STATUS CONFERENCE

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of the Application For Certification:	)	
	)	Docket No. 11-AFC-2
Hidden Hills Solar Electric Generating System	)	
_____	)	

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

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Jon Zellhoefer

Jack Prichett
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Dana Crom, County Counsel
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Jim Stroeh

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PROCEEDINGS

PRESIDING MEMBER DOUGLAS: Hi. Good morning. I'm Commissioner Douglas, and the Presiding member on this Siting Committee. I wanted to introduce people on the dais and kick off the status conference for the Hidden Hills Solar Energy Generating Systems Project.

To my left, at this point, because the Hearing Officer stepped out, is Commissioner Carla Peterman. To my immediate left, when he returns to his seat, Ken Celli, the Hearing Officer. To Commissioner Peterman's left is Jim Bartridge, her advisor. To his left is Eileen Allen, the technical adviser for siting issues to the Commissioners. And to my right is Galen Lemei, my advisor.

I'd like to thank everyone for being her and welcome you to the Energy Commission. And with that, I'll turn this over to the hearing officer.

HEARING OFFICER CELLI: Thank you, Commission Douglas. Good morning, everybody. Welcome to, I think this is our third status conference, April 3rd, 2012.

First, I'm going to have the applicant introduce his -- their people.

MR. HARRIS: Good morning. That wasn't me coughing.

Jeff Harris on behalf of the applicant. To my

right is Susan Strachan and to her right is Mr. Clay Jensen with BrightSource. We also have about seven other folks from the team in the audience available to speak, and they'll introduce themselves, if they do speak.

HEARING OFFICER CELLI: Thank you, Mr. Harris. And let's now here from staff. Please, introduce your folks.

STAFF COUNSEL RATLIFF: Dick Ratliff, counsel for staff. With me is Mike Monasmith, Project Manager, who is attending today with broken ribs that he experienced, I guess Sunday, which I think is above and beyond the call of duty.

HEARING OFFICER CELLI: It certainly is. And I'll ask off line how that happened.

MR. HARRIS: I had nothing to do with it.

(Laughter.)

HEARING OFFICER CELLI: Yes. And to the right of staff, we have Ms. Crom from the County of Inyo. Please introduce anyone from the County of Inyo who's here today.

MS. CROM: I'm solo today.

HEARING OFFICER CELLI: Okay. Thank you. And now on the telephone we have representing the Center for Biological Diversity, Ileene Anderson. Is there anyone else from CBD on the phone?

MS. ANDERSON: I think I'm the representative

today. Good morning, everyone.

HEARING OFFICER CELLI: Good morning, Ileene. Thanks for being here.

We also have Jon Zellhoefer who is representing himself as an Intervenor.

Good morning, John.

MR. ZELLHOEFER: Good morning, everyone.

HEARING OFFICER CELLI: And then the only other intervenor we have left is the OSTA, the Old Spanish Trails Association, Jack Prichett. Is there anyone from that organization on the phone?

MR. PRICHETT: Yeah. This is Jack Prichett and I'm on the phone.

HEARING OFFICER CELLI: Good morning, Jack.

MR. PRICHETT: Good morning.

HEARING OFFICER CELLI: Let me find where you are. That's Jack. Welcome. Good morning, Jack. Is there anyone else from your organization with you today?

MR. PRICHETT: No, I am it.

HEARING OFFICER CELLI: Okay. Well, welcome aboard.

MR. PRICHETT: Thank you.

HEARING OFFICER CELLI: Good. Do we have anyone here this morning from any federal public agencies who are -- I'm asking not for the people on the phone, but in

the room. Do we have anyone from a federal or State agency, federal or State of California? Anyone from the State of Nevada, or -- we have a representative from Inyo County. Do we have anyone here from Nye County or neighboring counties?

Okay. Hearing none. I did want to ask on the phone if we have anybody from federal, State, or Nevada or California State agencies, please speak up?

Okay. Hearing none. Then I'd like to introduce Jennifer Jennings, who is our Public Adviser. She's in the back of the room, and she's available to help people participate. We will have a public comment period towards the end after our status conference. So if anyone is in the room, then you'll want to fill out one of these blue cards that Jennifer has. Otherwise, we'll just call you on the phone after we get through the people in the room.

So these status conferences that we've been having. Again, we said this was the third on the proposed Hidden Hills Solar Energy Generating Systems were set originally at the request of the applicant. The Committee scheduled today's event in a notice that was dated January 11th, 2012. That notice is available on the website. We also have copies out on the foyer, if anybody needs to see them.

The purpose of today's conference is to hear from

the parties regarding the status of the preliminary staff analysis, the status of the case, in general, to help it resolve any procedural issues, and to assess the scheduling of future events in this proceeding.

With regard to procedure, the way we proceed is we'll first provide the applicant an opportunity to summarize their view of the case status, and their recommendation for future scheduling, followed by staff, followed by Intervenor Zellhoefer, followed then by the Center for Biological Diversity, and finally Intervenor Old Spanish Trail Association, because that is the order in which the intervenors intervened. And then, of course, we will allow the County of Inyo to act essentially as a party and bat cleanup after everybody else speaks.

We will then provide an opportunity for general public comment, which we're always interested in. With regard to the schedule, the Committee acknowledges receipt of the proposed schedule from staff attached to their status report. And the Committee acknowledges receipt of essentially the applicant's objection to that, and we will discuss that. Staff's proposed schedule contemplates a PSA -- when I say PSA, for everybody, we mean the Preliminary Staff Assessment. And when we talk about an FSA, we're talking about the Final Staff Assessment.

The PSA is, according to staff's most latest --

most recent proposed schedule would be due out on June 1st, 2012, with an FSA due out on August 1st, 2012. We're going to hear from all of the parties regarding the schedule, but we want to announce to you, at this time, that the May 22nd status conference, which we have previously scheduled is going to be cancelled. And I'm going to send out a notice to that effect, but I just though since I have you all here, you can plan around May 22nd. We have to take that off.

I will also send out a notice that we will be adding June 4th, July 9th, and August 16th. Those dates again are June 4th, July 19th, and August 16th status conferences, in light of what appears to be an extending schedule. We will know better in June and July whether we're even going to meet, keep the August status conference date depending on the timeliness of the August 1st FSA date. So you're all on notice now that the 5-22, and May 22nd status conference is off calendar, and I'm adding other dates. So that's a preview of coming attractions. You'll be getting a notice soon enough.

Now, in the previous status conferences that we had, the parties indicated that the following subject areas were -- well, I'm not going to say not in dispute, but they seem to be not in controversy, project description, hazardous materials, soils, transmission line

safety and nuisance, the transmission systems engineering, insofar as we've not received a cluster study yet. So that could, we don't know. But I'm just, for now, as a placeholder, I'm just going to put it in the unresolved column -- or the resolved column.

Facility design, geological and paleontological resources, efficiency, general conditions of compliance and closure, air quality, public health, noise and vibration, and reliability. So those are really sort of the settled questions, at least heretofore.

The subject areas that continue under the heading of unresolved, according to the last status reports we received, are water resources. And in particular, we're interested in hearing about the pump test results we talked about last time. There's some issues surrounding water use mitigation plan. Specifically, that would address impacts to the Amargosa River, the Pahrump groundwater basin, Stump Springs area of critical environmental concern, impacts to neighboring wells, cumulative effects, and impacts to mesquite bosques, which are mentioned in the BLM's 3-12-12 letter, which was docketed. That's the March 12th letter. So that's water resources.

We note that there is some issue with regard to data responses and requests under the heading of waste

management. Socio and worker safety and fire protection, we see that there's some question regarding emergency response costs, the source of the labor, whether it's from California or Nevada. Also, traffic and transportation, and specifically impacts to the level of service in Tecopa and the surrounding areas, if the labor force is going to come from California.

And biology, we have bats, owls, and eagles surveys. I understand that a lot of surveys have come in, but I don't know if they're -- we'll hear whether they're complete or not. We also have issues regarding Migratory birds, the fox, the Desert Tortoise, rare plants. And we also note that CBD had prepared a couple of data requests. And we note also that the applicant responded to those data requests, and that was all docketed recently.

With regard to visual, last we spoke there was glint and glare questions. There were DRs, data requests, 148, 149, and 154 were an open question. Land use, which is of particular interest to the Committee, we had a question, we'll hear about it today, in terms of the timing of the applicant's amendment to the general plan to general industrial zoned M1. This is what we glean from seeing the docketed materials. We're going to hear more from the parties themselves, and become enlightened.

Inyo says that at least it would require 60 days

after the issuance of an environmental document plus merger of parcels and abandonments of right of ways, et cetera. So we'll hear from them.

Cultural. We're interested in seeing whether there's going to be a need for a petition to compel. Last we spoke there were data -- open question with regard to Data Requests 105 and 106.

Whoever is speaking on the phone, I'm going to need you to mute for the moment.

Thank you.

We were talking about land use. No, Cultural. Data requests 105, 106, 125, 127, 128, there was some request with regard to ethnographic studies, and sort of this shifting project area of analysis.

And finally, alternatives. I'm not sure whether that's resolved or not, what's missing. We'll find out about that.

Mr. Harris, is there a particular order that you would like to address the open issues?

MR. HARRIS: I think we'd like to follow the Attachment A to our March 28th response to the staff's status report. And that Attachment A goes through in my mind-numbing detail our responses to staff. So if we're going to go through each one subject by subject, we'd be wanting to follow that particular document.

HEARING OFFICER CELLI: All right. So for everybody to be on the same page literally, Attachment A is -- the order would be biological resources, cultural resources, land use, socioeconomics, traffic and transportation and visual resources, water resources, waste management, and alternatives.

So if that works for everyone, we'll just go in that order. So go head, Mr. Harris, you have the floor.

MR. HARRIS: Thank you very much, appreciate the opportunity to speak. Notwithstanding the cancellation of next month's status conference, I do want to reiterate once again how important these status conferences are.

You, Commissioners, I know you're engaged in the lessons learned process. And this, to me, is the number one improvement that you've made to your process by far. It is great to see the Committee early on like this. I think the meeting we're about to have today is very indicative of why that's important. We're at a point now where I think we need some Committee direction on schedule and other issues moving forward.

Before we turn to the specifics of those subjects, and we'll go through each one of them in as much detail as the Committee wants, we do want to talk a little bit about schedule and that issue, because from our perspective that's the most important thing that will come

out of today. There are technical questions, and there are disputes about how much is enough, in terms of evidence.

But really schedule is the main thing here. And I really want to try to maintain the civil tone that staff and applicant have maintained in this proceeding. It's been very respectful. And I hope to generate light and not heat, to use the energy terms, and focus on the facts.

But the fact of the matter is is we really believe it is time for the Committee to set a schedule for this proceeding. We were frankly a little taken aback by the staff's Status Report number 3. The last two status reports had requested a date of 4-13 for publication of the FSA.

At last month's status conference, we did agree to a six week extension. And then, you know, less than basically three weeks later on Staff Report number 3, there's a request for an additional six weeks. So six weeks and six weeks is three months on the schedule.

That request is premised on the ground that the staff can go from the PSA to the FSA in only eight weeks. And we're talking about a July -- or June 1st and then August 1st dates for PSA and FSA respectively.

That would be unprecedented, frankly. And we have the data to back that up, if you want to see it,

especially as it relates to the ARRA cases. But that time frame, we believe, is simply too aggressive. We have no faith that we won't be here, not next month now, but I guess the following month having the same discussion about whether there's more time needed here.

The record does show the time between the PSA and the FSA is typically, in the best case, been about 110 days. And our schedule that we thought we had all agreed upon last month provided about 105 days. So it would have been -- it would have been at the low end of the heroic efforts that were made during the ARRA case, and really at the very bottom end of that.

And so to have a record that shows decisions that have taken about 105 days up to 250 days, I think is an important fact for the Commission to have in making this decision. And again, I have documentation if you want to see that, but the typical PSA to FSA has been, you know, 300 days, 200 days, 171 days, 124 days, 105 days. We've proposed 110 in our schedule between PSA and FSA. The staff now is suggesting they can do it in 61.

I just think that's not credible. And I think the Committee needs to make their decision with those numbers in mind. And again, I'll be glad to pass that out, if you want to have that.

We're a little frustrated, as you can tell in my

voice, despite my statement about trying to produce light. The Status Report number 3 is accompanied by two claims. One is that the staff is overburdened. And I believe that, by the way. I know your staff works very hard, and there's a lot of cases still in-house. And the ones that are in-house are very intensive. But we see two claims in that status report.

Number 1 is that we simply haven't had the time to review what you've given us to date, and that may very well be true. I guess we want to solve that problem today, as much as anything else, that the Commission and the State has a strong public interest in moving this case along. You know, you are a couple of two people, three at least, maybe short in some of these divisions. There are a thousand, you know, high paying wage jobs that are being slipped day or day for every day the schedule slips.

And so we need to -- one of the things we want to accomplish today is to solve that resource issue, because this project needs to be move forward.

The other thing we saw in that status report that was troubling is that we were hearing, well, we need more. And those two things are just flat out inconsistent. We haven't had time to review everything you've given us, and we need more. How do you know unless you've reviewed what we've given you.

And so that, I guess, at the most base level is the source of some frustration that we have at the way things are moving forward at this point.

We really have a simple request today, and that's to have the Committee, you know, issue a schedule for this proceeding that sets a reasonable date for the PSA. And we can talk about what that means. We've provided you with our view of that. And we think it's time for you all to get involved in that. So one of the issues that we're going to have to solve going forward is how much information is enough. And when we go through each one of these subject matters, I think we can have that discussion.

But the level of detail that's been requested in some of these areas we think is unprecedented, and I'm thinking particularly about cultural resources. A typical EIR, in the State of California, for a project of enormous magnitude has two cultural resources conditions. And I can bring as many EIRs as you want to look at, because we've done the research on this.

But typically, it's two conditions. One, as pursuant to State law, if you find bones, human bones out there, you stop and you call the corner, and you guys have that condition.

The second is to train your workers to identify

potential resources. And if you find something, you stop work and bring in an expert. Those are the standard two conditions in every other project of size and magnitude in the State of California.

And what we have going on here I think is a lot more information being requested, particularly in this area.

So we want to have a dialogue around how much is enough on that. And, you know, to be fair, our technical experts, Dr. Spaulding and Mr. McGuirt, have been working very well together. It is a very collegial relationship between those folks. They have a lot of respect for each. So they don't let the lawyer's position color that at all, but we very much are at a point where we think we need to move forward.

At the bigger picture level, in terms of how much is enough, your original scheduling order called for basically four rounds of data requests. And if you look at that order it's 1A, 1B, 1C, and 2. Well, to date, we've had 1A, 1B, 1C, 1D, so there's four already, 2A, 2B, 2C, 2D. That's eight. And the last set that we received was really the third round of biological data requests.

And so I understand the staff's desire to have as much information as they have to publish a PSA, but we really do need to focus on where we are in the process.

This is the Preliminary Staff Assessment.

It's intended to get the dialogue going. Right now, it's not even a monologue. There is no dialogue going on. It is common, it has been in the past, for the Commission to publish Preliminary Staff Assessments that say as to these subject matters, no significant impacts.

As to these subjects matters, we don't know what are the significant impacts yet, and this is the kind of information that we need to be able to make a determination on significance. We would be willing to take a PSA that has sections that say we can't reach a conclusion on this issue, and here are the things we need to reach that conclusion, because a specific list of enumerated needs would really help us focus on moving this process forward.

And so the PSA is not intended to be perfect. It's not intended to be the Commission's decision. It's intended to start a public dialogue. It's intended to allow people to have some questions answered and to raise other questions and to have workshops. And we feel like maybe the standard right now is just simply too high. Perfection at this stage is not required. The process is sausage making, and we need at least the sausage casing to start. How is that for a horrible analogy.

But it is time to get the public engaged in this

process. I think it really is. And I think that the staff, to their credit, feels like they want to put out a document that is really great that they can defend. And good for them for that, and we support that, and -- but I think we're just simply at the stage where we need to move forward.

