

STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
for the Genesis Solar) 09-AFC-8
Energy Project)
_____)

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

MONDAY, APRIL 26, 2010

10:00 a.m.

Reported by:
Peter Petty, CER**D-493
Contract No. 170-07-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Weisenmiller, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kenneth Celli, Hearing Officer

Sarah Michael, Advisor to Commissioner Boyd

STAFF AND CONSULTANTS PRESENT

Caryn Holmes, Senior Staff Counsel (via WebEx)

Robin Mayer, Staff Counsel

Mike Monasmith, Project Manager

APPLICANT

Scott Galati, Attorney
Galati and Beck

Scott Busa (via WebEx)
Ashley Pinnock (via WebEx)
Meg Russell (via WebEx)
NextEra Energy

INTERVENOR

Rachael E. Koss, Attorney
Adams, Broadwell, Joseph & Cardozo
representing California Unions for Reliable Energy

ALSO PRESENT

Ken Waxlax (via WebEx)

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1 P R O C E E D I N G S

2 10:03 a.m.

3 ASSOCIATE MEMBER WEISENMILLER: Good
4 morning. This is a status conference conducted by
5 a committee of the California Energy Commission
6 regarding the proposed Genesis Solar Energy
7 Project.

8 Before we begin we would like to
9 introduce the committee members to you. I am
10 Commissioner Weisenmiller; I am the Associate
11 Member. To my left I have Sarah Michael who is
12 the advisor to Commissioner Boyd, who is the
13 Presiding Member. Hearing Advisor Ken Celli.

14 And I would ask the parties to please
15 introduce themselves and the representatives at
16 this time, starting with the applicant.

17 MR. GALATI: This is Scott Galati
18 representing NextEra. I wanted to apologize that
19 both Meg Russell and Scott Busa wanted to be here
20 today and unfortunately were unable to connect in
21 a connection flight last night. So they are
22 calling in, they are both on the phone.

23 ASSOCIATE MEMBER WEISENMILLER: Staff?

24 MR. MONASMITH: Mike Monasmith --

25 MS. HOLMES: Caryn Holmes, staff

1 counsel.

2 MR. MONASMITH: And Mike Monasmith,
3 project manager.

4 MS. MAYER: Robin Mayer, staff counsel.

5 HEARING OFFICER CELLI: Intervenors.

6 MS. KOSS: Rachael Koss, California
7 Unions for Reliable Energy. Good morning.

8 ASSOCIATE MEMBER WEISENMILLER: Good
9 morning.

10 HEARING OFFICER CELLI: We also have
11 CARE. Is CARE on the phone?

12 MS. MAYER: Yes.

13 ASSOCIATE MEMBER WEISENMILLER: CARE.

14 HEARING OFFICER CELLI: CARE.

15 MS. MAYER: Oh, CARE, I thought you said
16 Caryn.

17 MR. MONASMITH: Me too.

18 ASSOCIATE MEMBER WEISENMILLER: Any
19 representatives of CARE?

20 (No response)

21 ASSOCIATE MEMBER WEISENMILLER: Any
22 representatives of the state agencies?

23 (No response)

24 ASSOCIATE MEMBER WEISENMILLER: Or
25 federal agencies?

1 (No response)

2 ASSOCIATE MEMBER WEISENMILLER: Or local
3 agencies?

4 (No response)

5 ASSOCIATE MEMBER WEISENMILLER: Let me
6 turn it over to the Hearing Advisor.

7 HEARING OFFICER CELLI: Good morning,
8 everybody. The purpose of this status conference
9 is to inform the Committee, the parties and the
10 community about the project's progress to date and
11 to discuss legal issues raised by the parties.

12 Following the conference the Committee
13 will hear public comment.

14 Notice of this status conference was
15 issued on April 7, 2010 and served on all parties
16 and posted on the Energy Commission's website.

17 The SA/DEIS, which is the Staff
18 Analysis/Draft Environmental Impact Study have
19 been available to the parties since March 26,
20 2010.

21 Today is April 26. At this time all
22 parties should be prepared, should at least be
23 able to give us a good idea of their positions
24 with regard to topic areas that are ready for
25 evidentiary hearing, topic areas that require

1 further analysis including the nature and the time
2 frame of such analysis, topic areas that are
3 undisputed and topic areas that are disputed and
4 require adjudication. The Committee is very much
5 interested in that.

6 We are going to start with staff today
7 because they were the people that put the SA out
8 most recently. Let's hear first from staff,
9 please.

10 MR. MONASMITH: Thank you. Mike
11 Monasmith again.

12 Staff published the staff assessment on
13 the 26th of March, as promised during the last
14 status conference.

15 The Notice of Availability went out on
16 April 9. That commenced a 90 day public review
17 period under federal regs, which will conclude on
18 July 8th.

19 We just finished last week three days of
20 workshops with the applicant, with the
21 intervenors, agencies and the public. We had good
22 progress on the primary areas that we discussed
23 including cultural resources, biological resources
24 and soil and water, which continue to be the three
25 primary areas of work and discussion.

1 HEARING OFFICER CELLI: I'm sorry, I'm
2 typing too slowly. It's bio, water?

3 MR. MONASMITH: Cultural resources.

4 HEARING OFFICER CELLI: Thank you.

5 MR. MONASMITH: We also discussed on the
6 opening day of the workshops the path moving
7 forward in terms of the new bifurcated process
8 with our partners at BLM in the sense that we will
9 be producing separate, final environmental
10 documents. A Revised Staff Assessment for the
11 Energy Commission and a Final Environmental Impact
12 Statement for BLM.

13 We talked about the process under which
14 that will happen, the coordination that will
15 continue, primary issues on how we deal with
16 public comments and other areas. And ongoing
17 collaboration, especially in the areas of
18 biological resources where we have a large team
19 from the wildlife agencies, US Fish and Wildlife
20 Service, Fish and Game, BLM and the Energy
21 Commission.

22 So we discussed that. We found that we
23 needed to have an additional fourth day of
24 workshops, which will be next Tuesday. Excuse me,
25 next Wednesday, May 5th, in Palm Springs to

1 continue the discussions for biological resources
2 and soil and water, which are the two areas where
3 we need some further review. And we can give you
4 details on that if you'd wish.

5 We are on schedule or looking to -- in
6 terms of the schedule I should say, to publish the
7 Revised Staff Assessment on June 11th,
8 approximately 30 days prior to scheduled
9 evidentiary hearings on July 12th.

10 And we're hoping after today's status
11 conference to get some clarification from the
12 Committee in terms of the most recent submitted
13 schedule in terms of testimony leading up to the
14 evidentiary hearings. May 20th for the applicant,
15 May 27th for staff, June 3rd for intervenors.
16 Rebuttal testimony on June 10th, prehearing
17 conference on June 17th.

18 How that all folds in to a revised staff
19 assessment publication date of June 11th is
20 something that we would like some direction on --

21 HEARING OFFICER CELLI: Yes.

22 MR. MONASMITH: -- in terms of your
23 anticipation and how we can best do that.

24 So some ongoing negotiations like we
25 said that will occur next week but by and large we

1 feel very good about where we are right now and
2 can answer any more detailed questions if you
3 would like.

4 HEARING OFFICER CELLI: Well that's a
5 great introduction and thank you for that.

6 I am going to turn it over to applicant.
7 Let's hear from applicant next.

8 MR. GALATI: Thank you again for the
9 status conference. I think it is important for
10 the Committee to hear and ask questions.

11 I would agree with what Mr. Monasmith
12 said. I think that we have been very productive
13 in our workshops. While we still have
14 disagreements I am hoping that we can reach
15 resolution of those on the May 5th workshop.

16 I also am concerned, as I have expressed
17 in other proceedings as well, about the
18 bifurcation and how that would go forward. So I
19 am curious as to whether the current schedule is
20 that evidentiary hearings would be on the 12th and
21 13th. With the schedule that the Committee
22 pointed out I think that I'd like to understand
23 with a June 11th Staff Assessment we have between
24 June 11th and July 12th for evidentiary hearing.

25 And what I would ask for is another

1 opportunity for the applicant and the intervenor
2 to file additional testimony because we would not
3 have seen the Revised Staff Assessment by the time
4 our testimony is due, which is the 20th and the
5 27th of May.

6 HEARING OFFICER CELLI: Hold that
7 thought.

8 MR. GALATI: Okay.

9 HEARING OFFICER CELLI: We will get into
10 that. Go ahead, anything further.

11 MR. GALATI: No. I think that we have
12 been, I think largely with the Committee direction
13 and with Mr. Monasmith and staff counsel's
14 leadership I think that we are making significant
15 progress. I am encouraged.

16 HEARING OFFICER CELLI: Well I
17 appreciate your thoughts.

18 Ms. Koss, I want to hear from CURE about
19 just in general how are you doing on the schedule.

20 MS. KOSS: Sure. We did participate in
21 the workshops. They were productive. However,
22 our concern is that the three largest areas in the
23 Staff Assessment are lacking. We still need a lot
24 more analysis. We need mitigation measures.

25 So as far as the schedule goes, we

1 appreciate staff's acknowledgement that we need to
2 revise the Staff Assessment and reissue a Staff
3 Assessment. But our concern is that the Revised
4 Staff Assessment is going to be all new material.
5 Not all. A large amount of new material, new
6 analyses, new mitigation measures for the three
7 core areas, Cultural, Bio and Soil.

8 And we too would like the opportunity
9 for testimony and rebuttal testimony on those new
10 areas. We don't think that it is going to be able
11 to be accomplished in that 30 days because our
12 consultants have to review that and it's all new.
13 I mean, cultural has no mitigation measures at
14 this point. None, not one.

15 And in addition we think that the
16 Revised Staff Assessment needs to be re-noticed
17 for an additional public comment period. We also
18 would like responses to comments on that, just as
19 the Staff Assessment that was published on March
20 26th received.

21 And then we would like testimony to
22 occur after that public comment period. So it
23 will likely bump everything back I think by
24 approximately one month.

25 HEARING OFFICER CELLI: Okay.

1 MS. KOSS: And I'd be happy to talk
2 about more details for the various areas that need
3 a lot more information, that will receive a lot
4 more information, or any questions that you have.
5 We're concerned about squeezing all of this in the
6 already outlined schedule.

7 HEARING OFFICER CELLI: We are going to
8 be talking about the schedule a lot today.

9 MS. KOSS: Great.

10 HEARING OFFICER CELLI: And we are going
11 to get in more detail.

12 MS. KOSS: Good.

13 HEARING OFFICER CELLI: So thank you. I
14 just needed the overview.

15 MS. KOSS: Sure.

16 HEARING OFFICER CELLI: I wanted to hear
17 from the parties regarding that.

18 I also see that I have a new Call-In
19 User number 4. Is that Mr. Boyd from Californians
20 for Renewable Energy? Are you on the line,
21 Mr. Boyd?

22 (No response)

23 HEARING OFFICER CELLI: Okay. I guess
24 they haven't shown today. We should have the
25 record reflect that they haven't made it to any of

1 our status conferences even though they were
2 noticed as a party. I don't know what we can do
3 about that but that's the way it is right now.

4 I also note that Ms. Mayer stepped out
5 the room. Is she on her way right back or what?
6 But Caryn Holmes, you're still on the air?

7 MS. HOLMES: I am.

8 HEARING OFFICER CELLI: The first thing
9 we need to acknowledge is that this is an
10 accelerated application and we need to move with
11 alacrity in all of the dealings, in everything.
12 We are all doing that. And we are all, and when I
13 say "we" that includes the hearing advisors,
14 everybody is moving quickly.

