thank you.

HEARING OFFICER SHEAN: Okay.

MR. CHAPMAN: In a very technical way that nobody could understand.

(Laughter.)

MS. HAGER: You didn't say pile driving.

MR. CHAPMAN: I'm sorry, we were talking in velocity per second.

MR. WORRELL: Energy Commission and applicants, I want to thank you all for letting us have the evening meetings.

HEARING OFFICER SHEAN: Can you identify yourself, please.

MR. WORRELL: Oh, I'm sorry, I'm Bill Worrell; I'm an Antioch resident. I'm a member of Sportsmans Incorporated Yacht Club, and I'm a member of California Striped Bass Association.

I want to thank you for letting us have the -- for scheduling an evening meeting. I think

you see that the number of people that are interested can get out to an evening meeting.

Unfortunately, they have to work during the day so they can pay their PG&E bill.

(Laughter.)

MR. WORRELL: I'm really sorry I missed the biological. I've been looking forward to it for a long time. Not for any good reason, but we're surrounded on the Energy Staff with Davis graduates. And we finally had some San Francisco State people come in, and I missed the good job I know they must have done.

A little more serious, 1988 the residents of Antioch that are that old had an experience with energy companies. Some other people came out of the south from Alabama, GWF. I have never been able to learn what that meant, but it was Golden West something.

Anyway, they hit Antioch and I guess they've done a pretty good job. They came in, they were smart enough not to come under your auspices, and make 10 megawatt plants. And the Air Resources Board was the lead agency in their approval.

They had one plant at the city limits of

Pittsburg and one plant in the city limits of Antioch. And they had trouble getting those certified, or getting permits.

The one in Antioch finally did get certified, and I believe the GWF has been a good neighbor over the years. They've built a soccer field next to the plant. They've created a learning center in the town. And they've done a lot of things to help the community of Antioch.

I assume that the plant in Pittsburg has done the same.

However, in trying to figure out what was going on in this meeting, I reviewed the videotapes of that City Council meeting back in 1988. And the verbiage is very similar, that they went through. They had the word mitigation and visual mitigation.

One of the things is they were going to plant trees between the plant on Wilbur Avenue and the housing behind it, which was Garrow Estates. And these were going to be 30-foot trees. They were going to plant 30-foot trees to begin with, a row of them.

And within five years all the residents of that neighborhood would be able to see was ten

feet, the upper ten feet of the smoke stack.

Well, the trees aren't there. I don't know what happened. Of course, it wasn't my neighborhood, so I haven't really paid attention. But I called the City Hall, and you know what? There's no one at the City Hall that can remember back that far, and the records are archived, which I guess that means you need a jackhammer to go someplace to find them.

But I just -- I talked to Ms. Davis about this. And believe me, we're not going to lose the records. If you promise us 30-foot trees, we're going to want 30-foot trees 13 years from now.

Thank you.

HEARING OFFICER SHEAN: Thank you. Anybody else? Yes, ma'am.

MS. WILLIAMS: Hi. My name is Sandra Williams, and I'm a member of the Sportsmans Yacht Club.

I just have a question about the steam blow issue. How many of those are there going to be a year?

HEARING OFFICER SHEAN: It's not a recurring event. It's basically a construction

event, which when they are building the unit, doing welding and other things like that, debris collects in the piping.

And the purpose of the steam blow is to blow out any debris that is in the piping because once it is hooked up, the piping is hooked up to the steam turbine, and they are blowing the steam in against the blades, which makes it turn, which is connected to the generator, and makes the electricity, the velocity of that steam, the tiniest particle impacting the blades of the steam turbine essentially destroy it.

So, it needs to be very very very clean. So the purpose of the steam blow is to clean out the piping following construction.

MS. WILLIAMS: So there's no way to tell how many there would be?

HEARING OFFICER SHEAN: It doesn't occur annually --

MS. WILLIAMS: I mean even --

HEARING OFFICER SHEAN: -- it usually spans a matter of weeks.

MS. WILLIAMS: Okay, every few weeks, then?

HEARING OFFICER SHEAN: No, no, a --

MR. HARRER: No, just weeks, one time.

HEARING OFFICER SHEAN: -- single --

MS. WILLIAMS: Oh, one time?

HEARING OFFICER SHEAN: -- event taking a couple of weeks.