There are 21 technical areas in the PSA. Based on the staff's last status report, only eight of those are in play, and two of those were substantially complete, and we expect -- and that report came about two weeks ago. We suspect that number is probably lower. So the overwhelming majority of this document is done. And the remaining sections are likely in management review. Although, there are some other sections that are a little more difficult.

You know, granted the ones that are outstanding are the difficult subjects, and the more complex subjects and they'll take some time. But this is not the Commission's final decision. This is a Preliminary Staff Assessment. And we feel like it's time to move forward to get the public involved in that dialogue.

So we think there is substantial scheduling advantage to having that document published at a reasonable date here. And we think that the Committee, hopefully in the interim, after this hearing and before

the next status conference, will provide some very clear direction.

At the end of the day, it is your proceeding and it's your schedule. It's not the applicant's and the staff's to drive schedule. We have very strong feelings, as you can tell, obviously, about schedule, as applicants always do. So I understand a little bit of this washes over you as rote, because you always hear this from applicant.

But please understand we think it's very important that we get this case moving forward, and we think we're at a stage where that can happen. So with that, we're willing to go right now subject through subject, unless the Commissioners have any questions or comments at this point.

HEARING OFFICER CELLI: Let me -- first of all, thanks for your comments and your update.

I do -- I want to observe that by my calculation, I may have this wrong, but by my calculation yesterday was day 180 for discovery purposes. Let me ask the Presiding Members, Commissioner Douglas, any questions?

PRESIDING MEMBER DOUGLAS: No.

HEARING OFFICER CELLI: You know what I would prefer to do is let's let staff respond to the schedule concerns. We'll hear from the intervenors and Inyo, and

then we can go discipline by discipline.

So with that, let's hear from staff regarding the comments by the applicant with regard to schedule. And maybe I can focus this a little bit more for you. The schedule -- the original plan was an April 13th publication date for your PSA. The new plan calls for, was it, June 1 -- June 1st. So the Committee probably needs to know what we're going to get June 1st that we can't have now, and any other comments you have with regard to schedule.

Go ahead.

STAFF COUNSEL RATLIFF: Yes, Commissioners, good morning. Dick Ratliff, staff counsel.

Listening to Mr. Harris's comments, I was struck by the fact that the applicant is cross with us. And I think it's understandable that they are. And we're cross with them as well. And I'm trying to understand why we are sideways with each other at this point, and, you know, from their point of view, I think they are working feverishly and diligently to satisfy what they consider to be a veracious staff appetite for information, and they don't see the shore inside. And they keep hoping if they can only see the PSA, then maybe they'll get there. They'll get their feet. They'll get their footing, and there will be some sense of traction and progress.

And I have a great respect for the people on the applicant's team. I think they're very diligent and very conscientious. That isn't the problem.

The staff, on the other hand, is dealing with significant issues, of which there is not enough information to make good conclusions. And from the staff perspective, and the reason we're cross as well, is we feel like there is pressure to put out an analysis when we aren't ready to put out an analysis, when there are substantial missing pieces, and when we don't even have information, in some cases, which we would expect in a typical 12-month case to be part of the application itself.

And this is a very difficult position for staff to be in. And so what I'm hearing, and I think there is a validity to this feeling is where is the information that we need? Why is it coming so late, or, in some cases, not coming at all, to allow us to make basic determinations about significance and mitigation?

Turning to the most perhaps significant issue in the case, which is the issue of water, the staff received a 586 pump test report Friday afternoon. It had received earlier the raw data for that report, perhaps two weeks earlier.

And we're now in the position of trying to

reconcile our original determinations on the raw data with the seemingly inconsistent conclusions in the pump test report.

The water issue is an extremely important issue, because it goes to more than to the issue of water itself, but it goes to biological impacts, and it goes to archaeological impacts, or cultural resources impacts, I think better stated.

And we started this project -- started this analysis without knowing if there was water sufficient in this very dry desert area to even operate the project itself, and without knowledge about whether or what kinds of impacts there would be to local well owners to areas of critical environmental concern on BLM land just across the border at Stump Springs, and even to the Amargosa River.

Now, we expect the pump test to answer some of these questions. And in its pump test report, I'm told that the applicant states that the pump test does. But we have a lot of questions about the pump test itself, starting with the methodology and the time during which the test was -- the duration of the test. These questions may be answered, but they aren't answered yet, but we need -- staff feels the need to workshop this issue, and to consult with other agencies with experience in groundwater issues in the desert, such as the regional

water board, the County, and BLM.

We haven't had time to do that workshop, because the test results are very fresh, and people are just getting the information now. The issues regarding archaeological resources are tied in part to the pump test, and to the impacts regarding water, because BLM has indicated a very strong desire in its letter that it wants to protect Stump Springs, which is an area of critical environmental concern.

And the area of biology is also affected by the issue of water because if, in fact, water levels do drop significantly in the surrounding area, there is the concern that the mesquite groves, which are nearby, will not survive. And those mesquite groves are themselves tied not only to the biology of the area, but also to the archaeology of the area, in as much as those groves, extending from Stump Springs, more or less parallel to the border, have been an area of human activity by Native Americans probably since the pleistocene age, but certainly for many, many years.

And there are a number of sites along that area which are within practically a distance throw of the project site itself.

Now, staff has requested in its data requests that those sites be examined to determine their

archaeological significance. The applicant has rejected those requests, objected to those requests, and we've tried to discuss it with them to try to make sure that work gets done.

And I think there has been some valuable progress in the discussions that our respective archaeological experts have made, but the fact of the matter is those sites still have not been assessed. They are very close to the project itself. And under CEQA they have to be assessed for their significance, so we can determine whether or not there is an impact to those resources and what that impact is and whether mitigation is required.

We don't have that information. And, at this point, we're going to meet with the applicant today at one o'clock to try to resolve it, take another stab at trying to resolve how we're going to get that done. We postponed doing a motion to compel, because we thought we might be able to resolve it in a different way, but that hasn't been successful, at least at this point.

So, at this point, we are confronted with the issue of do we do a motion to compel on this matter or do we contract with Aspen to try to get them to do the work for us. These are all things that we have to explore today.

So there are a number of issues that we have

going forward. And I could go through, you know, other subject areas as to things that are required to get us to a final document.

I don't think that would be particularly useful, but I want to say one other thing. I mean, there was some discussion previously about the time between the PSA and the FSA. And I don't have any quarrel with the time spaces -- the intervals that Mr. Harris has suggested. But what I want to point out is when you do a PSA that isn't particularly useful, when it's just a check-the-box exercise to get something done, it doesn't really push forward your resolution of the issues and get the project done any faster.

It just gives you a bad, not particularly useful, document. And it makes for a much greater interval before you actually get to a Final Staff Assessment, because the Final Staff Assessment has to be legally adequate, and we've got to have better answers than we're able to give currently at this stage. Probably, than we'll be able to give, even if we produce the document as we've suggested in June.

HEARING OFFICER CELLI: So what about the 60 days that the current status -- the current proposed schedule contemplates if the norm is running, what, 115 days? Then that's, you know, pretty much half. And how can

reasonably expect to accomplish something in half the time of the, what sounds like, the low side of what's normal?

STAFF COUNSEL RATLIFF: Personally, I think that that is optimistic, but I think it's much more likely if you had a good PSA. The time will be reduced if you have a much more thorough PSA.

A 12-month schedule -- I mean, this reminds me of same, you know, I have car that goes 150 miles an hour. So I'm going to drive to L.A. in three hours. Well, you know, theoretically that's possible, but in the process you're going to stress yourself out quite a bit. And I think that's what you're seeing here is a bit of stress. And you're going to break a lot of laws and you might have a bad outcome.

We want to keep the speed in the two digits, if we can. We think that that's necessary to do our jobs as it needs to be done.

HEARING OFFICER CELLI: Commissioner Peterman, go ahead.

ASSOCIATE MEMBER PETERMAN: I had a quick point to raise, perhaps a little unorthodox. But, Mr. Monasmith, thank you very much for your commitment to attending this status conference.

However, since I'm directly in your line of vision, I will have to say you look quite unwell to me.

And hopefully you feel better than you look, but I did want to take this pause to say that your personal health is important, and that if you need a recess or if you need to take a break, or if you need to transfer to another staff member, at least loosen your tie, I would be greatly --

(Laughter.)

ASSOCIATE MEMBER PETERMAN: -- supportive of that because this is -- it's a status conference. We're going to have a bunch of other ones, but I am a little concerned frankly.

So with that, you make the decision about how you -- whether you want to proceed, but I just wanted to get that out there.

HEARING OFFICER CELLI: Thank you. Anything further from staff regarding schedule? I want to just keep this discussion limited to scheduling for starters before we go down the path of each individual area.

Mr. Ratliff, anything further?

STAFF COUNSEL RATLIFF: No.

HEARING OFFICER CELLI: Thank you. Let's hear from Ileene Anderson CBD -- or, I'm sorry, before I get to you Ileene, I need to speak with Jon Zellhoefer. Jon, any comment on scheduling?

MR. ZELLHOEFER: Yes. I've been listening

carefully. I know that we are impacted out here in Tecopa with the schedule, any shift in the schedule, any requests for data. We're trying to be ready. And I would tend to agree with the applicant that there have been precedents for these types of projects. The question should be fairly well known by staff in advance.

And in reviewing all the materials, it seems that a number of questions have kind of come up at the last minute that perhaps should have been addressed earlier. But I also understand you have to do a thorough job.

I just want to say that I know its's hard. And if we can meet that early June with Final Staff Assessment sometime 65 days later, I think we can work with that out here in the Tecopa area to do what we need to do and to maintain our activity and participation in the project.

HEARING OFFICER CELLI: I agree with that. Thank you very much.

Let's hear from Ileene Anderson of CBD. I just want to hear about the scheduling, please.

MS. ANDERSON: Yes. We basically support the most comprehensive PSA possible, because of our experience in the past on these projects, where the PSAs have been incomplete at best. And then during the hearings, the staff and the applicant make these agreements off line in the audience, which is hardly part of a good public

process.

So it resonates with me that the better the Preliminary Staff Assessment is, the quicker it can be turned around to a Final Staff Assessment.

HEARING OFFICER CELLI: Very good. Jack Prichett, any comments with regard to schedule?

MR. PRICHETT: I just unmuted. I think the Old Spanish Trail Association is okay with the preliminary assessment on June 1st. I have just completed the report on the Old Spanish Trail, the cultural -- historical cultural resources report that I have talked about. It's out for review right now among a number of scholars, but I intend to submit it by next week to the Commission, and, of course, proof of service.

So the staff will then have a fully documented historical cultural resources report on the Old Spanish Trail that will be taken as evidence. You will have that almost two months before your preliminary assessment

HEARING OFFICER CELLI: That's excellent.

Okay. Thank you, Mr. Prichett. Anything from Count of Inyo?

MS. CROM: Just briefly. First, I would like to thank both staff and the applicant for attending the workshop before the Board of Supervisors on March 13th. I think it was very productive. We also appreciate staff

staying the next day and meeting with our department heads to address the socioeconomic issues that we've outlined in our previous letters.

The one thing I will agree with Mr. Harris on is that it is really -- it's critical that we commence a public dialogue. However, that dialogue needs to be meaningful, and it needs to be on a document that is complete or as is complete as we can have it be. And to issue an assessment that has gaps in those areas that are the most controversial does not give the public an opportunity to engage in this process.

In the Count of Inyo, water is gold. And we just received the pump test report on Friday. Dr. Harrington has not had an opportunity to review it. We also received the response from the applicant on the BLM letter on Friday. Again, Dr. Harrington hasn't had an opportunity to review that.

Water is critical for the County. And it is something that we feel needs to be fully vetted before this process is completed. And it should be at least as vetted as much as we can before a PSA is issued for the public to comment on it.

In addition at the March hearing, we learned from the applicant that this project will be built by Bechtel. This will be -- there will be a Project Labor Agreement.

That is something that Inyo County has been asking for since essentially the commencement of this case, because where the labor is going to come from, where the labor is going to stay is critical to the socioeconomic impacts. And we can address that later in today's hearing.

But, you know, a lot of information is new. And when we receive that information, it somewhat snowballs into more questions. For instance, I was just reading the boiler optimization plan, and it raises questions from a tax assessment standpoint if the boiler is going to be or a part of this project is going to flow into the State of Nevada.

And as I think staff and the applicant would tell you, the property taxes that are derived from this project, and the fiscal impacts that are imposed on the county are critical.

And so I understand the frustration of the applicant, but some of this information, frankly, I was a little surprised that we were just hearing for the first time in March, such as who's building the project, and that this is a Project Labor Agreement.

And so we would support the recommendation of staff. We would ask that the PSA be as thorough as possible. We think the June date will allow for that. And what it does to the August date, I don't know. This

is my first rodeo. So, hopefully, it can be -- we can meet that date or the staff can meet that date, but I think it's more important that the public have a full opportunity to review all of the information, the best information that's available at the time the documents are issued.

HEARING OFFICER CELLI: Thank you all for your comments. I just want to invite everyone to take a deep breath and relax. This is just a status conference. We're not taking evidence today. We -- this is -- it's really quite a privilege to participate in this and to hear the positions of what's going on, where we are at.

Let's not forget that this is an iterative and reiterative process. Things will change. We've seen projects completely flip, not only in the middle of it, but after it's been certified. I mean, things just -- it just keeps on changing and changing. And for that reason, it's pretty difficult, unlike a lot of other environmental analysis, to -- it's a moving target. And of necessity, it has to be, because what we're doing essentially is through this process making a -- hopefully, a better project as we go. But all -- I want to thank everybody for your comments with regard to scheduling.

What I'd like to do, if we can, just for a moment is go off the record and have a quick little discussion

and then come back on. Just a momentary.

We're off the record.

(Off record: 10:59 a.m.)

(Thereupon a discussion occurred off the record.)

(On record: 11:04 a.m.)

HEARING OFFICER CELLI: Thank you, ladies and gentlemen. We're back on the record.

Correct, am I on the record?

THE COURT REPORTER: (Nods head.)

HEARING OFFICER CELLI: We're back on the record.

After a brief discussion, the Committee makes the following -- wants to make -- wants to emphasize certain points.

One is discovery is now closed, which should hopefully, you know, speed things along. The petition to compel, there is still an opportunity to bring a petition to compel by staff, if needed, if we have to get into the nuts and bolts of that.

The Committee does favor a more complete PSA. I think the point was well made by Ms. Crom that, you know, we -- the very issues that we're most concerned about are the ones that would be unresolved, if we don't get a complete PSA, the ones that are most hotly controversial. And so the staff -- or rather the Committee is inclined to go along with that June 1st date proposed by staff.

On the other hand, the Committee is urging staff to make it a priority that they do everything they can. I appreciated the 150 mile an hour car analogy, but we need you to go fast and get this thing done as completely as possible. And we like the August 1st date. I think that that would be -- that's the go-for.

We will have two status conferences between now and August 1st, so we will be able to know how the progress is going, find out what the issues are, and hopefully settle them. The Committee wants to have a PMPD done, and hopefully a decision -- a complete decision in 2012 as was requested by applicant.

And, Mr. Harris, we did read the papers, and we understand the compelling reasons, for the most part, of why the applicant is always in a rush, PPA and whatnot. But the Committee is wondering if there's any other consequences that the applicant is facing, such that it rises to a level that, you know, we want to make sure that the decision gets out and there's some urgency to it?

MR. HARRIS: I'll ask Mr. Jensen to add what he can. There are certain things of a confidential business nature that we can't discuss. But a couple of things. Number one, you mentioned the PPA. I think that's paramount here. The project is before you today, because there's a Power Purchase Agreement. There are many

projects who are not at this Commission today, and you've seen a real slow down in your siting filings. They're not here because they don't have a PPA.

It's that simple. That's the way the California market -- and I use that word extremely loosely, because I don't think we have a market, but that's the way the market is quote unquote operating these days.

And I'm very concerned about the possibility that staff may be discounting that as one of our basic objectives is the PPA moving forward. That's a real important part of this. I guess the other thing that I would note is that, you know, this industry is at a crucial, crucial, crucial junction again.