15 I guess it's sort of an unfair question.
16 Is it even possible for us to short-set the
17 Revised Staff Assessment? When you look at that
18 date that you said was June 11th, is that a date
19 that we could accelerate in any way?

20 Because I'll tell you what my reasoning
21 is. I really like the schedule right now. It
22 gives everybody a week between each parties
23 testimony. Everything comes in at a regular
24 interval before we get to rebuttal and prehearing
25 conference.

1 And I would hate to have to shortchange
2 the parties on their ability to respond to briefs
3 and testimony as it comes in. And right now I
4 feel that we have a very comfortable margin
5 between each event and I wouldn't, I don't want to
6 have to mess with that if we can avoid it.

7 Let's hear from staff first on the
8 possibility -- what are we waiting on?

9 MR. MONASMITH: First of all I think the
10 June 11th date I would really like to keep in
11 terms of 100 percent completion of our document.
12 Accelerating it, I think it just would be
13 virtually impossible in terms of the other
14 proceedings in which staff are analyzing as is
15 CURE and other participants.

16 What we talked about at the workshops
17 with the May 27th, with our May 27th date, the
18 existing staff testimony date that the Committee
19 most recently issued, was the possibility of
20 perhaps providing updates in those areas which we
21 discussed in the Executive Summary. That is,
22 areas where there were still some small gaps and
23 ongoing negotiations that would still need to
24 occur.

25 For instance, the water conservation

1 program which would constitute the offsets in
2 terms of the project's water use. We identified
3 an array of measures which could constitute that
4 program but we still need to talk with all parties
5 and that's part of what we're doing next week. We
6 could provide an update perhaps on the 27th of
7 May.

8 Likewise with the Cultural Resources.
9 CURE is correct, the Staff Assessment did not have
10 all mitigation measures in that respect at that
11 point. We were still moving forward with a
12 program of a joint review and using the
13 programmatic agreement with the Bureau of Land
14 Management. At this point we will be issuing our
15 own stand alone analysis.

16 HEARING OFFICER CELLI: So looking at
17 your staff testimony being due on the 27th.

18 MR. MONASMITH: Right.

19 HEARING OFFICER CELLI: Generally that's
20 everything you have up until the 27th.

21 MR. MONASMITH: Right. But perhaps we
22 could provide 95 percent of what we have on the
23 27th or 90 percent. But we would still like to
24 reserve the right to have until the June 11th in
25 terms of our own internal review and having what

1 goes out on the street to be final and the sworn
2 testimony of staff.

3 We could provide the outlines of the
4 water conservation program, the mitigation
5 measures for cultural resources and define
6 refinements of the biological resources. Because
7 we are, we are a long ways in to biological
8 resources, 90, 95 percent. But we need to get a
9 little further, we understand that.

10 Perhaps that is what we file on the
11 27th. Perhaps that would suffice what the
12 Committee needs, would also provide the
13 intervenors and others the ability to look at what
14 staff is going to be testifying in our final
15 conclusions and recommended conditions of
16 certification.

17 We also had discussed at the workshop
18 the possibility of couching all of that in a
19 status report with the overriding issuance of the
20 Committee to provide status reports the 1st of
21 every month. Perhaps we would use the status
22 reports as a vehicle to let the Committee and the
23 parties know where staff is.

24 But I think -- and staff counsel and I,
25 we have talked about this. But I think we would

1 like to reserve the right to have the June 11th
2 date stay.

3 HEARING OFFICER CELLI: Let's do this
4 then. Let me take a different tack. Let's talk
5 about what isn't in dispute. That which at this
6 moment looks like all of the parties think that
7 they are complete, there is no dispute.

8 If I take us through the topics, let me
9 just ask. Air Quality. What is the status of Air
10 Quality?

11 MR. MONASMITH: Well we're still waiting
12 on the Final Determination of Compliance from the
13 Mojave Air Quality Management District.

14 HEARING OFFICER CELLI: Okay.

15 MR. MONASMITH: Until we have that and
16 until we deal with some issues on fugitive dust
17 and some other -- and in fact air quality was a
18 topic of conversation during this past Wednesday's
19 workshop so we are not there on air quality.
20 Almost.

21 HEARING OFFICER CELLI: It's a solar
22 project.

23 MR. MONASMITH: Very true.

24 HEARING OFFICER CELLI: Okay.

25 MR. MONASMITH: There's still issues.

1 HEARING OFFICER CELLI: So there are
2 still issues. So we can say that air is not
3 ready, pending an FDOC.

4 MR. GALATI: And Mr. Celli, if I could
5 add to that.

6 HEARING OFFICER CELLI: Please.

7 MR. GALATI: Some of our comments on Air
8 Quality have been questions or tweaks to the
9 conditions.

10 HEARING OFFICER CELLI: Okay.

11 MR. GALATI: Even if we don't have full
12 agreement with staff we feel very comfortable that
13 we could write those up in a way to not have lots
14 of testimony.

15 So when you say, ready for hearing
16 versus undisputed, I consider that air quality, as
17 soon as the FDOC, to be ready for hearing. And
18 the disputes would be in the minor category from
19 the perspective of lots of expert testimony and
20 panels.

21 HEARING OFFICER CELLI: Right.

22 MR. GALATI: We would be probably, if we
23 don't come to agreement -- and to staff's credit,
24 we just gave them those comments recently so they
25 have to have some time to take a look at our

1 proposed changes to the conditions. But my
2 experience has been that that will probably become
3 -- the disputes would be relatively minor and
4 handled quickly.

5 HEARING OFFICER CELLI: And in the
6 scheme of things, I understand we're sort of early
7 on. But since this is accelerated that's why I
8 want to get into this level of detail. Because
9 that which we know is not in dispute would help us
10 a great deal in planning how we're going to tackle
11 this.

12 So what I'm really asking is kind of
13 what you're saying. Which is, what is headed in
14 the direction of that which will be, you know,
15 testimony by declaration, essentially, that people
16 will not be disputing. So air is probably headed
17 in that direction you think, Mr. Galati?

18 MR. GALATI: Well it certainly is
19 between staff and the applicant.

20 HEARING OFFICER CELLI: And Ms. Koss?

21 MS. KOSS: Yeah, agreed.

22 HEARING OFFICER CELLI: Okay. So we're
23 looking at that's probably not -- we'll say it's
24 okay to go by way of declaration on that.

25 Alternatives, I'm going to leave that

1 open because I suspect that's always, that's
2 pretty broad.

3 Bio you're saying is not ready. Where
4 are we at there, what percentage? Give me like a
5 sense, if you could.

6 MS. MAYER: I would say 80 percent.
7 There's disputes about desert tortoise mitigation.
8 That's probably the sharpest dispute we have.

9 HEARING OFFICER CELLI: Okay.

10 MS. MAYER: What a ratio will end up
11 being, what exactly that will look like. There
12 are some, it's not really a dispute but under the
13 category of more analysis needed we have some rare
14 plant analysis that needs to be done. And then
15 most of the rest of it I think is in really good
16 shape.

17 HEARING OFFICER CELLI: That rare plant
18 analysis, now. Oftentimes rare plants or plants
19 in general require some sort of seasonal survey.
20 And unless that season is between now and let's
21 say hearings is there a possibility that it could
22 be created as one of these worst case scenario-
23 type performance conditions?

24 MS. MAYER: Right. And we're writing
25 them and we're working on them. That's what we

1 did at 9 a.m. this morning, the staff was on the
2 phone with the plant consultants and trying to
3 work those out.

4 HEARING OFFICER CELLI: Okay, well
5 that's great. So you think that's about 80
6 percent.

7 Now, Ms. Koss, you had mentioned earlier
8 that you felt that the analyses were insufficient.
9 I dealt with CURE on some similar solar issues
10 where they wanted a higher quality of let's say
11 pedestrian surveys and that sort of thing. Is
12 that what you're talking about?

13 MS. KOSS: Well, at this point we have
14 outstanding desert tortoise surveys for the
15 transmission line route. We have the outstanding
16 special status plant surveys that Ms. Holmes
17 discussed, which won't be completed until the
18 summer or early fall.

19 HEARING OFFICER CELLI: That's Ms. Mayer
20 over there.

21 MS. KOSS: I'm sorry. Ms. Mayer, I'm
22 sorry.

23 We have outstanding golden eagle
24 surveys, which I believe will be completed in May.

25 We have outstanding Couch's spadefoot

1 toad surveys along the linear facilities, which
2 can't occur until after summer rains.

3 We have uncertainty with regards to
4 potential impacts to groundwater dependant
5 vegetation, which is linked to soil and water
6 resources. Until we get that analysis completed
7 these impacts we will not know.

8 We also have to identify the
9 compensatory mitigation lands and the desert
10 tortoise translocation lands.

11 And these are just a glimpse of what
12 CURE is looking at. There's a long way to go for
13 Bio.

14 HEARING OFFICER CELLI: So Bio is
15 disputed.

16 MS. KOSS: Yes.

17 HEARING OFFICER CELLI: Okay.

18 MR. GALATI: It is disputed. But what
19 is also disputed is whether every one of those
20 things is needed for a decision.

21 HEARING OFFICER CELLI: But the point is
22 what I'm looking at is what are we going to be
23 hearing testimony on and what are we just going to
24 take by way of declaration. It sounds like Bio
25 we'll probably end up hearing from some witnesses.

1 MR. GALATI: That is correct. As well
2 as what you will hear from us as an overriding
3 concern for Bio is arguing for conditions with
4 performance standards allowing this data to come
5 in at a later date to reduce the mitigation
6 requirements.

7 HEARING OFFICER CELLI: Um-hmm.

8 MR. GALATI: As opposed to necessary to
9 determine if there are some or need to be
10 increased. So what you will hear from us is --
11 and I am very, very concerned and very clear on
12 this point is that CEQA does not require every
13 analysis that can be done, be done. And so we
14 have done quite a bit of surveying and we can move
15 forward.

16 So I didn't want to -- I just wanted the
17 Committee to understand that we dispute vigorously
18 the concept that a golden eagle analysis cannot be
19 done until golden eagle surveys are performed and
20 evaluated. A CEQA level of analysis can be done,
21 has been done, and we should continue to move
22 forward. So that's what you will hear from us.

23 HEARING OFFICER CELLI: And I appreciate
24 that. When I think about this the thing that
25 concerns me is that typically things aren't, you

1 know, 0/1, black/white. It's often, you know, you
2 try to create mitigation and then something comes
3 up in a study or whatever that was unforeseen.
4 And so really what we want to make sure is that we
5 leave no holes --

6 MR. GALATI: Yes.

7 HEARING OFFICER CELLI: -- in any of
8 these sorts of worst-case scenario performance
9 conditions that we're talking about.

10 MR. GALATI: And I would point out that
11 the Staff Assessment, I believe, did that. Where
12 when in doubt imposed mitigation at a maybe higher
13 ratio or concluded that there were potentially
14 significant impacts when in doubt. So we support
15 that approach for moving forward.

16 HEARING OFFICER CELLI: So let's talk
17 about cultural. Ms. Koss mentioned that there are
18 no cultural conditions yet. What's going on with
19 cultural?

20 MS. MAYER: What's going on with
21 cultural is mostly we have 30 days instead of 90
22 days. So staff is relying on the programmatic
23 agreement that we don't really expect to be in
24 place that quickly. And so we are writing out,
25 writing out the conditions specifically. So they

1 will be done and we have every confidence they
2 will be done.

3 HEARING OFFICER CELLI: Now I'm just
4 going to take a quick check on the phone here.
5 And I still don't have CARE.

6 Well let me ask you, Ms. Koss, first.
7 Your issues with cultural besides the fact that
8 there's an absence of conditions right now.
9 Anything that is specifically proactively that
10 CURE has in mind for cultural?