MS. WILLIAMS: Is that what we heard out there, the power plant, before when they -- this huge blast goes off, you think that there is a bomb going off? Is that what that is?

MR. CHAPMAN: I think she's referring to safety valves --

MS. WILLIAMS: Is that what -- the safety valve? Is that what it is? Will this plant have that happen, the safety valve release where there's this huge explosion?

SPEAKER: I don't think that ever happens.

(Laughter.)

MS. WILLIAMS: That's not true.

HEARING OFFICER SHEAN: Okay, it's --

MS. WILLIAMS: I've been there when it happened, and it was very frightening. We thought that the place was going to fall down. This was about three or four years ago. That's the only time I've ever heard it.

And I didn't know if that's what this steam blow was or not.

HEARING OFFICER SHEAN: It's probably not. I can't tell you --

MS. WILLIAMS: If it's a release --

HEARING OFFICER SHEAN: It's an entirely different type of unit --

MS. WILLIAMS: -- if it's a releasing of pressure that's going to happen every so often, say every two months or three months or whatever, I don't know the process, but I think there should be some way of warning the community that this is going to happen.

Because we had no warning for this one time I experienced this. Everybody, me included, ran for the exits that didn't know what it was. And if there -- also we were talking about having alarms in case there is a disaster, something happens, there's an accident in the plant, and a way of warning the neighbors that something has happened.

Is there some way that we could be signaled that this kind of explosive sound or an alarm of some sort could be put into place as a part of the safety issue? I think that -- I know

you were talking about ear plugs and so forth, but this particular explosion, we didn't have time to get ear plugs.

If we'd had some warning and knew it was coming, it wouldn't have been so frightening. But it could have been very dangerous to someone just driving down the road, and suddenly this happens.

It's a very dangerous situation.

HEARING OFFICER SHEAN: We'll have the safety people look at that. I think the answer may contain some of the following, is that these pressure releases occur, first of all, you want to have the system with a release valve, so that if pressures get too high you can blow off that excess pressure to the atmosphere rather than have a violent and uncontrolled release by rupture in the piping.

So, clearly --

MS. WILLIAMS: I could understand that.

HEARING OFFICER SHEAN: -- we want that.

MS. WILLIAMS: A warning that it's going to happen, that's what I'm asking.

HEARING OFFICER SHEAN: Yes, and I guess that's the thing is whether or not there is enough advance notice that pressures are building to the

point where you're going to have a release, that there can be some forewarning.

Probably most of the time this is occurring under circumstances they don't want it to occur. And --

MS. WILLIAMS: Well, maybe the -- I was just thinking, maybe the two could be tied in together, the warning system that something different is going to happen, or if there's an accident in the plant and people need to be evacuated quickly, they could be tied in together. Thank you.

HEARING OFFICER SHEAN: Thank you, Ms. Williams.

Somebody else? This is your last call.

MR. SINNO: I've always got something to say.

HEARING OFFICER SHEAN: Sure.

(Laughter.)

MR. SINNO: My name is Anthony Sinno; I'm also a member of the Sportsmans Yacht Club.

I hear this thing about this noise. I don't know if everybody's aware, but the ferry boat has cabins downstairs. People stay on the cabins. We sleep in the boats.

I've been out on the river right next to the PG&E plant, spending the night out there fishing, and that noise just bugs you all night long.

If this plant's going to put an amplified or additional noise, and we have to put up with it, I would like to be compensated as a neighbor.

People are at that club day and night. It's not just used for parties. They're there during the day, they're there during the nighttime.

And if you put it next to a residential area I think you'd have a big problem. And that's almost a residential area that you have next door. That club is used day and night. People stay on their boats, they party on their boats, and we shouldn't have to put up with that damn noise.

I don't know what can be done for compensation. But I don't want to see the noise increased any more than what it is right now. And it sounds like the noise is going to be increased.

Just leave it at that.

HEARING OFFICER SHEAN: Thank you. Anybody else?

Okay, last call, because we're going to adjourn this and return here Tuesday evening, if there's no one else.

All right. I don't see any other hands, so thank you all for coming. We appreciate it. See you again perhaps on Tuesday night.

(Whereupon, at 8:16 p.m., the workshop was adjourned, to reconvene Tuesday, March 27, 2001, at this same location.)

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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 Committee Workshop; 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 workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, 2001.

VALORIE PHILLIPS