We had a major announcement of another bankruptcy this morning from someone who's been before you. And getting projects up and operating and showing a cash flow will demonstrate that this industry is viable. And this Commission and this Governor have made it very clear that meeting the RPS is very important. And, frankly, every day that we delay to make a perfect PSA, is a day that's lost.

There are over a thousand jobs associated with this. And we can quibble about when this all starts. But at the end of the day, there are unemployed steamfitters and laborers and other folks out there who will not have

work for every day we delay this project.

And we've got to get through all those other things. And so we built this project around a pro forma that had an on-line date that was expected. We've been able to move forward on those expectations, and we've been trying to work with all the various parties involved about those expectations.

And I think maybe now I've stated the obvious enough that I'm going to ask Mr. Jensen, who represents the company and can actually -- who knows what he knows, if he can say, if you know what I mean, to expand upon that.

HEARING OFFICER CELLI: Thank you. And before you do Mr. Jensen, I just want to -- I'm looking to staff about the June 1st date, because the understanding -- the presumption here is that if we have a June 1st PPA, we won't have any sections that say we just don't have enough or we can't say. I mean, we're looking -- we want a PPA on June 1st that is 22 subject areas, complete with substantial basis for what their conclusions are.

STAFF COUNSEL RATLIFF: We want that too. And that is what the Deputy Executive Director has asked us to do. And, you know, we're gratified if we get the extra time. I'm sure the PSA will not be perfect. They never are, but we will do everything we can to make that date

for the PSA. We don't -- we realize we've exhausted our possibilities for asking for more time on the PSA.

HEARING OFFICER CELLI: And really if staff -- it seems to me that you're going to have to treat the PSA like an FSA, in order to meet the kind of deadlines that we're talking about, June 1st and August 1st.

Because the whole point, obviously, is that to the extent that you've got a complete PSA, it's a lot easier to jump from your PSA to your FSA. So the push isn't between PSA and FSA, the push is to the PSA, sounds to me.

SITING PROJECT MANAGER MONASMITH: Mr. Celli, can I just say something, Jeff, before you --

HEARING OFFICER CELLI: Go ahead, Mr. Monasmith.

SITING PROJECT MANAGER MONASMITH: I just want to articulate a bit on behalf of staff. This really started when we met as a team, as we were getting ready to draft Status Report number 3 that we put out on the 15th of March.

I asked staff if we could -- it was clear in meeting that we were going to have gaps, that we were not going to be able to publish on the 13th of April. And if we were going to ask for more time, it would have to be a definitive date that we would hold ourselves to regardless.

And, you know, going through subject matter by subject matter, particularly those that are the more complicated and we know those -- which subject matters those are, the June 1st date was one that I got a commitment from everyone on my staff -- on our staff that that would be a date that we would be above 95 percent complete.

We obviously -- we felt -- you know, we were somewhat wary about the applicant having recently give us the boiler optimization plan and a new schedule. They indicated an 8-1 FSA date. Moving backwards from that, we would prefer as a staff that we'd have more time to put together a PSA that was complete. And then have our 30-day comment period this summer, have a workshop in early July, and be able to primarily focus on response to comments, so that the document itself would be complete with certain discrete subject matters, some of the botany spring surveys that we've asked for, that the applicant graciously offered to provide us, trying to make sure that Inyo County was made complete.

That we'd be able to tie those little bits together, but that the document itself would be above 95 percent complete. That we felt we could do that with a 30-day comment period, a workshop, and then focusing the month of July on nothing but response to comments and

having a good FSA out on 8-1 that would not necessitate an addendum of any sort. If we put out a PSA on April 13th, there would be big gaps that folks won't really get an opportunity to see until the 8-1 document came out.

And some felt that that would then require another review period On the FSA itself, and an addendum to deal with those response to comments for information that was going to be released primarily for the first time.

So we felt it made sense that none of -- that nothing that we contemplated would jeopardize the Committee's needs, in terms of their schedule, their hearings, to put together a PMPD this fall, and to come together with a 12-28-12 final decision that the applicant had indicated in their boiler optimization plan they put on the 29th of February. So we felt good about that. We still do. And you would have our commitment.

We'll try to get it out before June 1. I think all of us would like to have it out before Memorial Day weekend, and to put something out that -- so we don't have to work over Memorial Day weekend.

Clearly, you know, the best that we can, and to put things out that the end of that Friday -- the last Friday in March, I think which is I believe the 25th or 26th. So we'd actually try to put it out before then.

That was the thinking behind staff's rationale in asking the Committee for more time.

HEARING OFFICER CELLI: Well, I appreciate that. It sounds like what we have now is a workable framework that everybody can work within.

Mr. Jensen, you were going to address -- we just -- really, I think we've taken this as far we need to, but the Committee was interested in the case for why there was a need to really push the Hidden Hills project.

So go ahead.

MR. JENSEN: Clay Jensen, BrightSource Energy.

I believe that Mr. Harris outlined the key facts. I'd like to just add a little bit more color. We do have the Power Purchase Agreement commitments that are real, very real for us, as a company.

I would also like to point out that in today's environment, economic environment and project finance world for projects of this sort that have -- are so capital intensive, those efforts for project finance start very, very, very early. And the more certainty that's introduced to that process, the easier it is to facilitate early start of that process.

So I think that, you know, other than the reasons outlined by Mr. Harris, just particularly interested in getting a secure schedule. There is -- through the ARRA

and the most recent rounds of projects that have come through, you can imagine our investors are very savvy to the process. They're going to do the same effort that we've done to go through what's the gap between a typical PSA and FSA.

Their responses are very, very well thought out. So when we're starting early financing discussions and we project construction start dates, and certainty on timelines, the more realistic and well-documented those schedules are, that make -- the better it makes it for us.

So we appreciate staff's position and the position of wanting more time for the June 1st date. What we face, as the applicant, is somebody looking at the typical time between a PSA and an FSA and then projecting where that heads versus us trying to say, no, really, we think we can make August 1st work for an FSA.

So I think that's part of our hesitation to the approach. We have to deal with the reality do we all really think this is going to happen this way? If we do, as a team, buy into that approach, then the next level is how do we communicate that to outside investors to get us where we need to be to make it happen?

But other than that, I think Mr. Harris pointed out the key facts.

HEARING OFFICER CELLI: All right. I think what

we have here is a split baby situation, where basically if we give staff enough time to give them -- give us a PSA that we can all work with, that has the depth that we need, then that would accelerate the FSA.

I also want to thank you. We have this list of average time Between a PSA and a FSA provided by applicant that shows that applicant -- they go as much as 330 days. Now, you understand that some of these, like Ivanpah, are just monsters that just grow. I'm proud to say that I was the hearing officer on the fastest one.

(Laughter.)

HEARING OFFICER CELLI: And so you could tell your investors that you got a real race horse as a hearing adviser --

(Laughter.)

HEARING OFFICER CELLI: -- because we're going to get this thing done quickly. So thank you for your comments.

I think we need to move on quickly. Let's go ahead. We're into the biological is the first area. So let's go with that.

MR. HARRIS: Okay. I'm going to turn to Ms. Strachan at this point and let her deal with the biological issues, and then we'll have various people deal with the subsequent issues including cultural sources, and

Ms. Pottenger will be starting on that one.

Ms. Strachan, please.

MS. STRACHAN: Thank you. In our status report each month, we've been keeping a running list of all the documents that we've submitted, and those that have yet to be submitted. And we've made good progress in getting those survey reports, et cetera, documented -- or docketed.

Staff has also documented in its Status Report number 3, the survey results that were submitted in March. We believe that the information that we've submitted is complete in those reports and we haven't received any comments from staff to the contrary.

We also, in March, submitted the State waters delineation, which is something that staff had been waiting for. We had submitted a draft of that report to the Department of Fish and Game, and met with them on March 13th, and then formally docketed that final delineation on March 23rd. We're now proceeding with the application for Fish and Game which is for the 1600 permit, which goes along with the State water delineation, and then the 401 water quality certification to the Regional Water Quality Control Board.

Obviously, Fish and Game, Water Board, need to sign off on the delineation, concur with the delineation,

but we're nevertheless proceeding with those applications, so that they can get submitted immediately upon that determination being made.

We also have a meeting with the Water Board this Thursday to go over the draft application with them. So we feel that we have been making good progress. It's a lot of documentation. We have data requests pending on biology that we're working on now, and feel that we're making progress in that area.

HEARING OFFICER CELLI: So we were -- where we were at, let's see, so there were bats, owls, eagles. The surveys that are -- in our last status conference, we were talking about surveys coming in. And those, I trust, have all come in. I've seen what's coming through from the listserve.

So I understand there are some winter surveys that would probably be, you know, subsequent to our evidentiary hearing, but would that -- that's not unprecedented, so -- but are there any outstanding surveys right now, that --

MS. STRACHAN: No, not now. The only clarification I want to make from what staff had in its status report is that we did submit winter surveys for burrowing owl, avian bird counts, and bats. Staff had stated that the bat data was results of the Anabat monitor

that we submitted in January. That is -- the bat surveys were submitted were visual surveys that were conducted during the wintertime. The Anabat survey results are being submitted this -- in April. So we're doing it on a, you know, quarterly -- quarter by quarter basis, so the Anabat monitoring data for the first quarter of 2012 gets submitted in April.

HEARING OFFICER CELLI: Oh, I thought we already received that.

MS. STRACHAN: You received bat survey data, but it was visual survey data as opposed to the Anabat, which picks up on the sounds that the bats make.

HEARING OFFICER CELLI: Okay. Migratory birds, fox, Desert Tortoise, rare plants --

MS. STRACHAN: If I could just add. Mr. Carrier clarified that the bat data did include some sound data that we got from the Anabat in January.

And then on the -- also, on the Anabat monitoring data that staff had committed that since that is going to be submitted throughout 2012, it would not result in a delay of the project.

HEARING OFFICER CELLI: Okay. Staff, let's talk about --

MR. HARRIS: Let me state that a little stronger.

HEARING OFFICER CELLI: Oh, go ahead.

MR. HARRIS: Yeah. We agreed to provide the Anabat data, which is not required by any applicable LORS, on the condition that it not be something that slows down the PSA. And I think we had that commitment from staff.

HEARING OFFICER CELLI: Let's hear from staff. I want to make sure that we're all on board with bio, that we're current. There's no outstanding surveys. There's no outstanding discovery.

STAFF COUNSEL RATLIFF: Well, I think there is.

HEARING OFFICER CELLI: Okay. Go ahead.

STAFF COUNSEL RATLIFF: We have a -- as I understand it, we are waiting for a Solarflex report, which is supposed to be filed in mid-April 16th of April regarding impact to birds. This is the same -- apparently, the same information that has been filed in --

HEARING OFFICER CELLI: Rio Mesa.

STAFF COUNSEL RATLIFF: -- by the applicant in Rio Mesa.

HEARING OFFICER CELLI: Okay. So this is migratory birds.

STAFF COUNSEL RATLIFF: Yes. And among -- yes. And we have a spring survey for rare plants, which is being, I think, conducted now, and is supposed to be filed sometime in May or early June, as I understand it. And then I'm not certain, we'll have to ask the staff,

technical area specialists, but I believe we have some outstanding questions about burrowing owl and kit fox on the site, both regard to -- at least with regard to presence.

And we may -- I frankly need, you know, to have them elaborate any further on that, because --

HEARING OFFICER CELLI: But is that outstanding data requests?

STAFF COUNSEL RATLIFF: I'm not sure exactly. So maybe Mike can answer. I don't know.

SITING PROJECT MANAGER MONASMITH: I think just on burrowing owl, we did receive late the submittal from the applicant. And the presence, in terms of number and of pairs burrowing owls was somewhat different than what we'd received earlier. And we can resolve this on a, you know, an unofficial informal or we can ask it through a data request, you know. Just to caveat, staff's impression, at least my impression was that discovery would conclude on April 5th, given that it commenced with data adequacy on October 5th.

But 180 days it may, in fact, have been yesterday when I was absent, but --

HEARING OFFICER CELLI: You know something, I might wrong. I went on -- I actually went on the Internet and you can -- and I said calculate 180 days from whatever

the date was for data adequacy, and it gave me April 2nd.

SITING PROJECT MANAGER MONASMITH: We had them on Friday before the weekend, and I -- it's my intention to have put them out, to issue them yesterday. And they're sitting approved on my desk. I would still like the opportunity to -- there's just a couple of them to follow up on the glint and glare, and a question in terms of the burrowing owl data the surveys.

HEARING OFFICER CELLI: Do you have any sense --

SITING PROJECT MANAGER MONASMITH: Relatively minor. Nothing major.

HEARING OFFICER CELLI: Do you have any sense, Mike, of how many DRs we're talking about?

SITING PROJECT MANAGER MONASMITH: There's one glint and glare for traffic and trans; one for vis, and then the bio. And that is, to my -- you know, also, there's some -- I'm not sure if we need to incorporate what the County of Inyo has, they asked in terms of specifics that Kevin Carunchio had asked on project labor and Power Purchase Agreement information. I don't know if we need to officially ask that on behalf of the County of Inyo or if those can stand on their own.

But that would be the only outstanding issue, in terms of whether we want to wrap this into this last set of data requests. Again, relatively minor, just a

clarifying question.

HEARING OFFICER CELLI: Okay. So just to bring you up to date Mr. Harris, because you were out, staff's calculation is that 180 days is April 5th, not April 2nd.

MR. HARRIS: Okay. Well, that's easily resolvable with a date calculator, but they are wrong. It was the 2nd. It was yesterday. You know, and part of what we're talking about here is your process, and that's what your process provides.

HEARING OFFICER CELLI: So do you oppose the -- apparently, there's some more questions having to do with burrowing owl and -- what was the other thing?

SITING PROJECT MANAGER MONASMITH: Glint and glare.

HEARING OFFICER CELLI: Glint and glare.

SITING PROJECT MANAGER MONASMITH: Again, we can resolve them informally. I guess my hesitation is that, you know, as project manager much of the informal work that I've encouraged staff to engage with, with applicant's staff, was in large part discounted in the applicant's letter, which they responded to our status report with, essentially giving credit to only those items that were data requested and data responded and/or officially objected to.

And so a lot of the informal work that's been

occurring that we try to encourage to try to cut time, so we don't have to have 30 days was discounted. And we -- in the presence of that, I was somewhat hesitant about continuing those informal conversations, if, in the end, they weren't going to be counted.

HEARING OFFICER CELLI: And when is your next workshop? Do you have one yet scheduled?

SITING PROJECT MANAGER MONASMITH: Susan and I haven't the specific day. We were going to wait for today. It was going to be probably the 3rd or 4th week in April. We're still talking about it.

HEARING OFFICER CELLI: So obviously, Mr. Harris, the Committee is interested in resolving issues quickly and fully and completely. And we like informal, if that works, but -- your response.

MR. HARRIS: Well, whether we call it formal or informal, what it is is a data request that requires us to respond. And I want to point out that if it's a formal one, it will be number nine of four. Okay. All right. So, you know, we've gone over twice now what the Committee originally ordered.

And, you know, I hear staff saying it would be great to workshop these issues. Well, there's not going to be a workshop though to the PSA, right. So I think we're at a point again where we're back to what is the

process and what's the schedule. And the applicant's concern is that the lagging items are driving the entire schedule. And this then gets turned around from an applicant's perspective to be, "Well, gee, we can't complete our report, because you guys haven't given us everything".

And so one of the ways staff extends the schedule is by asking for more. So we are concerned about these issues.

I don't think these are the kind of issues that would prevent the issuance of the PSA. And I think they're perfectly the kinds of issues that get worked out between PSA and FSA when there is a public dialogue. And so we're going to be very concerned. We will work with staff to look at what their requests are. If they are reasonable and things that we can put together in, you know, days or, you know, five, 10 days worth of work, we'll do that.

But if they are, for example, give us the complete history of the Mormon Trail, which is one of the outstanding items we'll get to, starting in Utah ending in San Bernardino type requests, then the informal response is going to be no.