11 MS. KOSS: No, we would just like to see
12 what staff is proposing. Don't get me wrong, I'm
13 not, I'm not trying to burden staff with any more
14 tasks as far as scheduling goes. We understand
15 completely what they are going through, especially
16 with the bifurcation. You know, we're not, I'm
17 not trying to say that staff hasn't done a good
18 job.

19 HEARING OFFICER CELLI: You just don't
20 know because you haven't seen the conditions.

21 MS. KOSS: Exactly.

22 HEARING OFFICER CELLI: Okay. So it's
23 not like --

24 MS. KOSS: We need to see something.

25 HEARING OFFICER CELLI: It was CARE that

1 came in representing Mr. Figueroa. That was the
2 real cultural issue. As far as I know that was
3 their only issue. I have never heard from, I have
4 not heard from CARE since the inception of this,
5 since their petition was granted to intervene.

6 MS. MAYER: They did attend part of the
7 workshop last week.

8 HEARING OFFICER CELLI: Okay.

9 MS. MAYER: So they are alive, so to
10 speak. But yeah, I agree, their main focus has
11 been cultural.

12 HEARING OFFICER CELLI: Did they have
13 any other issues besides cultural?

14 MS. MAYER: They are somewhat concerned
15 about water.

16 HEARING OFFICER CELLI: So water and
17 cultural and nothing else?

18 MS. MAYER: I'm not really, I don't
19 remember anything on Bio.

20 MR. MONASMITH: Given the opportunity,
21 you know, Mr. Boyd obviously having experience
22 with proceedings, is never hesitant to comment and
23 to participate, as is his right. But you're
24 right, the overriding issues upon which he did
25 come in was the cultural resources. But with

1 experience, biological resources as well and
2 others, he has questions.

3 But his primary questions during these
4 last workshops were with water, which was held on
5 Wednesday, a day he participated. Cultural
6 Resources was discussed on Monday and which he
7 didn't so his opportunity in there was not
8 available.

9 But let me say this. In terms of
10 Cultural Resources the new bifurcated process
11 which we are going to, we are going to embrace
12 this and we are going to get it worked on. The
13 one section that is impacted most by this is
14 Cultural Resources, without any doubt.

15 The process upon which we had engaged
16 and were going to engage with BLM and the State
17 Office of Historical Preservation for the
18 programmatic agreement was something we all felt
19 comfortable with. Absent that programmatic
20 agreement staff now has to engage in the writing
21 of the conditions in a very accelerated manner.

22 We had a number of mitigations in mind.
23 The reason we didn't go public with them was we
24 wanted to make sure they were coordinated in terms
25 of the other proceedings on the I-10 corridor,

1 specifically the Palen and Blythe proceedings. We
2 have those.

3 I think we can, again, provide all
4 parties including CURE an outline of what we are
5 looking at before June 11. It won't be final
6 until June 11 but we can begin providing the broad
7 strokes and even some of the more details in terms
8 of cumulative impacts, what we are trying to do in
9 those areas to make sure we address that.

10 HEARING OFFICER CELLI: Do you think,
11 Mr. Monasmith, that that will be in your testimony
12 on May 27th in a broad brush sort of way?

13 MR. MONASMITH: Well that's what we are
14 thinking out loud about. That May 27th would not
15 obviously be 100 percent, that would be June 11th.
16 The 27th could constitute those areas that we
17 identified in the Executive Summary, including
18 Cultural Resources, Biological Resources, Soil and
19 Water, TSE, Transmission System Engineering, in
20 terms of the cluster study, the Phase 2.

21 Anything else that we may have
22 additional information at that point we can
23 provide you some details so you will understand
24 it, as can CURE, where staff is going. But full,
25 completed, vetted, sworn testimony that we are

1 ready to put out on the street, not until June 11.

2 HEARING OFFICER CELLI: Okay. So what I
3 am going to do is I am going to treat cultural as
4 disputed because we haven't heard from CARE but we
5 expect that that is their main issue.

6 Then Facility Design.

7 MS. MAYER: That should be fine.

8 HEARING OFFICER CELLI: That should be
9 an issue-less area, Facility Design. I see
10 nodding heads from staff.

11 MR. GALATI: That's correct.

12 HEARING OFFICER CELLI: And applicant.
13 Ms. Koss?

14 MS. KOSS: Agreed.

15 HEARING OFFICER CELLI: Thank you. So
16 there's one.

17 MS. MAYER: Once you get done with A-B-C
18 it's easier.

19 HEARING OFFICER CELLI: How about Geo
20 and Paleo? Staff, anything?

21 MS. MAYER: Unaware of any issues.

22 HEARING OFFICER CELLI: And applicant?

23 MR. GALATI: Yes, unaware of any issues.
24 There might be some minor tweaks to verifications
25 or something like that, very simple.

1 HEARING OFFICER CELLI: And Ms. Koss?

2 MS. KOSS: Agreed.

3 HEARING OFFICER CELLI: I'm going to say
4 that that's probably going to come in also as
5 stipulated testimony.

6 Hazardous Materials?

7 MR. GALATI: Hazardous Materials, there
8 were a couple of changes that we requested based
9 on my participation in another project with
10 similar staff. Those are likely to be accepted.
11 So I think that we'd be, I feel confident that
12 Hazardous Materials will also be one of those
13 that's on declaration, maybe minor tweaks.

14 HEARING OFFICER CELLI: Okay. I just
15 want to, from my experience in Beacon, want to
16 mention that there was some confusion between
17 Hazardous Materials and Waste Management with
18 regard to the heat transfer fluid.

19 MR. GALATI: Um-hmm.

20 HEARING OFFICER CELLI: To the extent
21 that you can conform to staff's treatment of these
22 areas that would be most helpful. I would
23 appreciate it if you could do that, Mr. Galati.

24 MR. GALATI: Yes.

25 HEARING OFFICER CELLI: Ms. Koss.

1 MS. KOSS: Yes. I will conform, CURE
2 will conform to however staff has analyzed heat
3 transfer fluid in the land treatment unit. It
4 will be disputed?

5 HEARING OFFICER CELLI: Yes.

6 MS. KOSS: I don't know off the top of
7 my head. It was actually in several resource
8 areas in the SA so I am not, I don't know off the
9 top of my head which areas. But whichever areas
10 it is in it will likely be disputed.

11 HEARING OFFICER CELLI: Okay, that's
12 great. So Hazardous Material is likely to be
13 disputed.

14 Land Use. Applicant.

15 MR. GALATI: Land Use is one of those
16 interesting ones where staff adopts a CEQA
17 threshold of if there is another impact somewhere
18 else then it translates to an impact in Land Use.
19 So to the extent that things like visual or
20 something else are not mitigated fully it seems to
21 translate towards Land Use.

22 So I don't want to say that it's -- we
23 don't have any Land Use issues other than any of
24 those conclusions that incorporate other
25 significant unmitigateable impacts.

1 HEARING OFFICER CELLI: I'm thinking
2 typically things like merging parcels, legal
3 rights, real estate issues, that kind of thing.

4 MR. GALATI: I do not believe we have
5 those issues.

6 HEARING OFFICER CELLI: Staff?

7 MS. MAYER: We don't have those issues
8 but we have a concern, I would say concerns about
9 recreational use in the area. It's a cumulative
10 impact question that we're dealing with.

11 HEARING OFFICER CELLI: So there is
12 right now recreational use like off-road vehicles
13 in the areas that --

14 MS. MAYER: Well, my understanding is
15 technically on this site there is no off-road
16 vehicle use. That's why it's a cumulative impact.
17 There's hiking, there's a wilderness area nearby.

18 HEARING OFFICER CELLI: Okay.

19 MS. MAYER: I guess I could be describe
20 it as an area of possible dispute. It's certainly
21 not buttoned up.

22 HEARING OFFICER CELLI: In terms of
23 access? In terms of access to the areas where the
24 hikers and the bikers want to get to? Because I'm
25 talking Land Use right now.

1 MS. MAYER: I understand, I understand.

2 MS. HOLMES: I think that my
3 recollection is that the concern relates to the
4 impacts of the project on people who are using
5 adjacent lands for recreational purposes and the
6 quality of their recreational experience being
7 affected by the existence of the project.

8 HEARING OFFICER CELLI: All right. But
9 that sounds, Ms. Holmes, like kind of a visual-
10 type.

11 MS. HOLMES: I think it certainly has a
12 visual component but I believe that the staff
13 position is also that because people are engaging
14 in a recreational land use it also has a land use
15 component as well.

16 HEARING OFFICER CELLI: Okay, all right.
17 So I believe Land Use is -- what do you think?
18 Are these surmountable issues?

19 MS. MAYER: Yes sir.

20 HEARING OFFICER CELLI: CURE, do you
21 have any issues with regard to Land Use?

22 MS. KOSS: Not at this point.

23 HEARING OFFICER CELLI: Okay. I suspect
24 that you all should be able to come to a
25 stipulated agreement in the end and submit by way

1 of -- unless there is some organized intervenor
2 that's going to come in and represent the off-road
3 vehicle crowd or something like this. It sounds
4 to me like that's something that should be able to
5 be negotiated between the parties.

6 MR. GALATI: Yes. I would say to the
7 extent that it is not I think that we could still
8 submit upon declaration our contentions. You
9 know, sworn, what our witnesses say are the
10 recreational opportunities. To the extent that
11 the Committee then reads those and can decide, I
12 don't see lots of evidentiary hearing time
13 necessary for that issue.

14 HEARING OFFICER CELLI: Very well.
15 Let's get on to Noise. I can't imagine there's a
16 big noise issue out in the desert but I have been
17 surprised before. Anything?

18 Okay, staff says no. Applicant, no
19 issue there?

20 MR. GALATI: I'm checking my notes here
21 for just a minute.

22 HEARING OFFICER CELLI: While you're
23 checking, CURE, is there any issue as to noise?

24 MS. KOSS: No.

25 HEARING OFFICER CELLI: I'm going to

1 consider Noise then something that we can --

2 MR. GALATI: Yeah, we proposed some
3 changes to conditions and we hope to work those
4 out on the 5th

5 HEARING OFFICER CELLI: Okay. Public
6 Health. Now Public Health typically is sort of
7 tied into Air and you don't have an FDOC, I
8 understand. Again, we're talking about a solar
9 project out in the desert. I just wonder if
10 anyone has any issues as to public health.
11 Please, Ms. Koss.

12 MS. KOSS: As long as HTF is described
13 in Public Health, and I can't recall whether it is
14 or not, that may be an issue.

15 HEARING OFFICER CELLI: Staff, is HTF
16 described in Public Health?

17 MR. MONASMITH: No, it's described in
18 Air Quality Waste Management HazMat.

19 MR. GALATI: Worker Safety.

20 MR. MONASMITH: And Worker Safety,
21 correct. It's not in Public Health.

22 HEARING OFFICER CELLI: And is that
23 because HTF is determined not to be, I forgot the
24 language. But it's sort of a --

25 MS. HOLMES: It's because the public

1 isn't going to be exposed to it.

2 HEARING OFFICER CELLI: Okay. Good
3 enough. So Public Health. CURE, your concern is
4 you want a discussion of HTF?

5 MS. KOSS: No, I recall HTF being
6 analyzed in various sections and I just can't
7 recall all of the sections right now.

8 HEARING OFFICER CELLI: Usually it's
9 Waste Management; it's the Hazardous Materials,
10 which is the big one.

11 MS. KOSS: And also it's in, sorry, in
12 Air Quality. And sometimes the Air Quality and
13 Public Health analyze similar issues.