So let's see what the nature and the scope of the requests are and we'll try to resolve those informally.

HEARING OFFICER CELLI: I would just say that for all parties, applicant included and the Committee, a more complete PSA -- the more information they have, the more data that is the basis for their conclusions, the better off we all are. And so let's work to that common end, and see if we can't make that happen, because that's critical to this process.

And so with that, I'm just going to -- we're talking about bio. Staff, so the sense I got is that there are some loose ends that, staff, you need to tie up.

Let's hear from Jon Zellhoefer regarding bio anything?

Jon, are you there?

Jon Zellhoefer?

MR. ZELLHOEFER: Yeah, I'm here. Unmute myself.

No, I don't have anything on the bio, at this point.

Thank you.

HEARING OFFICER CELLI: Thank you.

Ileene Anderson, let's talk about anything on the matters raised with regard to biology.

MS. ANDERSON: Yes, I do have actually a couple of questions. First, so Hearing Officer Celli, I heard you mention that there was a response to our data requests, and --

HEARING OFFICER CELLI: Yes. I saw that was docketed, I think, yesterday. Do I have it? Yesterday or the day before a response was docketed.

MS. STRACHAN: Friday, March 30th.

HEARING OFFICER CELLI: Friday. Okay. Did you not receive that Ms. Anderson?

MS. ANDERSON: No. And I went on the website, because I was thinking, "Oh, my gosh. Did I miss something?" And I don't see it docketed there. Maybe I just -- I don't know what to say about that, but --

HEARING OFFICER CELLI: You know, as far as the website is concerned, sometimes there's a bit of a lag between when things are docketed and when they show up on the website, and if they show up on the website. But certainly if you're on the POS, on the proof of service, then you certainly should have gotten direct email electronic service. Let's hear from Applicant on that.

MS. STRACHAN: Yeah, I'm looking at my email that I received for being on the proof of services list, it did go out on the 30th. Lisa Belenky is the one that's on the POS for Center for Biological Diversity, but it did go out on Friday.

HEARING OFFICER CELLI: Did you hear that, Ms. Anderson? So it went to Lisa Belenky.

MS. STRACHAN: Actually, I correct that. Ileene

Anderson is on it also. Both of them are on it.

HEARING OFFICER CELLI: And what is the address for Ileene Anderson?

MS. ANDERSON: 8033 Sunset Boulevard, Los Angeles.

HEARING OFFICER CELLI: Oh, so you mailed it?

MS. STRACHAN: Oh, that's the electronic -- oh, sorry, ianderson@biologicaldiversity.org.

HEARING OFFICER CELLI: Is that right, ianderson@biologicaldiversity.org.

MS. ANDERSON: That is correct, but I sure don't see it. And it didn't get trapped in my junk mail either.

HEARING OFFICER CELLI: You may want to check with Lisa Belenky.

MS. ANDERSON: I got something --

MR. HARRIS: It came -- our date stamp is 2:29 on Friday the 30th. And Anderson's name is on that list, but we'll resend it right now.

HEARING OFFICER CELLI: Okay. They're going to resend it to you, Ms. Anderson.

MS. ANDERSON: Greatly appreciate that. Thank you.

HEARING OFFICER CELLI: Anything further regarding biology?

MS. ANDERSON: Actually, yes. So I think Mr.

Ratliff mentioned a meeting today that's going to occur between CEC staff and the applicant at one o'clock to try to resolved some issues. And this has been one of our frustrations is that I didn't know about any meeting.

HEARING OFFICER CELLI: Let's hear from staff on that, please.

STAFF COUNSEL RATLIFF: I wasn't -- I was distracted momentarily. I didn't hear the --

HEARING OFFICER CELLI: So Ms. Anderson mentioned, as you mentioned earlier, there's a meeting between you and the applicant Today at one o'clock, and --

STAFF COUNSEL RATLIFF: Well, actually there isn't. I've been corrected. That's been cancelled, but this is the ongoing effort, which has been discussed. And I think was Ms. Ileene -- Ms. Anderson has heard it. It's a staff meeting with the applicant to try to negotiate answers to the cultural data requests for which we were trying to avoid filing a motion to compel. This has been discussed in a prior status conference, which I think she attended.

HEARING OFFICER CELLI: Okay. Ms. Anderson, did you hear that?

MS. ANDERSON: Yes. It wasn't clear to me that it was only on cultural issues.

STAFF COUNSEL RATLIFF: It is.

MS. ANDERSON: And so I was concerned that, you know, there was going to be additional issues discussed relating to biology that we wanted to be part of as well.

HEARING OFFICER CELLI: That's great. That's what status conferences are for. So you're voicing your consideration, and it's being heard, and I appreciate that. So we know that, now that it's cultural.

And it's -- really, it's procedural having to do with their discovery back and forth. But anyway, anything further with regard to biology?

MS. ANDERSON: No. But just to confirm, are we going to be talking about water as well later?

HEARING OFFICER CELLI: Certainly.

MS. ANDERSON: Okay. Great. Thank you. I think that's it.

HEARING OFFICER CELLI: And finally, Jack Prichett for Old Spanish Trails Association. Anything with regard to biology?

MR. PRICHETT: No, nothing with regard to biology.

HEARING OFFICER CELLI: Great. Thank you. Then we are now on to cultural. Let's -- where are we at with cultural, Applicant?

MR. HARRIS: Yeah. Ms. Pottenger will handle this issue.

HEARING OFFICER CELLI: Cultural sounds like it's a bit of a hot one. So let's hear what's going on there.

MS. POTTENGER: I think that's a fairly accurate assessment of the cultural resources subject to date. This in Samantha Pottenger on behalf of Applicant.

If it is permissible with the Committee I am going to address our statements that applicant provided in Attachment A to Applicant's comments on staff's Status Report 3.

I think it's important to note that Applicant's position has been that the information submitted to date, including the AFC, the Supplement B to the AFC and with all the data requests provided to date, that staff has sufficient information to evaluate the cultural resources on the project site, and to make a determination regarding the significance of the cultural resources on site.

Now, when we reviewed staff's Status Report 3, it appeared that there were two reasons why the cultural resources staff has stated that the cultural resources section at the PSA would not be able to be completed in time for an April 13th publication date. One, was that --

HEARING OFFICER CELLI: Right. I don't mean to interrupt, but I'm just saying we did read this, so we understand that on the one hand they're saying give us information. On the other hand, they're going that's too

much information. So we understand that.

MS. POTTENGER: Exactly. And, you know, you can see our concern. And Applicant did provide objections to several of the data requests provided by staff. And we heard your admonition that more data is good. However, Applicant would also say that while more data is good, we also need to keep in mind that such data needs to be relevant or reasonably necessary to the Committee's decision.

And in Applicant's opinion, some of the data requests by staff crossed that line, and weren't reasonably necessary for the Committee's decision in this proceeding.

But again, as Mike Monasmith -- excuse me, Mr. Monasmith mentioned, Applicant did commit to working with staff to provide responses to some of the data requests to which applicant objected.

Now, of the data requests that staff identified as outstanding in its Status Report 3, I would note that four of those 98, 104, 125, and 137 has already been responded to completely by applicant, and we have received no objection from staff on those data requests.

I would also note that the time for filing a petition to compel on those data requests have passed. Maybe not for 137, but for sure for 98, 104 and 125.

As to data requests 105 and 106, Applicant was concerned with data requests 105, because it requested an extensive study of the step fault zone that stretches from Mound Spring to Stump Spring. It requested a complete investigation of the paleo hydrology, aboriginal water management, paleo, ecology, and ethnobotany of that area.

We consulted with our experts as to what kind of undertaking would be necessitated by this data request. And our experts said that this kind of study would take two to three years at a cost of anywhere from 500 to two million dollars.

Staff heard our concerns and reassured us that that wasn't exactly the type of information that they were looking for, and that they were concerned with the mesquite thickets in Stump Springs. And so we agreed to work with staff to provide information.

I would also note that Applicant has provided information on potential impacts to Stump Springs. ACEC, actually prepared by Dr. Spaulding in response to some biological data requests. And we have stated that there is no indication that there will be impacts to the mesquite thickets as a result of the project.

To date, applicant has continued to attempt to work with CEC staff to provide a response to 105 and 106, but has not yet received clarification from staff as to

what was needed.

Our experts have repeatedly tried to reach out to CEC staff to receive guidance as to what exactly staff is looking for, in terms of data requests 105 and 106. And to date, such guidance has not been provided.

We understand that staff has reached out again to our experts and has committed to sitting down and discussing what further informational needs are required for those data requests. And we're encouraged by that. But at the same time we would note, we have been looking for such guidance from staff since December and January, and to date we have received none.

So I would state that to the extent that such information is lacking, it's not as a result of applicant's unwillingness to work with staff, because I think to date the efforts by our experts has indicated that we are more than willing to work with staff.

As to data requests 127 and 128, those are directly relevant to the cultural resources on the project site. Applicant initially -- partially objected to data request 127 as it believed that further cultural investigation, specifically the Phase 3 study, I believe -- Phase 3 -- Phase 2 study of those resources were not necessary.

However, after discussions with the experts on

the CEC side, applicant agreed to provide the Phase 2 investigations of all 11 cultural resources on site. Applicant provided the workplan required in data request 127 to CEC staff on February 6th.

To date, applicant has not received sign-off on that workplan, despite having been told by CEC staff that such plans could be turned around in 48 hours. I think that leads, in part, to applicant's second concern regarding the cultural resources data requests is that staff apparently does not have the resources to fully analyze the Hidden Hills project, at this time.

Staff has indicated that increasing workloads between January and February has resulted in part in staff's inability to process the information that applicant has submitted to date.

So I will just reiterate again the statements that we made in Attachment A. Applicant believes that it's fully responded to all the data requests submitted by CEC staff to date. As to 105 and 106, staff -- excuse me, applicant is waiting for further direction from staff on those data requests.

As to 127 and 128, Applicant is again waiting for direction from staff. Applicant would actually request that Applicant be given permission to carry out the workplan, actually submitted in data request 127 right

now, so we can bring -- begin processing of those data requests that are called for in data request 128, so that there's no further delay in this proceeding.

I believe that's it for now.

HEARING OFFICER CELLI: Okay. I just -- I want to reiterate that everybody is in a hurry now. We're going to get moving on this case. We need to get moving. We need a lot of cooperation between the parties. I disagree with one thing that you pointed out, Ms. Pottenger. And that is that although discovery is closed, a petition to compel isn't. They can bring a petition to compel now, if they need to. And they can bring it, I think, any time. And, you know, if I'm wrong about that, I'm sure you'll correctly.

But a motion is a motion that can be brought any time. Discovery is different. So we may, depending on December -- I'm sorry, April 5th, April 2nd, I don't know. But, I mean, it's clear that's when discovery is over. But a motion to compel can still be brought. And I would encourage staff, because listen if it sounds to me -- and we'll hear from you next. If there are impasses, if there are certain things you have to have and they're not given, or whatever, then let's deal with it and sort it out now and get on with things is my thought.

MR. HARRIS: I'll guess respond on the motion

thing. Motions are governed by the regulations, and they must be brought within 30 days. So there is a --

HEARING OFFICER CELLI: From the date of the -- that's there. And there was a waiver of only the last time of the 10 days, that's correct.

MR. HARRIS: But again, as a practical matter, we don't expect to have to get to that point with staff. And if do, we might make the objection that it's not timely, but we'll also respond substantively.

HEARING OFFICER CELLI: Right. But what's good about that whole process is it does require focus, and it will focus the parties on -- and you'll know where the areas are of dispute. But really, we need to get through this. We need to start moving on it, and you need to start writing the PSA. So they need whatever information they need. Parties need to work this out.

Let's hear from staff.

MR. HARRIS: Can I just add one thing. I guess --

HEARING OFFICER CELLI: We're still talking about cultural.

MR. HARRIS: Still talking about cultural. And I guess this is important for the Commissioners to understand, that the outstanding cultural information that's requested by staff is the type of information that

by statute has to be filed under confidential designation. It will never be part of the PSA. It will never be part of the hearing record.

Now, staff will tell you they need it to analyze the potential impacts, but I guess I want to make sure that we're all clear that we're not holding up public review of something. This is more of the staff's internal review. And, by statute, it will never be part of the hearing record.

HEARING OFFICER CELLI: Staff your response regarding cultural.

STAFF COUNSEL RATLIFF: Well, there's good news and there's bad news. And I'll start with the good news and then I'll go to the bad news. The good news, and if there are any caveats to this I'm sure Mr. McGuirt will correct it, is that the Applicant has, in fact, provided a research plan for analyzing the onsite resources that have archaeological importance. And we have that. It appears to be an adequate plan. We'll give them feedback on that in the very near future.

The bad news, and we touched on this already, is that we're never able to reach closure with the Applicant on what's called the Planning Area for -- or the Project Area of analysis, which staff believes should be a somewhat wider area beyond the site, and which the

Applicant believes should be confined to the site.

Now, to put it in a CEQA context, if I'm a developer who wants to build a Burger King or WalMart across the street from the Governor's Mansion, I have to discuss the significance of that impact to the historical context of the resource that has been identified as being historically or culturally significant. That's -- despite the fact that the Governor's Mansion is not the site of the project.

Here, some 200 meters, or thereabouts, from the project site we have areas of human habitation that have not been investigated. Now, I'm sure the applicant would be quick to say, hey, that's not the Governor's Mansion. That's not Machu Picchu. But that begs the point, we don't know what it is. The sites have to be characterized for a thorough CEQA analysis. And that's what we're arguing about when we talk about data requests 105, and, I believe, 106.

So we've had discussions with the Applicant about how to get that done. And I think we've both been somewhat remiss on getting this issue settled. I don't want to say it's all the Applicant's fault, but it has to be done, and we're going to make another stab, not today, but soon, at trying to get closure on that issue.

We aren't even going to try to close the issue on

what the area of analysis should be. We want to get closure on the issue of these particular sites, which are so proximate to the power project project site. And we hope that we will be able to do that without the filing of a motion to compel.

Now, when we originally talked about the motion to compel, we talked about waiving time until we could have a chance to resolve this. It's not resolved. I think it can be resolved. Certainly, we believe that the work could have been done in the time we've been talking about it, and we could probably have the analysis and be going forward.

But because of certain problems on both of our parts, and staff hasn't been perfect here. The person who was assigned to the project left and Mr. McGuirt was called off to fight fires at Genesis on the cultural resource issues there, that, by the way, grew up because of, I think, you know, the rush-rush with that project in getting it sited without actually analyzing the cultural resources on the site.

So Mr. McGuirt now has taken over in a significant part of the responsibility of this analysis. And we want to be cautiously optimistic that we will be able to resolve it soon.

HEARING OFFICER CELLI: Well, you've got -- you

know, the time is slipping by, and we need to make sure that you're either bringing a motion or we're -- or you're in communication and you're settling it. And all I can do is encourage the parties to get together and make it work. Find a way to get it resolved, because we want to keep that -- keep the dates that we're talking about that.

Did you have a comment, sir?

MR. McGUIRT: Yes, sir. I'm Michael McGuirt. I'm a Cultural Resource Specialist here at the Energy Commission.

The motion to compel centered on the questions of data requests 127 and 128, which were about putting together, and then in turn executing a plan to do field work to support the evaluations of the historical significance of the archaeological sites that are on the project site.

That plan -- there was some discussion about how many -- we had originally asked for eight of the 14 sites that were on site to be investigated in the field for this study. I believe originally the applicant came back and said well they thought two would be good. And we said, no, we thought eight would be good. And that was the motion to compel issue that we were working with.

Since then, they have, in fact, submitted this plan to investigate all eight sites. That plan has been

reviewed by us. It's currently under review by the BLM. I came to find out that the BLM didn't receive a copy of it. They wanted to see it, because obviously they're involved in this as well.

So we hope to -- the plan itself on first review looks to be that it's workable. I don't see that as being any kind of an impasse. We do want to solicit and incorporate the input from the BLM to keep our relationship with them in tact. And as it stands now, I would hope later this week or early next week to be able to have the BLM's comments back and to begin to work towards the authorization from the BLM for them to begin implementing this plan.

HEARING OFFICER CELLI: Thank you. Well, that's good. I'm heartened to hear that it sounds like that there's good faith on behalf of the Applicant to try to resolve these issues. If all the parties respond in kind, I think we can make some progress on this. So that's what the committee would encourage.

Mr. Zellhoefer, any comments on cultural?

MR. ZELLHOEFER: Just a general comment in listening to the discussion on the discovery period, the 180 days, whether it's April 2nd or April 5th, and also the discussion of the submitted plan on these cultural sites on the project.

To me, as an outsider, these seem to be pretty troubling, because whether it's April 2nd or April 5th, that should be a fact determinable quite easily. And when a request is put in for a particular plan -- and at least I'm going by the comments I heard that it might take 48 hours to approve that, and the applicant is still waiting, it's somewhat troubling to me, because I just see kind of a veil over this process where simple things aren't being done in a timely manner between the parties. That's my only comment. I'm a bit confused why there are such difficulties.

HEARING OFFICER CELLI: And I appreciate your concern. You know, our process is a little bit unique, Mr. Zellhoefer. It's not like a court of law where things are hard and fast. You know, what happens usually in these situations is you have staff and applicant barking at each other, but at the end of the day, they're going to be eating out of the same bowel.

(Laughter.)

HEARING OFFICER CELLI: And I think that we're watching that process take place. So I understand what you're saying though. And I thank you for your comments.

Let's hear from CBD, this is about cultural.

MS. ANDERSON: Hearing Officer Celli, I don't have any comments at this time. Thanks.

HEARING OFFICER CELLI: Thank you. Anything from you, Mr. Prichett, on cultural resources?

MR. PRICHETT: Yes. This is our bailiwick. I'm speaking on behalf of the Old Spanish Trail Association.

I am troubled. I have raised at one official hearing and at the last status conference, the issue that I have never been contacted by CH2MHill or anyone from the Applicant regarding the Old Spanish Trail.

They attempted to send us a letter they said in their cultural resources -- in the appendix to their cultural resources report. They sent it to Las Vegas, Nevada. The address, which -- the official address they should have sent it to was Las Vegas, New Mexico. Obviously, we didn't get that letter.

It's not hard to reach us. I've raised the point twice, and no one has attempted to reach me.

So now --

HEARING OFFICER CELLI: Mr. Prichett, let me just interrupt.

MR. PRICHETT: Yes.

HEARING OFFICER CELLI: I have that you're in Venice, California.

MR. PRICHETT: That's right.

HEARING OFFICER CELLI: Old Spanish Trail Association, care of Jack Prichett, 857 Nowita Place,

Venice, California, 90291.

MR. PRICHETT: That's correct. Yeah. And I get proof of services things. But the idea was, on the last conference, I am trying to remember who it was. I think it was Tom Priestley that said we need to have a meeting on cultural resources, so as we can define what is the Old Spanish Trail, what rules govern the Old Spanish Trail as a historical cultural resource. Tom Priestley said that.

I never heard back from him. I did send him an email. So I have never heard -- I get your proof of service, but I want to address this issue. The reason is the Old Spanish Trail is a historical cultural resource. And I want to ask Mr. McGuirt, are you considering, and is the Applicant considering, the Old Spanish Trail, and associated historical sites, under the rubric of cultural resources, yes or no?

HEARING OFFICER CELLI: Go ahead, Mr. McGuirt, if you can.

MR. McGUIRT: Sorry. I didn't hear that question.

HEARING OFFICER CELLI: His question is, are you considering the Old Spanish Trail as cultural resources in this analysis?

MR. McGUIRT: Most definitely. There's no question about that. In fact, we've met with the Old

Spanish Trail Association people on the ground several times. We've walked parts of the trail. We are taking their comment completely into account. We also understand the National Parks Service has recently contacted the Energy Commission and wants to be involved in discussions about the Old Spanish Trail as well.

So we are taking their opinions very much into account. We're also -- have the Applicant's framework on it, their perspective on it. We received their report, I believe, a couple of days ago -- yeah, Friday. We received their report, a more comprehensive report on the Old Spanish Trail from the Applicant. That's currently under review. And we understand Mr. Prichett's report is going to come in here in the next week or so.

MR. PRICHETT: Yes.

MR. McGUIRT: So all of this will be taken into account. And I'm sure there will be one or a couple more follow-up on-the-ground visits to look at trail segments to completely address this issue.

HEARING OFFICER CELLI: Did you get all that, Mr. Prichett?

MR. PRICHETT: Okay. I did. And I'm now looking -- there's been discussion today of data requests 127 and 128. I'm looking at 127 here, and it talks about the historical significance of archaeological sites, CA --

this is jargon CA for California, INY for Inyo County, 2492, S-2, S-4, S-6, S-10, S-11, S-23 and SAF-1. I'm not familiar -- I presume that California Inyo 2492 is a prehistoric site.

What are these other sites that are mentioned? Can you characterize them? Are they prehistoric sites or are -- i.e, Native American sites, or are these historic sites?

MR. McGUIRT: I'm checking my records while we're sitting here.

HEARING OFFICER CELLI: And while he's checking his records, I just want to inquire, Mr. Prichett, because it seems to me these are the kinds of questions you could just, in a phone call, ask us off line and get your answers from staff. Was there some -- we're mostly concerned about your views of where you think we're at with regard to cultural resources in a broader view, more general.

MR. PRICHETT: Well, I'm reassured to hear that the Applicant has done a supplementary report, because what they did before didn't even qualify as a beginning.

As I said, mine will be on the way, but I want to be sure I work closely with your staff, so that we don't get left to the side. It seems like most of the data requests and most of the sites mentioned have to do with

prehistoric cultural resources.

The Old Spanish Trail is covered under the National Trails System Act and I cited chapter and verse and put the entire act in as an appendix in my report to document precisely what aspects of the trail are covered as a historic cultural resource. So I'm concerned that we not just be pushed to the side and that pre-historic sources are the real focus.

HEARING OFFICER CELLI: Did McGuirt you have a --

MR. McGUIRT: Yes, sir. Of the 14 sites -- archaeological sites -- and that was what the focus of 127 and 128 is. Of the 14 archaeological sites there are on the project site, 11 are categorized as prehistoric lithic scatters, one of them is categorized as a fire affected rock and lithic scatter. Then there's a rock cairn, the association with which is anybody's guess. And then a historic refuse scatter of some sort, probably a tin can scatter would be my guess.

The reason that those are the only resources that are mentioned in 127 and 128, is that the trail is, by no means, being swept off to the margins or to the sides. It's squarely in the middle of our analysis, and it's being treated separately with its own context and its own consideration. And these are just focused in -- these particular two data requests are just focused in on

basically your plain old archaeological sites that are in the project site.

So please don't take the focus of 127 and 128 to mean that somehow we've marginalized the trail. We have not.

MR. PRICHETT: All right. Well, that -- I've stated my concerns. And, for the record then, I think I'll probably leave the call, because that's essentially what I was going to express in my -- when you asked -- when my turn came to speak these concerns. And secondly, that our report will be submitted within 10 days. It will be about 50 pages.

HEARING OFFICER CELLI: Thank you. And I just want to say that it is important. There are a lot of members of the public and intervenors who feel that they're not being paid enough attention to by applicant or staff. And I just want to say that it's really incumbent upon you to stay in contact with them. You know, it's been said that rights belong to the belligerent claimant.

You need to be active in your participation. So I do appreciate. I'm really glad you're involved in this, and I appreciate your comments. So thank you.

MS. STRACHAN: Excuse me, Hearing Officer Celli, just before Mr. Prichett oat --

MR. PRICHETT: All right.

HEARING OFFICER CELLI: Before you go, stay here, Mr. Prichett. Go ahead, Ms. Strachan.

MS. STRACHAN: Thank you. This is Susan Strachan. I just wanted to respond to a comment Mr. Prichett made about CH2MHill or Tom Priestley not responding to him. Tom Priestley is our visual person. Whereas, Old Spanish Trail we're looking at from a cultural resources standpoint.

Gary Kazio, who's the Assistant Project Manager for BrightSource Energy for this project, contacted Mr. Prichett about having a meeting with him to specifically talk about the Old Spanish Trail.

The thought was that it would be better for our folks to get their report in to the staff, and Mr. Prichett to submit his report. Give everybody an opportunity to review both reports, and then have the meeting.

There was a response back from Mr. Prichett about meeting in mid-April, which we thought was a good idea. So I did want to just clarify that there was communication about having a meeting. It just came from Mr. Kazio as opposed to Mr. Priestley.

HEARING OFFICER CELLI: Thank you. Did you get that Mr. Prichett.

MR. PRICHETT: I did. My memory is a little

different, but anyway. Yeah. So you'll have both of our reports very shortly, and then will come the issue of revolving them.

HEARING OFFICER CELLI: Thank you very much. Thanks for your participation. Have a good day.

MR. PRICHETT: Okay. Yeah. Thank you.

HEARING OFFICER CELLI: I just want to note, before we get to County of Inyo on the question of cultural, that we're moving a little slower than I would like, so let's kind of bottom-line it, if we can. This is on cultural.

Nothing from the County?

MS. CROM: Nothing.

(Laughter.)

HEARING OFFICER CELLI: Thank you. Let's move on to --

MS. CROM: How was that? Quick

HEARING OFFICER CELLI: That's bottom line.

I'm sorry, Ileene Anderson. Go ahead.

MS. ALLEN: This is a question.

MS. ANDERSON: I had no comment.

HEARING OFFICER CELLI: Oh, I'm sorry. I said Ileene Anderson and I meant Eileen Allen.

(Laughter.)

HEARING OFFICER CELLI: I'm sorry. It's getting

late.

MS. ANDERSON: Oh, right.

MS. ALLEN: This is Eileen Allen. I have a question for Mr. Ratliff. Regarding the one o'clock discussion with the Applicant that you mentioned on cultural resources, I was wondering whether part of the discussion was going to include the scope of data request 105? The Applicant has stated their estimates on how long it would take to get it done, and the cost. And I wondered whether staff would be talking with them about that, and providing a different perspective?

STAFF COUNSEL RATLIFF: Well, the simple answer is we've already discussed that and clarified the nature of the work that we think is necessary. I was not at those discussions, because we kept the lawyers out of that meeting. I don't know if that was a good idea or a bad idea, but.

MR. HARRIS: Good idea.

STAFF COUNSEL RATLIFF: Well, good idea, but it's still not resolved.

(Laughter.)

STAFF COUNSEL RATLIFF: So let me let Mr. McGuirt elaborate.

MR. McGUIRT: The original data request was to -- let's see. I know you said you wanted this to be

nutshell.

As Dick mentioned -- as Mr. Ratliff mentioned earlier, right off the project site there is a mesquite bosque that was pretty unquestionably important through a lot of pre-history, and is ethnographically may still be -- there's evidence that says it's still in use by the Native Americans in the area.

So there's a possibility that there's a resource there onwhich this project would have a visual effect, a very direct visual effect, because it's so close to this mesquite bosque area.

So it could be significant in terms of its archaeology, the data potential. It could significant -- the archaeology could be significant in terms of its association with the patterns and pre-history, and the ethnographic recent times.

And it may also be an ethnographic resource that has value for living people's today. So with all these things in mind, the original point of 105 was to ask for a paleoenvironmental study to reconstruct what the past environment had been like at this place to set the context for an evaluation of whether or not this was historically significant in these three different areas that I just described to you.

The applicant wasn't sure of the scope that this

study should have. And the answer to the question is, is one scope's study like this relative to one's developing impressions about whether or not it's historically significant.

If one can make the argument that such a resource would not be historically significant, because there's many of them in the region or for whatever reasons one could come up with, the scope that would be necessary for such a study would be relatively small. It could maybe be done on the exist -- on the basis of existing literature.

If something is looking like it's more significant and resources are going to have to be spent both in time and money to preserve, to conserve the resource, then it would be necessary to have a more in-depth study, so that one could justify what one has and what one is doing in relation to it.

So we had a couple of meetings where staff tried to clarify for the applicant that look you all need to scope this study, and relative to your consideration of how significant or not you think this area is.

And so these discussions are still ongoing. They haven't been resolved and we're hoping in this meeting that was alluded to earlier to take one more crack at trying to get this resolved between the applicant and staff. And that's the status of that.

MS. ALLEN: Are tribes that are interested in the area part of the overall discussion?

MR. McGUIRT: Yes, ma'am. We've done a very robust Native American consultation cycle in this case. In fact, we undertook in-house to do the ethnography of the local Native American communities. And that report is -- we have a draft of that prepared and we're reviewing that in-house. So we have a lot of Native American input. We've met with them an awful lot of times, and have established some relationships there. And so we have good, current, relevant, recent information on the Native American perspective on this area as well.

MS. ALLEN: Well, I was specifically wondering whether they were concerned with the topic of data request 105?

MR. McGUIRT: Data request 105 -- and I don't want to speak for other people, but data request 105, my impression is, is it's very technical. And so per se, are they interested in that data request? No. But are they interested in the mesquite bosque? Most definitely.

MS. ALLEN: Thank you.

MS. STRACHAN: Ms. Allen, if I could just add. We're looking forward to meeting with staff this afternoon to get further clarification on 105. It's an item that we've been waiting for for some time. In fact, I have an

email from Kathleen Forrest back from February 1st that says that they're working on the guidance to clarify the scope of 105, and will get it to us in the next couple of days. So we're again looking forward to meeting with staff this afternoon.

MS. ALLEN: Thank you. I wish you productive discussions.

(Laughter.)

HEARING OFFICER CELLI: Is that all, Eileen?

MS. ALLEN: (Witness nods head.)

HEARING OFFICER CELLI: That's all. Thank you. We're on to socioeconomics. And the point was made in the Applicant's papers that it's unclear why this discrete subject should hold up publication of this larger socioeconomic section.

We're talking about -- who's doing this by the way? Is this Ms. Pottenger or Mr. Harris's section?

MS. POTTENGER: You want to flip a coin for this one?

(Laughter.)

MR. HARRIS: Ask the question, and let me determine which one of us is ready?

HEARING OFFICER CELLI: Okay. What we're talking about is -- the concern was where is the workforce coming from. And then I think there's some ancillary fire things

that are typically resolved pretty quickly between the Fire Department's and the applicant. And then I think that was everything. I'm sure we'll hear if there was more, but let's go ahead.

MS. POTTENGER: As to the construction workforce, we're still not quite sure where the additional information on where the construction workshop will be coming from, where that data request came from. We're still not sure, but what we do believe is that the information that we set forth in the AFC represents the best information that we have available to date.

To the extent, that something might change later down the road, we'll update it as it comes. However, we believe that the information set forth in the AFC is sufficient for Applicant -- or, excuse me, for staff to conduct its analysis at this time.

As to the discussions that Applicant has been having with the Southern Inyo Fire Protection District, Gary Kazio, who unfortunately can't be here today, has been in continuous discussions with -- or previously in discussions with Southern Inyo Fire Protection District trying to obtain a needs letter from the District.

To date, he's been unsuccessful in receiving that letter. However, Applicant has moved forward in conducting a needs and risk assessment, and we've retained

Wes Alston to produce this document. And that will be forthcoming.

HEARING OFFICER CELLI: About the workforce, is there anything about the location of the workforce that arises from your labor agreement?

MR. JENSEN: Clay Jensen, BrightSource. We made mention, and Ms. Crom made mention of the comments regarding the Project Labor Agreement. Those -- we have selected Bechtel to be the PC for the project. Historically, Bechtel uses Project Labor Agreements. We've used a Project Labor Agreement for the Ivanpah Project, who also Bechtel is constructing for us.

But there have not been Project Labor Agreement negotiations ongoing. That effort it's premature still at this point to have those efforts. Bechtel reviews the AFC document. Their current position is that, as stated, the numbers in the document are the best information we have available to us at this time. The Project Labor Agreement negotiations will be occurring over the next several months.