14 HEARING OFFICER CELLI: With some
15 overlap.

16 MS. KOSS: I just couldn't, I can't
17 recall.

18 MR. GALATI: To the extent that the
19 emissions, VOCs and things like that from HTF
20 fluid, they're addressed in Air Quality from a
21 perspective because those are the air quality
22 public health standards for those particular
23 emissions. Any other emissions that the public is
24 not exposed to or there's not like an ammonia
25 within a release that leaves off the site, that

1 kind of thing. I think that's why it's not
2 addressed. And I haven't seen it addressed in the
3 other projects as well in Public Health.

4 HEARING OFFICER CELLI: And Public
5 Health, so I'm going to treat Public Health as
6 something that the parties would stipulate in
7 terms of declarations, testimony by way of
8 declaration.

9 Efficiency. That's something that
10 everybody, there's not going to be an issue on
11 Efficiency, is there?

12 MR. GALATI: No.

13 HEARING OFFICER CELLI: I'm seeing nos,
14 thank you, from everyone.

15 The same with Reliability?

16 MR. GALATI: I would say no with one
17 caveat.

18 HEARING OFFICER CELLI: Okay.

19 MR. GALATI: And the caveat, it did not
20 show up in Genesis although there was some
21 conversation from CARE at the workshop that I'm
22 anticipating as being brought up as whether the
23 project has a reliable water supply. And to the
24 extent that that is brought into, out of Water,
25 into Reliability, I'd like to make the caveat to

1 address it in Reliability as well.

2 We had a lot of discussion about that at
3 the workshop and I didn't think we were making
4 very much progress with CARE on that that issue is
5 a Soil and Water issue and not a Reliability
6 issue.

7 HEARING OFFICER CELLI: Well that's good
8 and I appreciate that. Because really this is the
9 beauty of the status conferences, for all of us to
10 know this so that the parties can be prepared that
11 this is coming down the pike, have their testimony
12 ready for that.

13 Soil and Water I know is disputed. I
14 take it we are not going with dry cooling still.

15 MR. GALATI: That's correct.

16 HEARING OFFICER CELLI: Okay. And I
17 know that you are still workshopping on that so
18 I'm just going to consider Soil and Water
19 disputed.

20 MR. GALATI: I would point out to the
21 Committee that the issues we are working on on dry
22 cooling would almost equally apply -- for use of
23 water for wet cooling would almost equally apply
24 to the water that is used for dry cooling.

25 There are issues of impacts and there

1 are issues of a counting surface and there are
2 issues of mitigation for the water. So absent the
3 policy discussion the physical ways that we work
4 the water issue, in my opinion, are equivalent to
5 both a wet cooling or the dry cooling alternative.

6 We are continuing to have those
7 discussions with staff. They adopted a series of
8 mitigation measures, one for Colorado River water
9 and one for mitigating impacts or a water
10 conservation program. And we had a lot of really
11 good discussion on how staff saw those two things
12 working together, which gave us a lot of insight
13 into being able to put together a program that
14 would meet more than one objective.

15 I would just let the Committee know that
16 if the project's water use was reduced we would
17 still be doing that exact, same thing.

18 HEARING OFFICER CELLI: Okay, staff,
19 your comment on Soil and Water.

20 MS. MAYER: Yeah, I'd roughly agree.
21 The main point in dispute right now is what is the
22 impact on the Colorado River. But we have been --
23 we are basically seeing eye to eye on working
24 together to develop a package that would make up
25 for those impacts once they are measured and

1 conserving water to the extent of the other water
2 use.

3 HEARING OFFICER CELLI: Okay. And CURE
4 on Soil and Water?

5 MS. KOSS: I think we see a larger issue
6 or more issues. First let me say it's true that a
7 water conservation plan is going to have to be
8 developed, regardless of whether there is wet
9 cooling or dry cooling. But it's a little
10 misleading. I mean, it would be much easier to
11 develop a water conservation plan for dry cooling.
12 Talking about, you know, considerably less water.
13 So the mitigation would have to be much more
14 minimal. Just remember that.

15 But CURE believes there are still issues
16 regarding the magnitude of potential impacts to
17 the Chuckwalla Valley groundwater basin.
18 According to the Staff Assessment the impacts
19 could not be determined because the calculations
20 used by the applicant to evaluate the impacts were
21 imprecise, they were uncertain. So it's still an
22 issue.

23 There's also only preliminary studies
24 and calculations that have been performed by the
25 applicant to quantify the impact to water levels

1 in wells. Hopefully we will get some more
2 clarification from responses to our data requests,
3 we are waiting for those.

4 Staff and Mr. Galati pointed out the
5 impacts to the Colorado River. Still unsure
6 about. And of course how the wet cooling would be
7 consistent with LORS is an outstanding issue.

8 HEARING OFFICER CELLI: Okay.

9 MR. GALATI: Just to provide a finer
10 point on that. What I wanted to make sure that I
11 did not leave the Committee with the impression
12 with is that, you know, a lower water use would
13 automatically result in the same kind of
14 conservation plan as a higher water use.

15 What I'm saying is the issues on how to
16 quantify the impacts and how to quantify both the
17 impacts to groundwater-bearing plants or
18 groundwater dependent plants and the impacts
19 associated with the Colorado River are the same
20 issues, no matter how much water is used. It may
21 result that mitigation looks differently based on
22 solving one or the other.

23 And I would also like to point out that
24 this was a case in which staff assumed the worst
25 and wrote the condition in and we are continuing

1 to refine it. So I think that's a, that's a
2 positive. We did ask staff to do that and we
3 asked staff to engage in assuming the worst. And
4 then let's figure out a way if that we can refine
5 it. And I think that's what staff has done.

6 HEARING OFFICER CELLI: Okay, that's
7 excellent. Because my recollection was early on
8 when I got the Staff Assessment I had highlighted
9 in yellow, I went through those sections where
10 there was insufficient information for staff to be
11 able to come to a conclusion.

12 I don't exactly remember what those
13 things were. But the reason I did that was so
14 that the parties can get together and get the data
15 they need in order to be able to tie those loose
16 ends together. So I am still going to treat soil
17 and water as, and I do appreciate this discussion
18 and I am glad. It's good for the Committee to
19 know what direction we're going in.

20 And so at this moment in time it sounds
21 like -- is applicant still looking at dry cooling
22 or is it just you are just looking to mitigate
23 groundwater use?

24 MR. GALATI: Yeah, that is currently
25 where we are. We submitted a dry cooling study

1 why we did not believe it was feasible for us here
2 and submitted that to staff. The staff disagreed.

3 So again I will tell you, at the risk of
4 opening a broader discussion is, we are all sort
5 of grappling with the 2003 IEPR and the
6 Committee's scheduling order where it was boiled
7 down to a different test. And in that test there
8 is not a dry cooling component like there was in
9 the 2003. And in fact Ms. Koss and I had quite a
10 bit of debate at the workshop of how this is
11 interpreted.

12 So there is, like always, whenever you
13 ask for clarification additional questions come
14 up. So we are doing the best we can to work
15 within that. We do believe that there is a way
16 for wet cooling to comply with the state policy.
17 It appears that the staff does as well since they
18 proposed some mitigation that might get us to
19 comply with the policy. They saw water
20 conservation.

21 This was our discussion. I'll assume
22 staff counsel will correct me if I say it too
23 broadly. We think the discussion was that there
24 are three things we are worried about. There are
25 impacts to the Colorado River. And if there are

1 impacts how do they quantify and how do you
2 mitigate those. That's one issue.

3 The second issue is there is potential
4 impacts to groundwater-dependent vegetation. And
5 the question is how to quantify that, how to
6 mitigate that. That's the second issue.

7 And the third issue was a water
8 conservation offset program that works in such a
9 way as to comply with the policies.

10 And so those are the three ways that
11 those were addressed.

12 MS. HOLMES: I think, Mr. Galati -- this
13 is Caryn Holmes, staff counsel. I don't want to
14 leave the record incomplete. We also have a
15 condition addressing potential impacts to wells.
16 We don't expect them but that's sort of a fourth
17 component. It's one we haven't discussed at
18 length because I don't think there is much dispute
19 about it. But we did look at and analyze and
20 include conditions of certification addressing
21 potential impacts to other users of groundwater.

22 MR. GALATI: I would definitely agree
23 with you, Ms. Holmes, and I think that we are in
24 pretty good shape on that particular one.

25 MS. HOLMES: But I just wanted to make

1 it clear that that was that fourth water issue
2 that we had spent some effort on.

3 MR. GALATI: Yes, thank you. So from
4 that perspective, especially that third piece, is
5 water conservation as a way of complying with the
6 policy. That was something that we are going to
7 continue to have discussions with and that is
8 probably at some point in time a Committee
9 decision.

10 HEARING OFFICER CELLI: I'd be
11 interested to see this. When I think of things
12 like pulling, what are those plants, Tamarisks
13 out. I mean, that is so de minimis in terms of an
14 offset. But we will see. I don't know. But I
15 hope the efforts that you're making are realistic
16 and that they kind of neutralize whatever impacts
17 there might be. So again, Water is disputed.

18 Socioeconomics, any dispute there?
19 Staff says no.

20 MR. GALATI: No.

21 HEARING OFFICER CELLI: Applicant says
22 no.

23 MS. KOSS: No.

24 HEARING OFFICER CELLI: CURE says no,
25 thank you.

1 Traffic and Transportation. Applicant,
2 any issues there?

3 MR. GALATI: No. I think we had some
4 minor modifications to the conditions of
5 certification. And I think what you will find is
6 all the projects are struggling with a condition
7 that staff has placed that they all coordinate and
8 work together. So I think all the applicants are
9 asking for some caveats when they go it alone or
10 when they work with others depending on
11 construction schedules. And if they actually
12 overlap then how do you coordinate that.

13 HEARING OFFICER CELLI: So there is
14 nothing in operation, we're just talking about
15 construction.

16 MR. GALATI: I believe so.

17 HEARING OFFICER CELLI: For Traffic and
18 Transportation Mr. Monasmith is nodding yes. And
19 Ms. Koss, you are also nodding that there is no
20 issue there?

21 MS. KOSS: Correct.

22 HEARING OFFICER CELLI: Okay. Okay, now
23 there were some questions with regard to, well,
24 not TLSN, TSE. But I can't imagine there's any
25 Transmission Line Safety Nuisance issues outside

1 of the usual.

2 MR. GALATI: No.

3 HEARING OFFICER CELLI: Everyone is
4 nodding their head no.

5 There were some questions on TSE. First
6 of all is TSE a disputed -- TSE is Transmission
7 Systems Engineering. Is there any dispute there
8 that you see?

9 MS. MAYER: Just waiting for the Phase 2
10 study, which the earliest would be June.

11 HEARING OFFICER CELLI: That is the
12 cluster study from the CAISO?

13 MS. MAYER: Yes, the revised cluster
14 study with the lower load because of the fewer,
15 fewer projects the CAISO was looking at. As it is
16 they are rushing to get it out by June.

17 HEARING OFFICER CELLI: June what? Do
18 we know?

19 MS. MAYER: I believe it's, I think --

20 MR. BUSA: June 30th is their proposed
21 date.

22 HEARING OFFICER CELLI: And who just was
23 speaking?

24 MR. BUSA: This was Scott Busa.

25 HEARING OFFICER CELLI: Thank you,

1 Scott. June 30th, okay.

2 MS. MAYER: Yeah, I'm afraid so.

3 HEARING OFFICER CELLI: Any anticipated
4 issues with TSE? Staff, you're shaking your head
5 no. Ms. Koss?

6 MS. KOSS: Not at this point, no.

7 HEARING OFFICER CELLI: Okay. And
8 applicant?

9 MR. GALATI: We have a way to solve this
10 problem if we are all willing to think a little
11 differently. The first cluster study was not very
12 useful for purposes of determining compliance with
13 LORS. There were too many megawatts that were
14 studied. But it is particularly useful for
15 overestimating indirect impacts under CEQA. And
16 so from my perspective the Phase 2 study
17 demonstrates compliance with LORS but is not
18 necessary to do the CEQA analysis.