We don't anticipate, at this time, having a significant change from what we're looking at today. So, you know, maybe we have a change in position on that, but at this time, I think what we've got is still the best information. We don't readily have available or we don't

foresee an immediate change, significant change in that submittal.

HEARING OFFICER CELLI: Thank you.

Staff, on socioeconomics.

STAFF COUNSEL RATLIFF: Well, the Project Labor Agreement was announced at the March -- I believe it was March 12th Board of Supervisors meeting. That was the first time that we knew there was such an agreement.

Originally, staff had realized that there wasn't such an agreement. And I think our assumption was that the labor force would come, for the most part, from Nevada, because the labor force areas that are closest to the project site are in Pahrump and Las Vegas.

If that was the case, we assume that the impact on Inyo County would be lower. The Project Labor Agreement indicates at least that the jobs will originally be offered in labor halls in California. The significance of that change is not altogether clear to me. I think we don't really know how to analyze it at this point.

But the County has suggested in its own letters and at the Board of Supervisors meeting, that a California labor force may be much more likely to impose burdens on the County, in terms of where that labor force would settle, and what additional social services would need to be provided, both in the form of law enforcement and other

forms, in an area of the County where there presently is almost no County infrastructure.

HEARING OFFICER CELLI: This doesn't sound like a big one to me though, usually.

STAFF COUNSEL RATLIFF: Well, it's big if you're the County. It's quite big. And I'll let Ms. Crom discuss that further, but, you know --

HEARING OFFICER CELLI: Just in terms of just being able to reach agreement between the parties, this is --

STAFF COUNSEL RATLIFF: Well, I don't know what we're going to agree to. It's one worker or a thousand. It's -- you know, people are going to live in trailers or they aren't. I don't know how you -- I don't know -- and perhaps this is a difficult kind of issue to get your arms around in the first place, and I acknowledge that.

I think the original analysis of where the workforce was coming from in the AFC, which the applicant says they're sticking too, was done without the Project Labor Agreement, and I think it was a blue sky number. I think we all thought it was just a guesstimate.

We'd like to think that the issue is subject to some further analysis that would be more useful, so we can then try to get a better grasp on what the County is facing in this regard, but it doesn't sound like we are.

I've, by the way -- you know, I didn't file data requests on this, but I have asked the applicant twice for new information, better information on this issue. I mean, I personally made that request. I've encouraged staff to ask for information if they need it without necessarily going through the data request process, because we're trying to hurry our analysis in many ways. And the data response process is somewhat burdensome to getting things done. And we don't have any better information than what the AFC provides at this point.

I find that a little bit bothersome, frankly. And I'd like to have at least the Applicant to give us their thoughts on where -- what it means to have a Project Labor Agreement, and what -- you know, have some further thinking about what that means for the County. I think we need to workshop the issue, frankly, and we haven't been able to yet. That, I think, should happen, because I think we might learn something about the issue.

MR. HARRIS: Can I respond at this point, because I think it will help?

HEARING OFFICER CELLI: Yes. I just want to make the point that you did say that this is sort of an ongoing relationship. You're early on in your labor negotiations, and it's an amorphous area, but go ahead.

MR. HARRIS: Correct. Actually, number one,

there is no Project Labor Agreement for this particular project. There was no announcement at the Board of Supervisors hearing. There was maybe mention of a possible PLA, but there is not a PLA for the project. And so, you know, in terms of information leads, we think the staff needs to rely on the information in the AFC. Nothing has changed.

You should also know, just as a matter of law, BrightSource cannot enter into a PLA. To enter into a PLA, you have to be primarily engaged in the business of construction, which BrightSource is not. So the EPC contractor, in this case Bechtel, can enter into a PLA.

And, Mr. Jensen, sort of characterized where he think things are at this point. But there will never be a PLA between BrightSource and anybody in this respect.

HEARING OFFICER CELLI: Good. Thanks for that clarification. I'm going to -- before I get back to County of Inyo, let me get to our intervenors first, just to see if they have anything to say on socioeconomics starting first with Mr. Zellhoefer. Any comment on socioeconomics?

MR. ZELLHOEFER: Yes, I do. And unfortunately, I can't follow along when people are speaking there in the room as to who it is that's speaking. But the gentleman who was speaking a little while ago and was bringing up

the concerns about the Project Labor Agreement and where the labor would be coming from, to give the folks there an understanding, this entire part of Inyo County has a total population of 120. Inyo County itself, and Ms. Crom can speak to the exact number, is a very small county populationwise.

I cannot emphasize or concur enough with the concerns that we need to identify early where their labor force is coming from, and where they're going to stay. Unlike Ivanpah, we do not have Primm, Nevada next door to us with apartments -- I mean, with motel rooms and restaurants.

This is why I became an intervenor early on, because the area around Tecopa could be a gateway to this project from southern California. And the property owners there are all stabilized to our current economic situation. The County has very few resources out there. Until several months ago, I was on the Board of the Southern Inyo Fire Protection District, and I understand their difficulties.

And I can only encourage the applicant and their prime contractor Bechtel to, as early as possible, identify where the labor force is going to be coming from, and what resources this is going to require from the private and the public sector in this southern part of

Inyo County.

Right now, I am deeply troubled that we will not be able to meet the needs of the construction workers on this project.

HEARING OFFICER CELLI: Thank you. And certainly, that's an issue that is addressed in the -- will be addressed in the PSA in the next couple months.

Let's hear from Ileene Anderson regarding socioeconomics.

MS. ANDERSON: I have no comment on this issue at this time.

HEARING OFFICER CELLI: Okay. Thank you. Now, let's hear from the County Inyo.

MS. CROM: Dana Crom on behalf of the County. Obviously, socioeconomics is a huge issue. It's solves -- in addition to just what is required by the analysis of staff, it's also a LORS, and with respect to Title 21. And Title 21 requires, under the Inyo County code, a socioeconomic analysis of the project.

We have raised this issue since the very first workshop in Tecopa. Unfortunately, I guess I misheard the BrigtSource presentation that was made to the Board of Supervisors on March 13th, because I believed I heard that there was a Project Labor Agreement. And now I have been corrected that there isn't.

However, the AFC does not analyze the workforce under a circumstance or scenario, which there is a Project Labor Agreement. And it appears that Bechtel, I believe, is the contractor also on Ivanpah, and there is a Project Labor Agreement. And what we understand from the socioeconomic staff at the CEC, is that if there is a Project Labor Agreement, the labor will need to come through the Bakersfield Trades Office, the Inyo Mono and Kern Trades Office. And if there is insufficient labor in those three counties, then it would go to the State of California and then to Nevada.

And I think that that's a significant change in what is anticipated in the AFC, because the AFC anticipates 95 percent of the workforce coming from the State of Nevada and it doesn't appear that that would -- that that would be possible under a Project Labor Agreement.

Mr. Zellhoefer is correct. I mean, there is only 120 people that reside out in this area. There are 18,000 people in the County of Inyo. The infrastructure out in the Tecopa, Shoshone, and Charleston View area is just non-existent.

So, from the County's standpoint, and I think that the various department heads that spoke at the meeting on the 13th for the County, indicated that the

more people we have out in that area, the more costs will be incurred by the County. Whether it be through the Sheriff's's Department or through health and human services or even through waste management, we're going to have increased costs.

And so I guess I just can't emphasize enough that if there is going to be a Project Labor Agreement, the County and the County's consultants need to know sooner rather than later, so that the County can adequately provide the information to staff and to this Commission as to what the economic impacts will be to the County.

And it may be that we end up with some sliding scales, five percent, 10 percent, 20 percent, et cetera, but we need to know that sooner rather than later. And I know I'm sounding like a broken record, so I'll stop.

HEARING OFFICER CELLI: But I appreciate your comments. And I'm -- and when I say that it doesn't seem like a big deal. Unlike a lot of other areas, this seems pretty quantifiable. And I like your idea of a sliding scale. And I'm hoping that the parties will be working shop -- workshopping this issue in the near future so that we can --

MS. CROM: Well, we hope that too. And I will say, I mean we have Gruen, Gruen Associates working for the County. They are our socio economists. They have

been working with CH2MHill and also with Aspen. And so I know that everybody is talking, but this is kind of the elephant that's sitting in the room because the reality is, is that if people are going to be coming from California, we're really not that far from the Inland Empire if we're talking four-day work days than we can have people traveling with travel trailers, motor homes, those types of things.

Mr. Scow, who represents the Wiley Trust owns a significant number of lots around the project site, proudly announced at the board meeting that he has all of these two and a half acre sites for sale, and that people can live there.

And so there's -- you know, obviously, there's a push by the landowners there to have people reside on their property. And I can't necessarily blame them, but that is going to result in some impacts.

HEARING OFFICER CELLI: Very good.

And that bleeds right into the next, which is Traffic and Transportation, because obviously that workforce issue that affects traffic and transportation, I think. That was the point made. Applicant.

MS. STRACHAN: We have no further update on traffic and transportation. We've submitted documentation as requested by staff, so we have no further comments on

that.

HEARING OFFICER CELLI: Staff on traffic.

DR. IRVIN: This is Gregg Irvin. I would like to be able to address glint and glare a little bit.

HEARING OFFICER CELLI: Gregg, you're with who.

SITING PROJECT MANAGER MONASMITH: Dr. Irvin is a staff consultant who is doing glint and glare analysis as it relates to traffic and transportation and visual resources. In fact, it's his data requests that are follow up to Applicant's data responses that we're received on this issue, but I think Dr. Irvine had some questions despite those data responses, because data response is not always a hundred percent. Sometimes, they require a follow-up. And he may want to speak to that issue. Dr, irvine if you'd like to.

HEARING OFFICER CELLI: Go ahead.

DR. IRVIN: Well, I'll keep this kind of brief, but essentially, I do appreciate the analysis and the data that applicant has already provided regarding this issue.

And the data has been in the form of computed irradiance, and retinal irradiance. And we have no objections or contentions whatsoever with your calculations for maximal permissible energy, and the probability of any kind of retinal damage. And I also want to state that I really have no issues with heliostat

glare.

But when it comes to traffic and transportation, in terms of the luminance and the brightness of the tower, as well as visual resources and the impact of the visual signature, we really have to have luminance information. Irradiance is essentially all the energy at all wave lengths that enter the eye. And luminance is just that subset of radiation that is visible to the human eye. And that subset is what is responsible for visual perception and perceived brightness.

So we'd really like to be able to have you convert your irradiance measurements, which we can't because we don't know the spectrum or the wave length range overwhich it's computed, into luminance values, so that we can get a good handle on human perception with respect to glare and brightness.

HEARING OFFICER CELLI: Thank you, Dr. Irvin. Anything further on that?

DR. IRVIN: No.

HEARING OFFICER CELLI: Thank you. I'm just going to -- so I take it that's his concern, his question. Is there -- Applicant, are you on that, taking care of it?

MS. STRACHAN: This is -- we appreciate the feedback. This is the first we've heard of it, so it's something we'll have to discuss and maybe talk further

with Dr. Irvin.

HEARING OFFICER CELLI: Okay.

MS. STRACHAN: To make sure we fully understand.

HEARING OFFICER CELLI: Anything further from staff on traffic?

SITING PROJECT MANAGER MONASMITH: No. Just as it relates to potential increased traffic Tecopa Road through Immigrant Pass which is one of the larger issues that Inyo County had expressed concern about. The Department of Public Works Inyo County, we -- again, we heard the presentation that they made to the Board of Supervisors on the 13th of March. We met with them in the morning of the 14th with the Acting Director of Public Works. And our staff continue to work with the County and the Applicant.

This gets back to the whole question of where the workforce is coming from and the Project Labor Agreement and why it's important to get an understanding of what kind of increased traffic could be expected from workers on Tecopa Road, as folks who are potentially coming from Tecopa headed eastward to the project site.

We do now know that there will not be truck traffic necessarily coming that way. Initially, the AFC would have indicated that that was coming from the Ports of Los Angeles and Long Beach, but the presentation on the

13th, Joe Desmond indicated that, in fact, that material would be coming from Arizona, so -- precluding truck traffic coming through and over Immigrant Pass, which the Committee probably remembers as we went from the project site to Tecopa for the informational hearing, it was that kind of really cut back as you go over the mountains or the -- I forgot the name of the road right -- or the mountain. But anyway, it's a very narrow hairpin cutback over Immigrant Pass. So that was the traffic and trans concern.

HEARING OFFICER CELLI: Thank you.

I'm going to ask Mr. Zellhoefer if he has anything on traffic or visual?

MR. ZELLHOEFER: Yes. And I might be able to answer -- put some light on this for both applicant and staff. Currently, there is an alternative that is not seeking to go over Immigrant Pass. That is Mesquite road.

And that road is currently being used by a mining company up in the Kingston area. And it is something that I would urge the staff to take a look at, because these mining trucks are using the same highway that passes right in front of the project site. That's not necessarily a bad thing, but it is an alternative for truck traffic.

Also, I am just hearing about the truck traffic now coming in from Arizona, which would mean that it would

be coming through Las Vegas and over 160, which may also not be the best situation, because of the commuter traffic. That's known as death highway out here in Pahrump.

So that could have actually more negatives to it than bringing trucks in through on 127 and then over on Tecopa road and that using Mesquite Road.

I think what this points out is that the transportation issues are vast. Inyo County is, for the most part, responsible for the roads out there. They have a very limited crew. Roads cannot be upgraded or paved or widened overnight.

And most of the construction is early in this project, including the concrete, which is going to have to come in from somewhere. And I would only urge the staff to continue with the Applicant to address as many transportation issues as possible, because this is -- again going to be a great impact on all of us who live out there.

HEARING OFFICER CELLI: Thank you for your comments. And just to point out that commonly -- I mean, I think it's required we have a condition that says that any impacts to traffic due to the construction trucks must be corrected and cleaned upped and fixed by the Applicant at the completion of construction.

Ileene Anderson, anything with regard to traffic and transportation and visual?

MS. ANDERSON: No, I don't have any comments at this time.

Thank you.

HEARING OFFICER CELLI: Thank you. Ms. Crom.

MS. CROM: Just to indicate that we're continuing to work with staff and the Applicant on these issues. I'll be meeting with staff this afternoon.

HEARING OFFICER CELLI: Good. Thank you.

Let's get to the big one, water resources from Applicant.

MR. HARRIS: Yeah. We'll let Mr. Jensen handle this. But actually from our perspective, we're surprised that is the big one given the information that we just provided, but go ahead, Clay.

MR. JENSEN: Yeah. Clay Jensen, BrightSource. I'm interested in hearing the concerns as well.

HEARING OFFICER CELLI: Apparently, it has to do with the timeliness of the information. It came on Friday and it's voluminous.

MR. JENSEN: Yeah. That's completely understandable. And if that's the concern to digest the information, that's understandable. I won't recap what was in the report. I know you've read it. I think the

only thing I would like to understand, and staff will no doubt go in this direction, there were comments made early today that there were questions regarding the duration of the test as well as the test procedures and methods that went into the aquifer pump test.

I'd like to hear a little bit more about, it was our pre-pump test effort to try to get a consensus built with Inyo County and with the Energy Commission staff to make sure that the procedures were followed, and that we were all on the same page. And so curious, particularly to hear about the concerns that may arise from that.

Regarding analysis of the results, obviously staff needs time to review these and we look forward to helping clarify.

HEARING OFFICER CELLI: Thank you.

Staff.

STAFF COUNSEL RATLIFF: Mr. Conway may want to supplement my response. We don't want to try to adjudicate the issues regarding the pump test today.

There is, in my understanding, some question about how the -- about the duration of the pump test. It was our understanding it was going to be a two-week test. It turned out to be a four-day test because the -- apparently the site was vandalized.

So we have much more limited pumping data. That

may or may not be a problem. It may turn out that the data that the applicant has been able to glean from that is entirely adequate. And Mr. Conway can speak to that.

But it may also mean that the data is good for some things and not for others. And those are the kinds of things that we want to have time to discuss and to talk with other agencies about, and we haven't had an opportunity to do that.

HEARING OFFICER CELLI: Okay. Let's hear next from Mr. Zellhoefer regarding water.