19 So if it's just a compliance with LORS
20 why can't we condition the project that it must
21 comply with the generator interconnection
22 agreement and the upgrades identified in the Phase
23 2 study without actually having it brought into
24 the Energy Commission record.

25 It is a compliance with LORS. And I

1 believe that if we can think differently, and the
2 Energy Commission would not be shirking its
3 responsibility if it required compliance during
4 compliance with a future LORS or LORS compliance
5 in the future. We have never had to do that
6 before so we are not used to it but I think it has
7 some merit. And I proposed it to staff in another
8 project, they are thinking about it.

9 But I would like to at least throw it
10 out to the Committee because my experience has
11 been, and I'm sure everyone in this room their
12 experience has been, is that when it comes to
13 transmission studies they are often later, not
14 earlier. I don't want us all depending on a June
15 date and that date becomes September. Then we're
16 stuck. Let's think about what would we do if it
17 doesn't come in. And I think a condition would
18 solve that problem.

19 HEARING OFFICER CELLI: Well, I'm sure
20 that if all of the parties put their heads
21 together with an eye towards avoiding deferred
22 mitigation that hopefully you could come up with
23 something that would convince the Committee that
24 all impacts would be mitigated.

25 Commissioner, did you have any questions

1 on Transmission?

2 ASSOCIATE MEMBER WEISENMILLER: I had a
3 couple. I think we went through sort of similar
4 questions before.

5 MS. HOLMES: I'm sorry, the Committee is
6 cutting in and out. Could people please speak
7 more closely to the microphone, please.

8 ASSOCIATE MEMBER WEISENMILLER: Sure. I
9 think we have walked through some of these
10 questions before. So the system impact study date
11 is expected July 2nd, June 3rd, June 30th, in that
12 time period. Are the project descriptions done?

13 MR. GALATI: Scott Busa, we have
14 received the project description for the Colorado
15 River Substation, correct, from SCE?

16 MR. BUSA: We have received a project
17 description for the 230 kV portion of that. The
18 500 kV portion has already been analyzed in
19 another proceeding.

20 ASSOCIATE MEMBER WEISENMILLER: And has
21 that been provided to the staff yet, the project
22 description?

23 MR. GALATI: Scott, is that final that
24 we can provide that to staff?

25 MR. BUSA: It has not been provided to

1 staff yet. And Scott Galati, you know, we were
2 discussing how that would be entered into the
3 record.

4 MR. GALATI: Yeah. What we were
5 planning to do is to make sure that what we
6 received was final. Because I know that on
7 another project I'm working on SCE changed since
8 we had this conversation last, modified it a bit.
9 Once we know that that is final our plan is to
10 throw that in as our final comments, as a document
11 in our final comments on the Staff Assessment.

12 ASSOCIATE MEMBER WEISENMILLER: And in
13 terms of -- are there any associated spring
14 surveys?

15 MR. BUSA: There were. They were
16 actually conducted by SCE in another one of the
17 project proponents that is also connecting to
18 Colorado River Substation.

19 HEARING OFFICER CELLI: And that's Scott
20 Busa speaking, correct?

21 MR. BUSA: Yes it is.

22 MR. GALATI: That's correct. I could
23 provide some clarification on that. The Blythe
24 project conducted those spring surveys. And the
25 area in which the spring surveys were done cover

1 the expansion to accommodate the Blythe project
2 and others, including this one. So that
3 information will be in the Blythe proceeding. Not
4 necessarily in this proceeding but staff will have
5 it.

6 ASSOCIATE MEMBER WEISENMILLER: Is there
7 any associated telco facilities with this project?

8 MR. GALATI: Scott Busa, do you know
9 that? Any telecommunication facilities necessary
10 for this interconnection?

11 MR. BUSA: Well there certainly will be
12 a distribution power line run to the site that may
13 have telephone communication lines on that also.
14 But was the Commissioner referring to the
15 substation itself?

16 ASSOCIATE MEMBER WEISENMILLER: Right.

17 MR. GALATI: Yes.

18 ASSOCIATE MEMBER WEISENMILLER:
19 Basically trying to make sure as part of the
20 project description that there is an associated,
21 if there is an associated telco line that that
22 also become part of the record in a timely
23 fashion.

24 MR. BUSA: I'll have to double-check on
25 that and make sure that that's in the description

1 that we were provided.

2 ASSOCIATE MEMBER WEISENMILLER: Well
3 actually I just want to follow up with the staff.
4 Assuming that you get the system impact study on
5 June 30th. How much time would the staff need to
6 assess that?

7 MR. MONASMITH: I'm assuming by then
8 most of the work will be out in terms of the ARRA
9 projects;. This will be obviously a priority
10 because it will affect more than just one
11 proceeding so I am sure this will be the highest
12 priority within the division. I would think
13 between ten days to two weeks, probably that being
14 the out, I would know.

15 Again, I can't speak for them
16 specifically but they'd have the entire team
17 working on it. So we'd hope that it would be able
18 to be out quickly. And perhaps in time for our
19 evidentiary hearings would be the goal so we would
20 even make it sooner.

21 HEARING OFFICER CELLI: And how does
22 that affect the cumulative analysis? Because
23 you've got these three, Blythe, Palen and Genesis
24 all going in at the same time and they
25 cumulatively would have an effect downstream. Are

1 you going to need that report before staff can
2 come to a conclusion? I'm talking about the
3 system impact study from CAISO.

4 MR. MONASMITH: It is the cumulative
5 effect, obviously, and the impact on three
6 projects, which is why it would have that high
7 priority. I believe -- I'm not quite sure how the
8 unit would suggest that staff come out on the
9 issue. I'm assuming that the conditions would
10 stipulate if the identification of a problem were
11 to arise, suggested mitigation or not to deal with
12 it appropriately.

13 HEARING OFFICER CELLI: So that was what
14 Mr. Galati was talking about.

15 MR. MONASMITH: Correct, correct.

16 HEARING OFFICER CELLI: You will have to
17 deal with the deferred mitigation issues later on.

18 MR. GALATI: I would like to address it
19 because I think we're -- it's not deferred
20 mitigation in any way, shape or form under CEQA.

21 There is a Phase 1 cluster study that
22 had all of the projects and others that over-
23 estimated the downstream facilities that are
24 necessary. Those can be evaluated and determined
25 to be indirect impacts.

1 The staff typically from that
2 perspective, since all of those upgrades are
3 permitted by the Public Utilities Commission, does
4 not impose mitigation upon the applicant for
5 downstream facilities. They are the
6 responsibility of the person who is permitted.
7 What happens in reality is the utility charges us
8 for that.

9 The Phase 2 study, because many
10 megawatts have dropped out, the megawatts that are
11 in, those impacts will be reduced. So there will
12 be no deferred analysis or deferred mitigation,
13 only with respect to what are the electrical
14 effects and do you need a transformer here and
15 what size. Those kinds of things.

16 And again, that's compliant with the
17 tariff and those LORS. I think you can do that by
18 condition without deferring mitigation at all.

19 MS. HOLMES: This is Caryn Holmes, staff
20 counsel. I would add a little bit of a refinement
21 to that. The requirement -- Mr. Galati is
22 correct, we wouldn't be imposing mitigation.

23 But typically when we have projects with
24 downstream effects the requirements under CEQA are
25 that we disclose what those potential impacts are

1 and that we suggest -- we identify whether or not
2 they are significant and whether or not there are
3 mitigation measure that would be available to
4 mitigate them. And we suggest some types of
5 mitigation measures that could be considered.
6 Although as he points out we wouldn't be imposing
7 them ourselves.

8 In this case we do have an earlier study
9 that does provide an estimation of potential
10 downstream impacts. And it is my understanding
11 that we have looked at that information in trying
12 to assess what the reasonably foreseeable impacts
13 would be associated with the transmission build-
14 out.

15 So I guess I am in agreement with him
16 that we don't have a CEQA problem but I do think
17 our obligations are a little bit greater than he
18 has implied but I think that we have met them.

19 HEARING OFFICER CELLI: Well thank you
20 for that. I just happened to notice that there's
21 another caller on the phone and I was wondering if
22 Mr. Boyd from Californians for Renewable Energy is
23 on the line?

24 (No response)

25 No, okay. Let's move on.

1 I have Visual next. I'm dealing with
2 Visual in Beacon right now. It's kind of a fuzzy
3 area there. And I recall hearing during testimony
4 that there was some kind of conference coming down
5 the pipe where there were going to be some sort of
6 metrics, lumens or something like that that people
7 could use to measure other than, you know, staff's
8 witness's gut feeling that it might be brighter
9 than usual. I don't mean to cast any aspersions.
10 I'm just saying -- is there something like that
11 happening where we are going to have a little
12 more, a little more quantifiable detail in that
13 area?

14 MR. MONASMITH: That may be under work
15 in terms of the cumulative question, which is the
16 one that staff has identified with this project.
17 The Genesis project is far enough removed from the
18 freeway that it was not found to have direct
19 Visual Resource impacts.

20 But we did identify significant
21 cumulative in relation to what staff counsel
22 Holmes had talked about earlier for Land Use and
23 that is the recreational areas that exist north of
24 the project area. And it was in fact in relation
25 to that that we did determine significant impacts

1 for both Land Use and Visual.

2 That was the reason why. So that is
3 probably an area that we are probably going to
4 need to talk about some more. I can't speak for
5 anyone but I wouldn't say it's necessarily
6 undisputed because of the cumulative issue.

7 HEARING OFFICER CELLI: And isn't it, my
8 recollection -- is where the field that the
9 mirrored array is going in on Genesis, elevated
10 above the road or below it?

11 MR. GALATI: Which road, I-10?

12 HEARING OFFICER CELLI: The I-10. In
13 other words, I don't remember seeing another road
14 out there, actually. But as you got off the
15 freeway and you were looking out. I recall that
16 we were on the bus, we were looking out between,
17 across the dry lake. You had I believe the Palen
18 Mountains on the left, the McCoy Mountains on the
19 right. And I can't recall whether there was a
20 depression where the mirrored arrays were going in
21 or whether that was an elevated area or was it
22 flat?

23 MR. GALATI: I think what happens is as
24 you look over -- and Scott Busa, correct me if I'm
25 wrong. As you look over the landscape from the

1 top of I-10 the depression is Ford dry lake. And
2 on the other side the alluvial fan has a slight
3 moderate grade upwards towards the mountains. But
4 I don't think it's, I don't know what the
5 elevation is, but I think -- is that right, Scott?

6 MR. BUSA: I believe your description is
7 correct because all the water is, you know,
8 basically running downhill to Ford dry lake. It
9 is not very much but it's the distance, I think,
10 that's pretty significant there as far as, you
11 know, several miles to look across that open
12 desert before you can actually see the project.

13 HEARING OFFICER CELLI: Right. How many
14 miles approximately, Mr. Busa, was that, the
15 distance?

16 MR. BUSA: I believe it's roughly three
17 to four miles.

18 MR. MONASMITH: And there's a key
19 observation point, existing conditions and then
20 with the simulated facility within the Staff
21 Assessment. On the simulation it's very hard to
22 discern it.

23 There's a series also when you're out
24 there, this series of kind of rolling hills right
25 on I-10 in terms of when you're driving on it. So

1 it's not like it's on a high elevated, sticking
2 out like a sore thumb. At least that would have
3 been my impression. And the key observation point
4 simulation also bears that out.

5 But again I think it was from the other
6 perspective from those that are using it for
7 recreational purposes, hikers and such, up the
8 McCoy areas, that would see it because it would be
9 below them.

10 HEARING OFFICER CELLI: It would be good
11 to know, I went back and read the SEGS decisions
12 just to see how they dealt with visual because I'm
13 working in the Beacon matter right now. And in
14 that case they determined that it was so far away,
15 the SEGS, from any existing road that it wasn't
16 going to be an impact.

17 In Beacon you have, 14 is right next to
18 it. But the impacts did not come from the
19 roadway, it came from looking down from Red Rock,
20 which is a state park, and another canyon, which
21 is a recreational vehicle area. Because they were
22 elevated above the -- they had a panoramic view of
23 the site.

24 But it would be really important to know
25 how, to see if we could get a quantity. How many

1 people are using these mountains. How many people
2 are actually, you know.

3 MR. MONASMITH: The number is, and I'm
4 sure we can try to get some estimations from BLM,
5 of course, or at least we can ask. It's very
6 remote. There are no roads into this area at all,
7 as you know. We've, I think, described it to the
8 Committee before.

9 When we did our on-site visits we were
10 joined by CARE, other intervenors, some local
11 environmental organizations. You have to drive in
12 in a four-wheel-drive vehicle and it stops. You
13 have to get out and hike by foot. This is not
14 easily accessible. This is not an area that any
15 vehicles really can provide in terms of the
16 northern areas. It would be those that are
17 looking for the very isolated experience. But
18 those still have value and that's why staff
19 concluded as it did.

20 HEARING OFFICER CELLI: I just hope that
21 we can get, you know. Yes, there will be
22 contrast. But I hope we get to a point where --
23 personally I'm not -- speaking for myself, not for
24 the Committee. I just want to say that the idea
25 that all contrast equates to a significant impact

1 by virtue of just the existence of contrast, an
2 unquantifiable contrast. We would need more
3 detail than that, I think.

4 MR. GALATI: Mr. Celli, I don't actually
5 think we are going to have that issue here because
6 staff did not find any direct impacts from our
7 project and the only impact is one that is
8 cumulatively. And so I think we're talking about
9 this project in combination with other projects,
10 as they say in the Chuckwalla Valley and more
11 region-wide in the Southern California desert.

12 So I think there is a, I think the way
13 that the issue has been framed is one in which
14 there's a chipping away at an experience. And so
15 I think we're going to find, I think that is an
16 easier issue to have a conversation about.

17 HEARING OFFICER CELLI: Do you think we
18 could have stipulated testimony by declaration?
19 Do you think we are headed in that direction?

20 MR. GALATI: Yeah, I think so. Because
21 I think it's a very finite issue about is this a
22 cumulative significant impact or not as opposed to
23 direct and what's the glare and what's this and
24 can you measure that. I think that we are in
25 agreement with staff that there are no direct

1 impacts visually from the project.

2 HEARING OFFICER CELLI: So staff, you
3 think that we wouldn't need testimony on Visual
4 when we get to the evidentiary hearing?

5 MS. MAYER: I think it's a possibility,
6 yeah.

7 HEARING OFFICER CELLI: Does CURE have a
8 position on Visual?

9 MS. KOSS: No, not right now.

10 HEARING OFFICER CELLI: All right, well
11 I'm going to mark that as such. Let's move on.

12 MR. GALATI: How about cautious optimism
13 on Visual?

14 HEARING OFFICER CELLI: Yes.

15 MS. MAYER: That's a good way to phrase
16 it.

17 HEARING OFFICER CELLI: It just happens
18 to be my personal bugaboo right now because I'm
19 writing that section.

20 MS. MAYER: I think it also lies into
21 the question of the scope. You know, what is the
22 scope of the cumulative impact. And that's
23 something that's kind of fuzzy, frankly.

24 HEARING OFFICER CELLI: Okay, so I'll be
25 cautiously optimistic on visual.

1 What's left is waste, which we talked
2 about. There's the HTF issue. I'm just going to
3 treat that as a disputed issue because -- and also
4 I think the same would be true for worker safety
5 because it's an HTF issue.

6 And lastly, Project Description, I don't
7 think we need to get into.

8 That covers everything except I kind of
9 gave short shrift to Alternatives because I kind
10 of figured we'd have a big discussion about Soil
11 and Water in Alternatives. What other
12 Alternatives issues might we have besides Water?

13 MS. MAYER: Well at the very least it
14 needs more analysis because things are shifting
15 because of the bifurcation. And so we're working
16 with that staff now to figure out, you know, we're
17 folding -- what was split out over the sections is
18 now being combined into one Alternatives section
19 using the previous work of staff. But kind of
20 lining that all up and figuring out what exactly
21 the differences are now because it's CEQA only.
22 It's something we just have to work on. And it's
23 just taking time and we need to work it out.

24 HEARING OFFICER CELLI: That's great.
25 You know, I just want to say that I ran into a

1 little problem in Beacon where what happened was
2 the FSA was written in such a way that --

3 Beacon initially wanted to use fresh
4 groundwater and they ended up changing over to
5 using recycled water from one of two options, two
6 cities that had water to offer. But the FSA was
7 written at a time and from a point of view that
8 these are the reasons why you can't use the
9 groundwater and it was kind of tunnel vision in
10 that regard. So when they switched over to the
11 new alternative it didn't translate very well.

12 So I just want to -- things may change.
13 And if they do then I hope the analysis will be
14 able to be flexible enough to assume that, okay,
15 if you use this alternative, these impacts. If
16 you use this other alternative, these impacts.
17 That kind of thing. Just a heads-up. That really
18 covers that.

19 We talked about the schedule a little
20 bit. Again, I really like the schedule as we have
21 it, only because it gave all of the parties such a
22 nice, regular interval between each party's
23 testimony being submitted and then, you know, we
24 have a status conference between staff's testimony
25 and intervenor's testimony. And then another week

1 between intervenor's testimony and rebuttal
2 testimony. And then it looks like two weeks
3 before prehearing statements.

4 Because this is an accelerated ARRA case
5 we are going to be very, by the time we get to
6 prehearing conference -- and I know that this is a
7 status conference and it's unusual to go through
8 the detail that we did today in terms of going
9 topic by topic. But we won't have the time by the
10 time we get to the evidentiary hearings to goof
11 around with new evidence.

12 Ms. Koss, I ran into that problem at
13 Beacon recently where CURE did not have all of
14 their evidence at the prehearing conference. They
15 came to the evidentiary hearing with about a three
16 inch stack of new evidence, which we excluded. So
17 if you don't want to be in that position again
18 everything is going to have to be in at the
19 prehearing conference.

20 The reason we have a prehearing
21 conference is so that there are no surprises at
22 the hearing. So everybody knows what the
23 testimony is, everybody is bringing in the
24 testimony that we have. Generally speaking what
25 that means is that since everybody has read

1 everybody's testimony, everybody has seen
2 everybody's direct testimony and everybody's
3 rebuttal testimony, that ideally we can reduce our
4 evidentiary hearings down to essentially
5 surrebuttal because everything else is in.

6 So I'm saying this now because I want to
7 be clear. And I'm sorry that CARE isn't here
8 today because I want that prehearing conference to
9 be a line in the sand after which we are not
10 taking in any new evidence unless there is some
11 surprise or something that needs to come in on
12 cross.

13 MS. KOSS: May I?

14 HEARING OFFICER CELLI: Please.

15 MS. KOSS: I can assure you that won't
16 happen.

17 HEARING OFFICER CELLI: Thank you.

18 MS. KOSS: However, that said, we are
19 now talking about having a Revised Staff
20 Assessment come out --

21 HEARING OFFICER CELLI: June 11th.

22 MS. KOSS: Six days before our
23 prehearing conference statements are due.

24 HEARING OFFICER CELLI: Yes.

25 MS. KOSS: So we will essentially have

1 that time to review basically three large sections
2 of information, have our consultants review it,
3 know all of our issues, draft a prehearing
4 conference statement in six days.

5 HEARING OFFICER CELLI: So let's
6 anticipate this because I want to be -- first of
7 all, as of today you have a heads-up on this and
8 you can alert all of your experts that this is
9 what's coming down the pipe.

10 Secondly, staff should be able to
11 provide you, I hope, with cross-out and underline
12 sections. So in other words, so that you don't
13 have to read the whole section again trying to
14 figure out what the changes were if staff could
15 provide you with the cross-out and underline
16 version then that would streamline the process.
17 So basically all that's coming to your attention
18 are those changes. Because you already have what
19 they have up to date at this point.

20 Because this is accelerated I want all
21 the parties to know that yes, it's a bit of an
22 imposition. And in a perfect world and if we
23 weren't under the gun as we are under these ARRA
24 cases we'd be able to stretch things out.

25 MS. KOSS: Speaking -- sorry.

1 HEARING OFFICER CELLI: Go ahead.

2 Ms. Koss, you have the floor.

3 MS. KOSS: Maybe we need to take a step
4 back. Speaking to the ARRA cases and the
5 acceleration. I'm not sure if the Commission is
6 aware but in March there was new guidance issued
7 for ARRA which basically states that there does
8 not need to be a permit issued for this case or
9 any of the ARRA cases by the end of the year. I
10 am not sure if the Commission is aware, if the
11 applicant has brought it to --

12 ASSOCIATE MEMBER WEISENMILLER: Are you
13 referring to the IRS, the Treasury guidelines?

14 MS. KOSS: Yes, exactly.

15 ASSOCIATE MEMBER WEISENMILLER: We're
16 aware of that.

17 MS. KOSS: Okay. So basically physical
18 work. So basically it says, you know,
19 construction begins when physical work of a
20 significant nature begins. But the physical work
21 can be when more than five percent of the total
22 cost of the property has been paid or incurred.
23 So essentially ground doesn't have to be broken.
24 All the applicant would have to do is spend five
25 percent of the property.

1 And for example, the applicant can, say,
2 order a steam turbine, put five percent of the
3 project cost down, no permit would need to be
4 granted by the end of the year. This would
5 alleviate staff significantly. They are so under
6 the gun.

7 ASSOCIATE MEMBER WEISENMILLER: But
8 in --

9 MS. KOSS: This would alleviate our
10 schedule. Sorry.

11 ASSOCIATE MEMBER WEISENMILLER: But in
12 general the applicants, and it may not be the case
13 in this specific, but general the applicants would
14 have to close financing to get the money to put
15 down for the construction.

16 MS. KOSS: Yes.

17 ASSOCIATE MEMBER WEISENMILLER:
18 Certainly there are implications if anyone can do
19 balance sheet financing. But for those that can't
20 do balance sheet but have to do project financing,
21 the time line still pushes us towards a September
22 decision.

23 HEARING OFFICER CELLI: I just want to
24 say that until my marching orders are changed,
25 which is impossible.

1 (Laughter)

2 HEARING OFFICER CELLI: Not impossible
3 but so unlikely as to be practically impossible.
4 We are directed to move these cases forward. I
5 want to point out though that you are going to
6 have staff's testimony on May 27. What you are
7 going to have on May 27 should be everything
8 except System Impacts and Cultural. I thought you
9 said there were some -- what are we waiting on
10 between staff's testimony and the June 11th date?

11 MR. MONASMITH: By the 27th we get the
12 administrative draft. I'll have the
13 administrative draft in from technical staff on
14 the 22nd or thereabout. And so we can put
15 something out on the 27th that will be, like I
16 say, 95 percent if not higher of what we will
17 ultimately publish on the 11th.