MR. ZELLHOEFER: I really don't have any data that would add to the conversation at this time, so no problems.

HEARING OFFICER CELLI: Thank you.

Ileene Anderson, water.

MS. ANDERSON: A question and a comment. My question is was that report docketed, because I didn't receive that either on the 30th?

HEARING OFFICER CELLI: The pump test -- was the pump test docketed?

MS. STRACHAN: Yes, it was.

HEARING OFFICER CELLI: Okay. Apparently, yes it was docketed. And was it served on --

MS. STRACHAN: On March 30th.

HEARING OFFICER CELLI: On March 30th it was

served on Ileene Anderson?

MS. STRACHAN: Correct.

MS. ANDERSON: Gosh, I don't know what's happening to that, but I don't have that coming through on my -- I have other things from Hidden Hills coming through on my email, but I don't have that on the 30th or the --

STAFF COUNSEL RATLIFF: That presumably would be a very large file.

HEARING OFFICER CELLI: It would be a huge file.

MS. ANDERSON: Yeah.

MS. POTTENGER: Ms. Anderson?

HEARING OFFICER CELLI: Go ahead, Ms. Pottenger.

MS. POTTENGER: My apologies for interrupting. Are there any size restrictions on your inbox? Do you know whether five megabytes or of six megabytes restrictions on your inbox or --

MS. ANDERSON: There isn't any limit on my inbox incoming.

HEARING OFFICER CELLI: Okay. Well, I'm going to invite you to please get to the bottom of this, because you're going to need this information. Apparently, applicant is --

MS. ANDERSON: Yeah.

HEARING OFFICER CELLI: -- doing on their end, they're sending this stuff out, so there's some glitch

here. Maybe it can be recent again as the other document was.

HEARING OFFICER CELLI: But go ahead. You had a question, Ms. Anderson?

MS. ANDERSON: Actually, that was my question. But my comment is, is we still have grave concerns about the duration of the pump test only being four and a half days long, and feel much more comfortable with the full duration of a pump test being done, so that data can be then used from that full pump test.

HEARING OFFICER CELLI: And I recall that you raised that same question and it was responded to by applicant at the last status conference, but I -- you've registered your concern and appreciate that.

Anything further?

MS. ANDERSON: That's it. Thanks.

HEARING OFFICER CELLI: Thank you. Let's hear from the County of Inyo, and this is regarding water resources.

MS. CROM: As I indicated earlier, we just received the report on Friday. Dr. Harrington will be looking at it and we will be filing a response to that. And likely a response also to the comments to the BLM letter.

I just wanted to note from Ms. Anderson that the

documents are actually being sent by CH2MHill. And I believe it's under Mary Finn's name and so she might want to check her junk mail.

HEARING OFFICER CELLI: Did you hear that, Ms. Anderson?

MS. ANDERSON: Yeah, I did. And I got something from her on the 30th the DR set 1A-2, but that's -- I don't believe that that is the water test.

MS. CROM: No. There are quite a few documents that she sent out on Friday.

MS. ANDERSON: Okay. I only received one.

HEARING OFFICER CELLI: Okay. Well, thank you, ladies and gentlemen. We're going to get onto waste management next. I almost said, "This doesn't sound like a big one", but last time I said that, I was -- completely put my foot in my mouth.

(Laughter.)

HEARING OFFICER CELLI: So I'm not going to say that. Let's hear about waste management from Applicant.

MS. POTTENGER: Applicant has nothing to add beyond what was set forth in Attachment A, and we look forward to hearing from staff whether it has any additional concerns in response to our statements.

HEARING OFFICER CELLI: Thank you. Staff on waste management.

STAFF COUNSEL RATLIFF: Before we leave that, I think I need to raise one additional issue and --

HEARING OFFICER CELLI: Regarding water?

STAFF COUNSEL RATLIFF: Regarding water. And that is that for some time now, staff has been expecting the receipt of a water mitigation plan. And we received I think what was described as a plan on Friday, but it is not to us a water mitigation plan. It is very much like the AFC's filing that well, if it's a significant impact, we'll find someway. We might do -- we might purchase water rights somewhere and take care of it in some manner.

And that isn't a water mitigation plan. We've been waiting for something that addresses the issues of impact more specifically. And I think by that, I mean, we know we're in a water that is in significant overdraft. And we have assumed that to address that issue, there would be some presumable retirement of water rights in the adjudicated area on the Nevada side of the border.

We're also in an area where there are the possibilities, and I think the Applicant may discount the likelihood of this, but we think that there is a possible significant impact on Stump Springs and on local wells. And we would assume that there would be some kind of a proposed monitoring plan to determine whether or not that's true.

In fact, that is in the BLM. Those kinds of concerns are reflected in the BLM's letter --

HEARING OFFICER CELLI: Yes.

STAFF COUNSEL RATLIFF: -- which the Applicant, in its response to our document, embraced, but we don't see that kind of mitigation being proposed. We don't see any real mitigation being proposed here. And so we feel that that is still a document outstanding that we need to talk about further and need better information on.

HEARING OFFICER CELLI: Right. I remember reading the BLM. It was sort of like giving their list of what they thought would constitute adequate mitigation. So I'm sure that's something though that staff and Applicant can workout.

Go ahead, Mr. Jensen.

MR. JENSEN: If you don't, mind I'd like to make just a few comments regarding this topic.

So the BLM letter, we have to keep in mind, was generated prior to having an analysis or review of the aquifer pump test results that we have submitted. The original AFC was a very, very conservative model run that looked at potential impacts of the project on drawdown. That understandably could lead to the conclusion that we may have offsite impacts to the mesquites at Stump Strings and perhaps the wells in Charleston View, the private

wells.

The results of the report, we believe, are conclusive in showing that we will not have drawdown impacts through the Operational phase of the project Outside of the project boundary. And so the water mitigation response that we've provided last Friday indicates clearly that it's our belief that we will not have offsite drawdown impacts on Stump Springs, and especially not the Amargosa River region, and it points out to some of those facts.

Now, we understand and we know that BLM didn't see those results, so we're going to share those results with BLM, as well as the Energy Commission staff. So I think that that's a very significant change in understanding of the impacts of this project.

Now having said that, in our letter, we also made it clear that we are making the argument because we think it's scientifically factual that we won't have offsite impacts, that we are going to agree to forms of mitigation. And that sounds strange, but I think from our perspective retirement of water rights in Nevada continues to be an acceptable mitigation to us, and we'll talk with staff about that and how that plays out.

And then additionally, there's standard conditions for monitoring of onsite wells through

operation of a project. And providing that data for general observation is key to understanding the way the aquifer reacts.

We're more than willing to discuss additional or shifts in how we approach the water mitigation plan. We're ready and able to do so. I just think it's important for us to keep in mind and want to make sure are clear that we think that the test results that were just submitted on Friday will provide a lot of assurance that, in fact, the impacts of water from this project are not going to be significant. And that as a good corporate citizen and as a good community citizen, we understand the issues in the Pahrump Valley aquifer of an overdrawn state, and we'd like to continue to discuss our cooperation towards helping correct that.

HEARING OFFICER CELLI: Excellent. Let me just say --

MR. HARRIS: Can I add one thing here, too.

HEARING OFFICER CELLI: Yes.

MR. HARRIS: The results show that there are -- the cone of depression is limited to about 200 feet from the wells. Is that -- do you want to explain that a little bit. I'm not sure people are appreciating the minute nature of the results.

HEARING OFFICER CELLI: You know, actually we

kind of got that last time, and I don't think we need to cover that ground again. So I appreciate that point.

But I want to just make a point, step back a little more macro, and say that with regard to all of these issues that we're talking about here -- and I acknowledge that we're in the middle of -- we have yet to finish waste management and alternatives, but it sounds to me like you need a workshop sooner than later. I would encourage the parties to -- you know, Mr. Monasmith is nodding. And it sounds like that's something that should be noticed just as quickly as possible.

Let's get the parties in the same room. Let's get the parties talking, find out -- nail down what's needed. Let's get to it. If there's an impasse on something, let's bring a petition to compel and get on that. Let's move through discovery and get -- we've got to get moving on this PSA.

So thank you for that. You'll do that, but I just want to encourage that, because I think this is -- I haven't heard anything that's insurmountable, and I haven't heard anything that communication couldn't resolve. So I'm encouraging the parties to communicate.

Let's get back to waste management.

STAFF COUNSEL RATLIFF: Well, before we leave this issue. This is the most important issue we think in

the case, and it's the most difficult in terms of trying to grasp exactly what the problem is and what the impact is. And we haven't had the time yet to examine fully the pump test results as they've been presented to us in the Applicant's most recent filing. We have looked at the raw data, and we drew different conclusions than the conclusions of the pump testing, which have been filed.

Now, that may be reconcilable, and we'll find out. That's one of the things we're going to find out by further discussions with the Applicant in workshops. But yes, it is difficult, and, yes, I think we do want to have all of the agencies that have expertise in this area looking at this data and being informed by it and agreeing on the adequacy of the analysis that we received.

HEARING OFFICER CELLI: I'd like to move on now to west management.

We already heard from Applicant regarding that. Staff, anything further on waste management?

STAFF COUNSEL RATLIFF: No.

HEARING OFFICER CELLI: Okay. And by that, it sounds to me like we're coming to resolution on waste management.

Anything from Ileene Anderson regarding waste management?

MS. ANDERSON: No.

HEARING OFFICER CELLI: And, I'm sorry, I skipped Jon Zellhoefer. Jon, anything on waste management? Jon Zellhoefer?

MR. ZELLHOEFER: Only a comment that I read that Inyo County is currently not in compliance with the State recycling requirements. And this, project again going back to my point earlier, right now we have 120 residents. If we even double that, that is going to put the requirement on Inyo County to do some kind of waste recycling. And we don't have any facilities to do that, nor do we have a public landfill. All of our waste goes to Nevada. So this is just another area that, while maybe not of significance to a larger county, could have an impact out of proportion to our local community around Tecopa.

HEARING OFFICER CELLI: Thank you, Mr. Zellhoefer. Let's hear directly from the County of Inyo on this.

MS. CROM: With respect to this issue is there are certain mandates of percentage of recyclables that we have to meet. I don't see that this is really going to be an issue here. We've talked to Applicant about it. It's mainly just making sure that the waste that is generated from this site is recycled. I believe from my landfill people that that can be recycled in Nevada, which is what

is anticipated. We just need to make sure that the documentation is provided to the County, so that we can report it to the State of California.

And then the other issue is just -- and I think it was addressed in the socioeconomic and that is the anticipated increase in waste hauling from the area -- not necessarily from the site. I understand that applicant will be removing their own waste from the site. However, when you increase people, you increase the usage of the dumpsters, and they'll have to be dumped more often. And we have a contract with Pahrump to handle that. So that will relate -- or result in a direct economic impact to the County.

HEARING OFFICER CELLI: Thank you. Lastly, we're onto alternatives. My recollection in our last status conference was that alternatives was sort of winding down and coming to resolution. What's going on with alternatives?

MR. HARRIS: Well, I think that's pretty much our understanding as well. The only comment of substance in our discussion about alternatives is just a couple passing statements about staff about eliminating or editing some of our basic project objectives. We don't think that's appropriate.

I think the staff can argue that they shouldn't

be given as much weight as some of the -- as staff does. But what we don't want to end up with is an analysis that says we're only going to look at three of the nine or ten basic objectives of the project.

The basic objectives of the project are the Applicant's basic objectives. And the law requires that the alternatives analysis be done within the context of the Applicant's basic objectives. And so we hope the staff will retain all those objectives. They can certainly weight them.

They can certainly make the argument that the only have to meet some and not all. That's certainly correct as well. There is some flexibility for the staff there, but I really -- I just wanted to emphasize that the alternatives analysis does have to framed up in the basic objectives of the Applicant. And that's the point we make in our Attachment A.

HEARING OFFICER CELLI: Staff.

STAFF COUNSEL RATLIFF: I absolutely disagree. And what we consistently find when we receive statements of project objectives in AFCs is a very constricted set of project objectives, which would basically mean there is only one project in the world that would satisfy the Applicant's project objectives.

There is significant CEQA case law that says that

you must not do that to have a legally sufficient alternatives analysis, and we don't intend to do that. It would be a mistake to do so.

HEARING OFFICER CELLI: Understood. That was my understanding.

MR. HARRIS: I actually don't think we disagree by the way. And I don't disagree with anything you said, Dick. I think we're on the same page. I think you have some discretion and you should exercise it. I just don't want you to discount what we've put out there, but you do have a broader scope. I agree with what you've said.

STAFF COUNSEL RATLIFF: Okay.

HEARING OFFICER CELLI: That's again workshop material, as far as I'm -- I can see.

Anything on -- and, by the way, I skipped land. We're going to have to go back and do land.

Anything on alternatives, Ileene Anderson or Jon Zellhoefer?

MR. ZELLHOEFER: This is Jon. No. Nothing

HEARING OFFICER CELLI: Okay. Ileene Anderson, we're talking about alternatives?

MS. ANDERSON: Yes. We'd like to see a distributed generational alternative analysis.

HEARING OFFICER CELLI: Do you have an understanding that that wasn't going to be part of the

analysis, because it usually is.

MS. ANDERSON: No, I don't have that. I don't have any understanding of what the alternative analysis is.

HEARING OFFICER CELLI: Okay. Which underscores again the need for a PSA.

But go ahead, staff.

STAFF COUNSEL RATLIFF: Staff will be addressing the feasibility of an alternative -- of a distributed generation analysis. I believe -- well, I don't want to mislead anyone, so I want to -- I believe that we're screening it on the basis of feasibility, but it will be addressed.

HEARING OFFICER CELLI: Thank you. Anything on alternatives from Inyo County?

MS. CROM: Just that I'll be meeting with staff this afternoon to address some issues on Sandy Valley

HEARING OFFICER CELLI: That's great. Thank you.

I'm so sorry I jumped over land use. Land use is really important.

I want to just bring you -- or let me sort of put out what I was able to glean from the parties' documents, the status reports, and that is that I read the letters back and forth between BrightSource and County -- Inyo County regarding Inyo County's request that the applicant

amend -- try to amend the general plan. I have some notes on that. Amend the general plan to a general industry zoned M1. And then there were some issues with regard to merger of parcels and right of ways that needed to be abandoned, I think.

But, of course, the concern is you've got two processes sort of running parallel that are interdependent and it's chicken and the egg. And I just want to hear form Applicant about that issue with regard to land.

MR. JENSEN: Clay Jensen, BrightSource. I'll be real brief. We had a very -- you refer to the letter exchange that we had with Inyo County. We found that process to be helpful. Since that time, we've presented the project to Inyo County. It's been referred to several times, the Board -- Inyo County Board. We had -- it was a very open dialogue.

Needless to say, I don't think that there was anything that was off the table for discussion. And I think it really helped us gain a better understanding of Inyo County's concerns. It very much correlated with what staff had been telling us. And not that we were ignoring those concerns, but I think that there's a certain time in the process where it makes sense to more fully engage on the dialogue that was discussed, and now is that time.

We've agreed to move forward with a general plan

amendment application. The zoning, as proposed by Inyo County, is consistent from our perspective. That's the direction we plan to go.

As you can imagine, the details of how the two processes will merge together continues to be the subject of the discussion. I think that the more immediate concern is getting the application in. And sometimes that's not quite as easy as it seems to be. There's some -- an agreement that we're working on with Inyo County covering indemnification and funding, distribution, that we think we can drive to close here rather quickly. And we hope in the next couple of days to get that agreement worked out, and then subsequently submit the general plan amendment application.

And then from that point, we've detailed a plan with Mr. Carunchio to meet with the department heads of each of the groups from a socioeconomic perspective, as well as a more open dialogue with the -- how the processes will merge together.

We presented to the Inyo County Board a scenario where we would use the FSA as a governing document for that process. There were some comments made that perhaps the PMPD makes more sense to integrate into that process. That dialogue is continuing to emerge, and we hope to have resolution of that in the next few weeks, so that we can

have a map of exactly how the process will come together. But it is, in our opinion now, open dialogue, and we're looking forward to moving forward.