18 But until it goes through final vetting
19 by staff counsel, by management within the
20 division, for what we will put out on the street
21 as our sworn testimony, what we will go into
22 evidentiary hearings on, that won't be until the
23 11th. But we will have the bulk, the vast
24 majority of everything done by the 27th that we
25 can put out for those sections that we identified

1 within the Executive Summary, those that we talked
2 about.

3 HEARING OFFICER CELLI: And
4 Mr. Monasmith, we're talking again. That 95
5 percent, the 5 percent that is going to be added
6 between May 27th and June 11th, you would be able
7 to provide in a format so that CURE or any user
8 would be able to look and see just exactly what
9 the additions are so they are not trying to figure
10 out where the camouflage is in the writing.

11 MR. MONASMITH: If so ordered I guess.
12 Caryn?

13 MS. HOLMES: This is Caryn Holmes, staff
14 counsel. I'm hearing a couple of different things
15 and I think this is really critical for the
16 Committee to understand what is and what isn't
17 happening.

18 Earlier in the conversation I heard
19 staff, Mr. Monasmith saying that what would come
20 out on the 27th is the final versions of those
21 sections that are ready to go and a summary of
22 potential changes and a summary of where we are
23 headed on those topics that are not currently
24 ready to be completed. That would include
25 Alternatives, Biology, Cultural Resources, Soil

1 and Water and possible TSE.

2 Then later on in the conversation I
3 heard Hearing Officer Celli say that he wanted any
4 changes in those areas, which presumably would be
5 presented to be filed in underline and strikeout
6 version. Is that how people are seeing this
7 proceed? I'm having trouble putting together the
8 two different conversations.

9 HEARING OFFICER CELLI: What we are
10 trying to do is avoid essentially ambushing CURE
11 by submitting testimony six days, additional
12 testimony six days before their testimony is due.
13 Because essentially CURE's testimony is going to
14 be all rebuttal testimony so it's reactive to
15 whatever staff is putting in.

16 MS. HOLMES: Right. And what they are
17 going to have on the areas that they have
18 expressed an interest in is they have got the
19 Staff Assessment right now and they are going to
20 have not a Revised Staff Assessment but some sort
21 of a narrative or bullet points about what the
22 changes will be in those contested areas and where
23 we're headed. And then they will get the final on
24 the 11th June. And I'm quite concerned that we
25 all be talking about the same thing.

1 I most recently heard you, Hearing
2 Officer Celli, suggest that we provide something
3 in underline and strikeout, which I think would
4 take an enormously long period of time given the
5 way the review process works at the Energy
6 Commission and would actually extend the schedule
7 quite dramatically, or potentially could do so.

8 HEARING OFFICER CELLI: So what is your
9 recommendation? What we are trying to do is
10 facilitate CURE's ability to get their testimony
11 in on time.

12 MS. HOLMES: I'm supportive of the, of
13 the concept that was raised earlier in the hearing
14 by Mr. Galati of allowing for a filing by the
15 applicant and any other party subsequent to the
16 publication of the Staff Assessment.

17 MR. GALATI: And I would agree with
18 that. I think what we could do is file on the
19 20th and the 27th those areas in the Staff
20 Assessment where we do not expect changes, but not
21 necessarily file all our testimony on these
22 contested areas. And then when the revised Staff
23 Assessment comes out file additional testimony.

24 And again, I want to characterize it a
25 little bit differently than CURE. These are not

1 major rewrites of Biology; they are not major
2 rewrites of Soil and Water. Soil and Water is
3 incomplete in one area and that is a condition on
4 water conservation plan. We will have to file on
5 the 20th what we are proposing as a water
6 conservation plan. So everyone will know what
7 that is. If not we will try to file it before as
8 a comment. I don't know if we are going to be
9 able to do that; we are going to have additional
10 discussions on the 5th.

11 When it comes to Biology, they are not
12 major rewrites. There are disputes over
13 mitigation ratios. Staff applied a 1-to-1
14 mitigation ratio. So if there is anything it is
15 our testimony arguing for less.

16 There is an issue on the Mojave fringe-
17 toed lizard, which staff proposed mitigation for
18 habitat compensation, and we had some
19 conversations about doing some sort of sand
20 movement to help the sand transport corridor. So
21 by the 20th everyone will know, at the latest date
22 everyone will know what we're planning.

23 So I don't see who rewrites. I see the
24 Revised Staff Assessment largely being staff
25 taking out the BLM NEPA stuff and insuring that

1 the document is more consistent throughout. But
2 they are not -- and I think the staff did a good
3 job in this particular project. There are not the
4 gaping holes that there might be in some other
5 projects.

6 So I don't see, for example, my workload
7 on the 11th being reading a 1500 page document and
8 having to file testimony. And we have done this
9 before. We have gone to hearing in 14 days after
10 the Final Staff Assessment. And I have filed
11 testimony and so have intervenors in the meantime.

12 So I would suggest we continue along and
13 file what we can in those areas that -- for
14 example let's say we have a dispute in Visual on
15 cumulative impact and after the 5th of May we
16 don't make any progress on it. I'll file our
17 testimony because I don't think it's going to
18 change in the Final Staff Assessment even though
19 it's a disputed area and CURE should do the same.

20 So I think we'll know more on the 5th
21 but I don't, I do not believe. And I would
22 recommend is that we take the prehearing
23 conference. The prehearing conference is on the
24 1st, the prehearing conference statement is on the
25 17th. That gives the Committee two weeks for the

1 prehearing conference statements. We move that
2 one week so that you have one week between the
3 prehearing conference statement and the prehearing
4 conference and we make the 17th the date that
5 rebuttal testimony to the Revised Staff Assessment
6 is due by all parties.

7 HEARING OFFICER CELLI: And when am I
8 getting prehearing statements?

9 MR. GALATI: You would get prehearing
10 statements on the week after, so the 24th.

11 HEARING OFFICER CELLI: The 24th.

12 MR. GALATI: That still gives you a week
13 to review prehearing conference statements. But
14 that allows us an opportunity to file testimony.
15 Because I am concerned as well about the Revised
16 Staff Assessment. The applicant needs an
17 opportunity to respond to the language changes in
18 the Revised Staff Assessment.

19 MS. HOLMES: Another possibility, this
20 is Caryn Holmes, staff counsel. Another
21 possibility that we have exercised in other cases
22 is to hold the prehearing conference at the
23 beginning of the evidentiary hearings. Under that
24 scenario you could give the parties a little bit
25 longer time to prepare any rebuttal testimony and

1 their prehearing conference statements.

2 There is no legal requirement that the
3 prehearing conference be separated by ten days
4 from the evidentiary hearings. It has been on
5 more than one instance held on the first day of
6 the evidentiary hearing.

7 HEARING OFFICER CELLI: But those cases
8 are ones where, where we combine a prehearing
9 conference with evidentiary hearing is when 100
10 percent of the testimony comes in as undisputed
11 declaration generally.

12 MS. HOLMES: Not in the history of the
13 CEC, perhaps in your experience. And I can
14 understand why you would like to have some
15 additional time. I am just pointing out that it
16 is not a legal requirement if we are trying to
17 look for additional time.

18 HEARING OFFICER CELLI: I understand.

19 MS. HOLMES: I am somewhat sympathetic
20 to CURE's interest, I think, in having more than
21 one week to respond to the Staff Assessment.

22 MS. MAYER: Mr. Celli, I have a
23 practical suggestion for CURE. Instead of the
24 strikeout just use the "compare document"
25 function. It's really helped me. I have had to

1 review documents under the gun, quite a few
2 recently. If you take the old version and compare
3 it with the new version all the changes pop out at
4 you in a left hand column and make it very, you
5 can make it very fast. You don't have to reread
6 anything that isn't changed.

7 MS. KOSS: I appreciate that. I'm not
8 aware of that function but I'll certainly --

9 MS. MAYER: I'll be happy to show it to
10 you.

11 MS. KOSS: I'll look into it.

12 MS. MAYER: I'd be happy to show it to
13 the applicant as well.

14 MS. KOSS: I'll ask our IT person.

15 I also would like to --

16 HEARING OFFICER CELLI: Okay.

17 MS. KOSS: Let me wait until they're
18 finished.

19 HEARING OFFICER CELLI: Let me ask you
20 this. Let's answer this question first and then
21 get to that, which is a good one.

22 If we move the June 17th date for a
23 prehearing conference to June 24th and allow June
24 17th to be the date where rebuttal testimony is
25 due.

1 MS. KOSS: Mr. Celli, may I ask a
2 question?

3 HEARING OFFICER CELLI: Yes.

4 MS. KOSS: CURE would like the
5 opportunity to submit testimony on the Revised
6 Staff Assessment and have an opportunity to submit
7 rebuttal testimony to the applicant's testimony on
8 the Revised Staff Assessment.

9 HEARING OFFICER CELLI: Here is what we
10 have got. We have got applicant's testimony that
11 is going to come in on May 20th. We have staff
12 filing their testimony on May 27th. We are having
13 a status conference on Friday, May 28th.

14 Commissioner Weisenmiller raises the
15 spectrum of potentially changing that status
16 conference to a mandatory settlement conference.
17 I would want to hear from the parties about that
18 because some parties may or may not want the same
19 Committee that is going to hear the evidence
20 participate in a mandatory settlement conference.
21 We can discuss that in a moment. But be aware
22 that we have this Friday, May 28th status
23 conference to discuss the issues.

24 The last day to file petition to
25 intervene, June 1.

1 Intervenors file testimony on June 3rd.

2 So that would be your direct testimony, Ms. Koss.

3 MS. KOSS: Yes.

4 HEARING OFFICER CELLI: And that, and my
5 experience so far with CURE is that it is pretty
6 much everything that CURE is going to be filing is
7 really rebuttal testimony to what you have already
8 received. I understand under these circumstances
9 it is an incomplete package. But at that moment
10 in time, which is June 3rd, you are going to be
11 rebutting, essentially, staff and applicant's
12 testimony to date as of June 3rd.

13 MS. KOSS: We will be putting on our
14 evidence for the issues that see. And we're fine
15 with that. We're fine with having two rounds of
16 testimony, that's not our issue.

17 HEARING OFFICER CELLI: Okay. But I'm
18 just walking us through this because you will get
19 the benefit of coming in last. You bat last, as
20 it were.

21 MS. KOSS: Yes.

22 MR. GALATI: That is right, I would like
23 to point that out. That's not how it is normally
24 done. What is normally done is all parties file
25 direct testimony on a date and all parties file

1 rebuttal testimony. I don't have rebuttal
2 testimony to anything CURE files.

3 MS. KOSS: Yes you do.

4 MR. GALATI: Where?

5 MS. KOSS: Parties file rebuttal
6 testimony one week after we file our testimony.

7 MR. GALATI: On the undisputed areas. I
8 have no --

9 MS. KOSS: Right. Which is why I'm
10 saying we would like rebuttal testimony after
11 testimony for the Revised SA.

12 MR. GALATI: And if I am giving up
13 rebuttal testimony after the Revised SA, CURE
14 should as well.

15 HEARING OFFICER CELLI: Yes, that
16 actually doesn't work procedurally because the
17 applicant has the burden. And with that they
18 would have the opportunity to have the last word.

19 MR. GALATI: And I am willing to take
20 the last word after the Staff Assessment, even
21 though I have not seen what staff will be -- I
22 will give up rebuttal testimony to keep the
23 schedule.

24 HEARING OFFICER CELLI: All right.
25 Because the problem I have, I'm faced with, is

1 that if we choose to go, to require all parties,
2 everybody files their rebuttal on June 17th, that
3 means that everybody is rebutting the final state
4 of the evidence as it would be after the 11th.
5 Then your prehearing conference statements would
6 come in on the 24th. So pretty much what we're
7 capping is evidence coming in after the 17th.