HEARING OFFICER CELLI: Thank you very much.

MR. HARRIS: Let me add just a couple things, if I could

HEARING OFFICER CELLI: Please.

MR. HARRIS: As Clay mentioned that the general plan amendment zoning application will be filed -- or general plan amendment will be filed. There's still a couple business issues to workout between the County and BrightSource that have no effect on the PSA that relate to indemnification and the possible issue of abandonment of some dedications. And there's some open legal questions there, which again I won't bore you with the details, but those are business issues that will be worked out.

I guess the one point that I want to make, and I think this is very important for the Committee to understand, that once a general plan amendment is filed with the County, nothing can happen until the Final Staff Assessment at the earliest. So I don't want you to leave with the impression that this issue between the County and the applicant is affecting the analysis or affecting the publication of the document.

By law, Inyo County will have to let this

application sit on the shelf until they have an environmental document which would be your FSA. So there is no delay associated with working out these issues, in terms of publication of the PSA or FSA. And that's really the point I wanted to make.

HEARING OFFICER CELLI: Thank you, Staff. About that, let's hear from staff and the land analysis that would go into the PSA and FSA, if any Inyo County can't act.

STAFF COUNSEL RATLIFF: Well, I mean, for the PSA's purposes, we assume that the County -- I'm sorry, that the applicant will apply for the general plan and zoning changes that would make the project consistent, because that's what they've told us they intend to do.

And I agree with Mr. Harris that this can't occur until there's an environmental document for the county to rely on. And so more than likely that's -- our analysis is going to be kind of frozen until they're -- until beyond the FSA. And when -- at such time as there is actual action by the County to make those conforming changes.

This does not, to my mind, represent a barrier to our filing of our land-use analysis. I think it's just something we have to acknowledge and it will have to be addressed when it gets addressed, which in the cases where

this has been addressed is always at the very late moments of the proceeding when the County then, using the Energy Commission's analysis, actually makes the conforming changes.

HEARING OFFICER CELLI: Okay. Land use, Jon Zellhoefer.

MR. ZELLHOEFER: No issues with that. Sounds good.

HEARING OFFICER CELLI: Thank you.

Ileene Anderson, we're talking about land use.

MS. ANDERSON: Yes. No comments at this time. Thanks.

HEARING OFFICER CELLI: Thank you. Dana Crom.

MS. CROM: I'd just indicate that, yes, we are working with the applicant on an agreement, so that they can file, what I thought was going to be, a general plan amendment and a zoning change. This is actually the first time I'm hearing that maybe the zoning change is not included.

We've actually expanded that to also include a lot line adjustment or a reversion to acreage and abandonment of certain public roads that are on the project site, which I think is -- I understand Mr. Harris has described those as being a business decision. They could actually turn into more of a legal issue, which

hopefully we will all be able to address and resolve as we move forward.

I think the conversation between the applicant and the Inyo County Board of Supervisors on the 13th was quite frank. Mr. Jensen is correct when he said that nothing was off limits, and it wasn't. And the Board asked some very tough questions of the applicant, and I appreciated them being there and answering those questions. And at least as a member of the team, I can say we told you so.

(Laughter.)

MS. CROM: We are following our marching orders. This is a very important issue for the Board of Supervisors. Land-use control is obviously something that's near and dear to their heart, and we look forward to receiving that general plan application and moving ahead.

As for the timing, we -- our office does have an issue with the acting on the FSA. That is something that we will talk to the lawyers for the Applicant about and to Mr. Ratliff, so that we can all try to agree as to what document we would be using as our environmental to go forward. So that's it.

HEARING OFFICER CELLI: Can you give us, without showing us too many of your cards, what's the -- what can

the County do to expedite that process?

MS. CROM: Are you talking about the process once we have a -- once we have an environmental document, it will need to go to the planning commission, and the planning commission will need to review the application for the general plan amendment. There will be the required public notification period. And then once the planning commission acts, it would then have to go to the Board of Supervisors.

That's a process that the County can actually kind of truncate. We can have a planning commission meeting one week, and a Board -- take it to the Board within the next two-week period.

So once we have met the necessary public review period under CEQA, which I think, in this case, would probably be a 30-day review period, we can then move rather quickly. Our planning commission only meets once a month. However, you know, we can always call a special meeting if we have to, if that is what the applicant would be requesting of us.

The Board of Supervisors meets every Tuesday with the exception of five Tuesday months, and then they only meet the first three Tuesdays.

HEARING OFFICER CELLI: And then the environmental, did you have a question?

MR. HARRIS: Can I ask for some clarification?

HEARING OFFICER CELLI: Yes.

MR. HARRIS: So if you use the FSA, just assume that, I know that's still in the air, are you going to have that document as essentially a Draft EIR, a 30-day comment period, response to comments, and then a Final EIR?

MS. CROM: Well, that's where we're still grappling. If the public review process has been completed to the Energy Commission which is why we were looking at the Presiding Member's decision, where it's been essentially fully commented on, we thought that we could probably truncate the review period.

MR. HARRIS: And not do a Draft EIR, Final EIR process?

MS. CROM: Right. Exactly.

MR. HARRIS: Okay. We should talk about that, because I'm concerned about needing to go through both those processes and seeing that being more like at least a 90-day, maybe 120-day, process, which adds, you know, four months to this Commission's process, which is -- have I mentioned, I'm interested in schedule today.

(Laughter.)

MR. HARRIS: So anyway, it's something we need to work out.

MS. CROM: And it is something that we need to work out. I mean, I will say, I was a little disheartened that the first time that we heard that the Applicant was requesting us to act on the FSA was at the meeting on the 13th. I think that, you know, you probably would have received a better reaction from my boss if it had been suggested prior to that meeting.

HEARING OFFICER CELLI: Well, I think -- I don't want to step too far into this discussion, but I want to say that I'm sure we'd all appreciate the County's working hard to do whatever you can to facilitate that process, because land use is something that we just right now looks like an open wound. And I'd like to see it cleaned out and fixed, if we can.

MS. CROM: Hopefully, we can.

MR. JENSEN: Could I just have 30 seconds. Clay Jensen with BrightSource.

HEARING OFFICER CELLI: Yes.

MR. JENSEN: First, I'd like to clarify the application will be for a general plan amendment and a zone change. Clarify.

Second, also involved - it hasn't been discussed - is the Applicant funding Inyo County's efforts to participate in the Energy Commission process as well as the funding of the general plan amendment and the zone

change process. That is we do plan to continue to fund those efforts, and that's part of this agreement we're working out as well. I just wanted to point that out, that we encourage Inyo County to stay involved. We look forward to working with them through the process.

I also wanted to state that you've heard a lot of us joke a little bit about the Board meeting, and the tone and the tenor. It was open dialogue. It was very difficult questions being asked. We found it very encouraging, and I would characterize the end of that meeting as being very optimistic. So I don't want to give the impression, based off what you've heard, that it's going to be -- I think it helped push the process forward, rather than identify continued gaps.

And so I think that we are starting to get some better direction. And I think today, as compared to our last two status conferences, that we are becoming more and more aligned. So I wanted to provide some optimism from the Applicant's point of view that I think that we've got a path that we're starting to investigate fully now, and we're going to start moving in that direction.

HEARING OFFICER CELLI: I'm happy to hear that. Thank you for those comments. I want to --

ASSOCIATE MEMBER PETERMAN: A quick questions. Ms. Crom, regarding that meeting, was there an usual

amount of public attendance?

MS. CROM: Yes. Actually, the Board room was nearly full. And I had comments afterwards that a number of people had actually come to watch it, a handful of residents from Independence, and decided to go watch it on TV.

ASSOCIATE MEMBER PETERMAN: Really.

MS. CROM: It's broadcast -- our Board members -- our Board meetings are broadcast live on TV, so there were a number of people that watched it on our local media.

ASSOCIATE MEMBER PETERMAN: Well, then I'm glad that staff was able to attend --

MS. CROM: Yes.

ASSOCIATE MEMBER PETERMAN: -- and that it was a productive meeting.

Thanks

HEARING OFFICER CELLI: I think this has been very productive. I'm really anxious to hear -- to get to our next status conference. I'm hoping that you'll at least be able to get one workshop in between then and now. Looks like that's what everything is -- that's what's called for.

So before we get to public comment, and I just want to see if there's anything? Last parting shots from the Applicant?

MR. HARRIS: Never a parting shot. And again, I was not near Mr. Monasmith when this occurred.

(Laughter.)

MR. HARRIS: Just a couple things. Thank you very much for this conference. It's been very helpful. I think just this communication has been helpful for narrowing our issues.

I was out of the room and came back in about the additional data requests, because we were having a discussion about whether we should request a bifurcation of the PSA. And I'm -- we're not going to do that. I see you -- I'm picking up the nonverbal, that was a good decision.

(Laughter.)

MR. HARRIS: But we did seriously talk about that, because a lot of these issues are pretty close to go, and we would rather have staff focus on getting a PSA as opposed to PSA Part 1 and PSA Part 2. We are a little concerned about workshops and other things in the interim driving that schedule out.

And so the last thing I guess I would close with is that we do have a specific request, and that is basically that the job will expand to fill the available time. And we would specifically request that when you do issue an order on this, that rather than June 1st, that

you consider May 14 -- Monday, May 14th as the date.

That's a month past the date that the PSA was due, based upon our agreement last month. It's two weeks shorter than the staff has requested, but I think it would be good to help them along. And the thing I particularly like about that day is it then adds about 18 days more to the time between PSA and FSA, which instead of the 61 days proposed by staff, it would be more around 80 days -- 79 days, which since you've done it in 105 before, I have a whole lot more confidence you could it in 80 than 60.

And so our specific request is that when you issue your order, that you think about May 14th as the date.

HEARING OFFICER CELLI: Thank you. Staff, any last matters, and also what do you think of that 5-14-12, is that doable? Is that feasible?

STAFF COUNSEL RATLIFF: Well, one of the good things about the Applicant's criticism of the staff's efforts to get this thing out on time is that it has made us focus much more intently on what it is that's missing that we think we need to have to have a -- I'm not even going to call it a good analysis, but at least a decent analysis.

And, you know, these things are really -- I mean, there's always the tradeoff between the amount of time

that you have and the quality of the product that you put out. And we have a strong preference to stick with the June 1st date, because we know, or at least we think we know, that we can put out a product that won't be an embarrassment on that date. And we think that, in reality, the time difference, in terms of getting the FSA out, is not going to be dependent on getting out an earlier PSA that isn't good. So we're much happier, much more comfortable with meeting the June deadline. Our strong preference is to keep it there.

HEARING OFFICER CELLI: Anything further?

STAFF COUNSEL RATLIFF: No.

HEARING OFFICER CELLI: Okay. Let's go to Mr. Zellhoefer, did you have anything final that you wanted to say to the Committee?

MR. ZELLHOEFER: Just to kind of support what the Applicant had said, public input is going to be critical, if that date of May 14th could be met. And I think there was already some earlier discussion by staff that they might be trying to get it out by May 24th or 25th anyway. That would certainly give us all a little more time to look at it before the final staff recommendations come out. But with that, I think it was a very helpful meeting today.

Thank you.

HEARING OFFICER CELLI: Thank you, Mr. Zellhoefer.

Ms. Anderson, Ileene Anderson.

MS. ANDERSON: Yes. We support the longer timeline for the PSA, just because it's going to give staff more of an opportunity to make more of a complete document which makes commenting on that document much more relevant.

HEARING OFFICER CELLI: Thank you.

Clearly, everybody is benefited by a more complete PSA, I think. And so what we said earlier was June 1st, but I was -- I like what Mr. Monasmith said about trying to beat the holiday. Anything that staff can do to speed this up, that's why I think that what might really speed this up is a sooner rather than later workshop to get resolution on whatever you can. And we encourage those efforts.

Anything from Inyo County?

MS. CROM: Nothing further.

HEARING OFFICER CELLI: Okay. With that, we're going to go to public comment. I'm getting an indication from the Public Adviser that there's nobody here from the public who wants to comment. And, as I look around the room, the facts bear it out.

(Laughter.)

HEARING OFFICER CELLI: I have a person here named anonymous who sent me an email saying she's -- he/she is listening only and did not wish to participate, so we will honor that.

I have Christina, did you wish to make a comment?

Christina?

She's on headphones. People with headphones only may not even be able to speak into their computers.

We heard from Ileene Anderson.

J. Stroeh?

MR. STROEH: Hi. This is Jim Stroeh in Independence. And I do have a comment. Once again, thanks for always inviting the public.

As some of the folks in the room know, I'm a retired geologist college professor. And I have a lot of experience with deadlines and reports over the years, and especially in graduate programs and whatnot where thesis are due.

And my take on the schedule is that even with holes in it, sooner is better than later. It just seems to be human nature in the way information comes together, that if it's later, the wholes still remain. They might be a little bit smaller, but they can be equally hard.

So I was going to suggest about a May, mid-May, push to get the preliminary assessment out. You took care

of that very beautifully. Anyway, I think it would benefit everybody to have an earlier Staff Assessment rather than later, despite staff's comments. And I know they're working very, very hard to get things out, and are doing a very complete job. But that was my one comment is go for a sooner Preliminary Staff Assessment.

HEARING OFFICER CELLI: Thank you, Mr. Stroeh and thank you for your comment. And I'm sure that we can all appreciate how motivated staff would be to have a full Memorial Day weekend off.

MR. HARRIS: I'd like to petition for the Applicant to have one too.

(Laughter.)

MR. HARRIS: So if we can get the 14th. My wife misses me on these holidays. Every Christmas, I get a present from you folks.

(Laughter.)

MS. CROM: Well, you're all invited to Bishop to attend Mule Days from Memorial Day, so we would like you to have it done and come over and spend some time with mules.

MR. HARRIS: Is there a relationship between mules and the FSA that I need to understand?

(Laughter.)

MS. CROM: You know, I won't go there.

(Laughter.)

HEARING OFFICER CELLI: Oh, boy. We've had some -- well, I'm not even going to talk about that.

Let's see I have Jay Leyva. Jay Leyva did you wish to make a comment?

And again, some people are on computer only. They're just listening in, and that may be the case. You can come back, if you want.

Lisa DeCarlo is staff counsel. Matt Layton works for staff. Not that I'm precluding anybody from making a comment, if they wish, but if they wanted to I'm sure they'd speak up. M. Taylor. Is M. Taylor, did you wish to make a comment?

Pierre Martinez is with staff. Shaelyn Strattan is with staff. Timothy Thompson -- oh, did someone wish to make a comment there.

Timothy Thompson, did you wish to make a comment?

MR. THOMPSON: No, not at this time. Thank you.

HEARING OFFICER CELLI: Thank you. And then lastly, I have some people who's names I did not call who are on line, but unidentified. If you wish to make a comment, at this time, please speak up now, and just go ahead and make your comment.

Anyone?

Thank you.

Hearing none. Then I would hand back the status conference back to the Presiding Member, Commissioner Karen Douglas.

PRESIDING MEMBER DOUGLAS: Thank you. This has been a really helpful status conference. It's been -- it is very helpful to the Committee to get earlier respective on issues as they arise, and on potential issues as they impact the schedule.

As the Hearing Officer indicated earlier, the Committee would very much -- very, very much like to see us stay on the schedule as proposed. And so while we are going along with the request for more time for the PSA, we'd very much like to keep therefore the back-end of that schedule and to see a complete PSA.

I know not everything is within your control, but hopefully working together with the other parties you'll be able to make that happen.

Let me ask if Commissioner Peterman has any comments?

ASSOCIATE MEMBER PETERMAN: No.

PRESIDING MEMBER DOUGLAS: Not at this point. Okay. So with that, I'd like to thank everybody and we'll look forward to seeing you again at the next status conference.

We're adjourned.

(Thereupon the California Energy Commission hearing concluded at 1:15 p.m.)

CERTIFICATE OF REPORTER

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

That I am a disinterested person herein; that the foregoing California Energy Commission Status Conference was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed under my direction, by computer-assisted transcription.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of April, 2012.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063