8 We're going to have prehearing
9 conference statements on the 24th; we'll have our
10 prehearing conference on July 1st. I think that
11 that gives everybody pretty much an equal
12 opportunity to deal with any what's starting to
13 sound like, I'm not going to say insubstantial but
14 not substantial changes on June 11th.

15 Especially if you're given a heads-up on
16 the 27th when they say, this is 95 percent of our
17 testimony and we're submitting a summary of
18 potential changes. So that you know where you're
19 looking for the changes and your witnesses will be
20 given the opportunity to prepare for what's coming
21 down the pipe in that way.

22 I think that's the best we are going to
23 be able to do here because I have to tell all of
24 you that with all of these projects occurring at
25 the same time it is getting really difficult for

1 me to be able to schedule time.

2 And in this period in the summer when
3 all of these projects are being heard at the same
4 time, you have Commissioners with weeks blocked on
5 these other cases where they are doing evidentiary
6 hearing after evidentiary hearing after
7 evidentiary hearing. I can't get two
8 Commissioners in the same room, typically.

9 What I am saying is I am loathe to
10 change anything. I mean, for me that prehearing
11 conference date is etched in stone, July 1. As
12 are the July 12 evidentiary hearings, July 12th,
13 13th and 14th. And I had to pull teeth to get
14 those dates I want you to know. I don't know if
15 you remember, this had been a week or two beyond
16 in the calendar. At this point there is just no
17 wiggle room in a calendar anymore.

18 So I appreciate your concerns, Ms. Koss.
19 The Committee hears them. And I think that we
20 have done our best to respond by bumping the
21 rebuttal testimony up a week and prehearing
22 conference statements up a week.

23 But I really want to be clear that the
24 prehearing conference is the rubicon. And that's
25 the last. I don't want to hear about new, needed

1 evidence after that fact. And I want all of the
2 parties to have in their hands everybody else's
3 testimony so that we are not haggling over
4 discovery, we are not haggling over any procedural
5 issues. We can hit the ground running and call
6 your first witness and do the evidentiary hearing
7 on day one. I really don't want to take up time
8 with administrative stuff.

9 There was one other thing. Oh, the
10 mandatory settlement conference. You know what,
11 let's do this. Rather than have a mandatory
12 settlement conference that would require the
13 involvement of the Committee, what we can do at
14 the status conference on the, the status
15 conference is May 28th. Is have the parties --

16 So we'll have a status conference like
17 this. The Committee leaves, the parties remain
18 and can workshop and work out essentially their
19 own internal status settlement conference on that
20 same day for any remaining issues, if that's
21 acceptable to the parties.

22 MR. GALATI: From the applicant's
23 perspective we appreciate that. I would like to
24 ask the Committee whether or not on the 28th we
25 would be as productive as, and I know the

1 schedules are rough, if we moved that date into
2 June after the parties had seen each others'
3 testimony.

4 HEARING OFFICER CELLI: The problem with
5 that is I don't have Commissioners in June.

6 MR. GALATI: Okay.

7 HEARING OFFICER CELLI: Everybody is,
8 I've got one coming, the other ones going.
9 Commissioner Weisenmiller is gone while
10 Commissioner Boyd is gone. And I'm sorry to tell
11 you this but I have a vacation overlapping both of
12 their, we are all in transit in June. June is a
13 very rough month.

14 MR. GALATI: The other thing we could
15 do.

16 HEARING OFFICER CELLI: But the parties,
17 there is nothing to preclude the parties from
18 noticing a workshop in June if you think that that
19 would be productive.

20 MR. GALATI: I think sometimes, first of
21 all I always think that's productive, to get in
22 the room and talk. There is also a possibility of
23 noticing after the prehearing conference for us to
24 do the exact same thing. We will have seen
25 everybody's testimony, we will have weighted, you

1 know, our changes for prevailing. We could talk
2 to the Committee about it. If the Committee had
3 read the testimony and had some advice or
4 direction that might be really useful. And I
5 think we have done that before on evidentiary
6 hearings and other things.

7 So maybe if we noticed the afternoon for
8 a workshop. Have the prehearing conference and
9 have the Committee leave and we do our best there
10 as well. I don't mind trying it twice.

11 HEARING OFFICER CELLI: That's great.
12 My request then would be that staff would notice a
13 workshop immediately following the prehearing
14 conference on July 1st. That would be mission
15 accomplished in that regard. And I hope that by
16 then we can really use that time effectively and
17 have a meeting of the minds from the parties.

18 I know that it worked in Beacon. There
19 was a meeting post-prehearing conference but
20 before the evidentiary hearing. Which is why I
21 kind of like that separation of time. Where they
22 hammered out, they knocked out all of the issues
23 with regard to Bio and Cultural in terms of the
24 conditions. So that would be something I think
25 would be useful.

1 MR. GALATI: Sometimes the parties are
2 not completely ready to do that until they have
3 gone through the effort of reading and writing
4 their own testimony and reading other's testimony
5 and then sometimes another idea comes out that's a
6 compromise.

7 HEARING OFFICER CELLI: No, I'm in favor
8 of that. I think that's a great idea and I
9 appreciate the staff's willingness to accommodate
10 that. Because I think that workshop would be
11 probably one of the better ones you are going to
12 have. So with that --

13 MS. MAYER: As long as you don't
14 anticipate the prehearing conference to take all
15 day that sounds like a great idea.

16 HEARING OFFICER CELLI: You know, a
17 prehearing conference would take -- let me look at
18 my notice here. The prehearing conference was set
19 for --

20 MR. GALATI: July 1 at, I have it at ten
21 a.m.

22 HEARING OFFICER CELLI: Thursday, July 1
23 at ten.

24 MS. MAYER: Okay.

25 HEARING OFFICER CELLI: Prehearing

1 conferences are running like three hours
2 essentially. I think that that's a reasonable
3 guess. And so in the afternoon. The only thing
4 you would need to check with, Mr. Monasmith, would
5 be the availability of Hearing Room A that
6 afternoon. I think that we have it. I believe I
7 blocked it for the day but you might want to
8 double-check with Cathy Graber on that.

9 MR. GALATI: Again, being very concerned
10 with the Committee's time. We do have May 28th
11 still on the schedule as a status conference. And
12 I would suggest that we keep it on the status
13 conference but maybe a week or two before we
14 could, if the parties agree that one is not
15 necessary or not helpful at that time, we could
16 let the Committee know.

17 What I don't want to do is to come
18 without a lot more to update. Rachael will have
19 seen our testimony. I will have had one day to
20 see the update. So will Rachael but I hadn't seen
21 Rachael's testimony. So I don't, I don't know if
22 there is a lot more to update on the 28th. There
23 might be.

24 HEARING OFFICER CELLI: I'm tempted to
25 leave it and I'll tell you what. Right now we are

1 at 50 percent stipulated testimony, 10 out of 22.
2 And we need to shorten that if we are going to be
3 able to get evidentiary hearings done in the
4 amount of time we have.

5 So I would like to treat the next status
6 conference, as we did in this case, with a little
7 more, dial down a little more on what areas we
8 have got cleared up and those areas that you have
9 been able to settle. If we do that on the 28th
10 then our prehearing conference will be a breeze if
11 we can get some commitment on the 28th. So we'll
12 see how we do then.

13 MR. GALATI: Okay, fair enough.

14 HEARING OFFICER CELLI: So I appreciate
15 that.

16 Mr. Galati, I am going to ask if there
17 is anything further that you would want to raise
18 at this time for our status conference today?

19 MR. GALATI: I do not. I usually lean
20 over and whisper to Scott Busa so let me do that
21 now. Scott, do we have anything else?

22 MS. RUSSELL: Scott just stepped away
23 from the phone but that's all that we wanted to
24 discuss today, we appreciate everybody's time.
25 This is Meg Russell, by the way.

1 MR. GALATI: Thanks, Meg.

2 HEARING OFFICER CELLI: Thank you.

3 Staff, please.

4 MS. MAYER: Nothing further.

5 HEARING OFFICER CELLI: And does that
6 include you, Ms. Holmes?

7 MS. HOLMES: It does.

8 HEARING OFFICER CELLI: Thank you. And
9 Ms. Koss?

10 MS. KOSS: No, thank you.

11 HEARING OFFICER CELLI: And I'm just
12 going to, I see now I have a Call-in User number
13 6. Is that Mr. Boyd from Californians for
14 Renewable Energy? Are you on the line, Mr. Boyd?

15 (No response)

16 HEARING OFFICER CELLI: Or Mr. Figueroa?

17 (No response)

18 HEARING OFFICER CELLI: Okay. At this
19 time since we have completed the status conference
20 t's an opportunity for the public to make a public
21 comment on any aspect of the Genesis Solar Energy
22 Project.

23 I want the record to reflect that the
24 only people in the room here in Hearing Room A are
25 the parties themselves, the court reporter and the

1 Committee. There is absolutely no audience
2 sitting here.

3 I have on the line Bill Kelly, Ashley
4 Pinnock, Susan Sanders, these are all people
5 affiliated with parties. I have some unknown
6 call-in user number 4. I have Caryn Holmes who is
7 a party. Ken, Waxlax, Meg Russell and Scott Busa,
8 all associated with other parties.

9 Is there someone o the line who would
10 like to make a public comment?

11 MR. WAXLAX: This is Ken Waxlax. I am
12 actually not associated with anybody, I'm just
13 general public.

14 HEARING OFFICER CELLI: Thank you, sir.
15 I'm sorry, I had associated you with the
16 applicant. Please go ahead, you have the floor.

17 MR. WAXLAX: You know,I just wanted to
18 make one, quick comment regarding kind of the
19 slow-down issue. There was a great editorial in
20 the New York Times this Sunday by Thomas Friedman
21 and he quotes a noted physicist named Joe Romm.
22 And part of the quote says:

23 "We simply aren't sufficiently
24 desperate to do what is needed,
25 which is nonstop deployment of a

1 staggering amount of low-carbon
2 energy, including energy
3 efficiency, for the rest of the
4 century."

5 So I don't think slowing down anything is a good
6 idea.

7 HEARING OFFICER CELLI: Let me ask you,
8 Mr. Waxlax. If you don't mind my asking, are you
9 in favor of this project or are you opposed to it?

10 MR. WAXLAX: I'm supportive of all solar
11 renewable energy issues. We have to have solar,
12 we have to have clean energy in order to mitigate
13 climate change and we need to go forward with it
14 now.

15 HEARING OFFICER CELLI: Very good.

16 Anything further, Mr. Waxlax?

17 MR. WAXLAX: No, that's it, thank you.

18 HEARING OFFICER CELLI: Well thank you
19 very much for calling in, we do appreciate your
20 comments.

21 Is there anyone else on the telephone
22 who would like to make a public comment at this
23 time?

24 And as I look I see that there really is
25 nobody else. Ashley Pinnock, are you associated

1 with the applicant?

2 MS. PINNOCK: I am.

3 HEARING OFFICER CELLI: Okay. I'm sorry
4 to have said that about Mr. Waxlax, I thought he
5 was.

6 MR. WAXLAX: No problem.

7 HEARING OFFICER CELLI: Everyone else
8 appears to be accounted for so with that I'm going
9 to give the meeting back to Commissioner
10 Weisenmiller for adjournment.

11 ASSOCIATE MEMBER WEISENMILLER: I would
12 like to thank everyone for their participation
13 today and the hard work in moving the case along.
14 I certainly appreciate the public comments on this
15 particular proceeding. Again, thanks for your
16 work, it is going to be a long summer. Bye.

17 (Whereupon, at 11:48 a.m. the
18 Status Conference was adjourned.)

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CERTIFICATE OF REPORTER

I, Peter Petty, a Certified Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, 2010.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345