INFORMATION HEARING and SITE VISIT
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of: )
the Los Esteros Critical Energy ) 03-AFC-02
Facility Phase 2 (LOS ESTEROS 2) )
_________________________________________

ALVISO COMMUNITY AND YOUTH CENTER
5040 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95002

TUESDAY, MAY 4, 2004
7:30 p.m.

Reported by:
James Ramos
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
COMMITTEE MEMBERS PRESENT

William J. Keese, Chairman, Presiding Member
Jackalyne Pfannenstiel, Commissioner

HEARING OFFICER, ADVISORS PRESENT

Major Williams, Hearing Officer
Rick Buckingham, Advisor to Chairman Keese

STAFF AND CONSULTANTS PRESENT

Robert Worl, Project Manager
Dick Ratliff, Senior Staff Counsel
Lance Shaw, Compliance Project Manager
Geoff Lesh
Roger Johnson

PUBLIC ADVISER

Margret J. Kim
J. Mike Monasmith, Associate

APPLICANT

Jeffery D. Harris, Attorney
Greggory L. Wheatland, Attorney
Ellison, Schneider and Harris, LLP
representing Calpine Corporation

Rick Tetzloff, Project Manager
Calpine Corporation

Steven A. DeYoung, Principal
DeYoung Environmental Consulting

Douglas M. Davy, Senior Project Manager
CH2MHILL

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
ALSO PRESENT

Tina King, representing
James T. Beall, Jr., Supervisor Fourth District
Board of Supervisors,
County of Santa Clara

Lydia Tols
Office of Mayor Ron Gonzales
City of San Jose

Mike Mena, Project Manager
Department of Planning, Building and Code Enforcement
City of San Jose

Harry Adams representing
Assemblywoman Sally Lieber
22nd Assembly District

Richard P. Santos, Director, District 3
Vice Chair, Board of Directors
Santa Clara Valley Water District

Robert W. Gross
Santa Clara Valley Water District Director,
Retired
The Union Warehouse Circa 1850
Alviso National Historic District

William J. Garbett
T.H.E.P.U.B.L.I.C.
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
PROCEDINGS

7:30 p.m.

PRESIDING MEMBER KEESE: This is an informational hearing conducted by the California Energy Commission to look at the Los Esteros Power Plant project.

I'm Bill Keese, I'm the Chair and at the moment the only member of the two-member Siting Committee that will be studying this case. On my left is Jackie Pfannenstiel, who was sworn in as an Energy Commissioner this morning. And we decided we'd get our money's worth out of her, so we invited her to join us here, and who knows, she may turn out to serve on the Siting Committee on this case sometime down the line.

On my right is Rick Buckingham, my Advisor, who will be with us for this case. The Hearing Officer is Major Williams. And Major Williams is going to conduct most of this hearing.

Major.

HEARING OFFICER WILLIAMS: Thank you, Bill. Welcome, Jackie. As the Chairman said, this is an informational hearing. The Commission's Public Adviser's Office is present in the back. And they will be making a presentation
later. Margret and Mike, Margret Kim and Mike Monasmith, are in the back. And if you have any questions about the process here today, those are the people that you want to talk to. So just make a note of it when they come up so you can, you know, have that in the back of your heads.

We have the applicant on my left. Would you like to introduce -- Mr. Wheatland, would you like to introduce the applicant.

MR. WHEATLAND: Thank you. Good evening, I'm Greg Wheatland, and I am the attorney for the applicant. And I would like to ask those who are seated here at the table with me to introduce themselves to you, also, at this time.

DR. DAVY: My name is Doug Davy and I'm a consultant to the applicant; and I'm the Project Manager for preparing the AFC.

MR. TETZLOFF: Rick Tetzloff; I'm with Calpine. I'm the Project Manager for the phase two development.

MR. DeYOUNG: I'm Steve DeYoung; also a consultant to Calpine. I'm the Environmental Manager.

HEARING OFFICER WILLIAMS: One thing, anybody who speaks today, would you, if you have a
business card, would you make sure that the court reporter gets your card so that we can get the spelling of all names correct; we won't offend anybody. But we still might do it, but it would greatly help if you get your business card to the court reporter.

And I see Margret in the back. Margret's holding a blue card. If you have any questions about anything that happens today it would be very helpful if you fill out a blue card; and that way we can kind of organize folks coming to the mike. The Chairman will put the cards in alphabetical order and we can kind of control things a little bit better that way. So if you have a question please fill out a blue card so we'll get you up to the mike and you can raise your question or your comment or whatever you may have to offer.

I'm sorry, Mr. Wheatland, complete, please.

MR. WHEATLAND: That completes our introductions, thank you.

HEARING OFFICER WILLIAMS: Okay. Thank you. Staff.

MR. RATLIFF: I'm Dick Ratliff, Counsel
for staff. And Bob Worl, the Project Manager, is with me. Roger Johnson is also here in the audience; he's the Siting Manager.

HEARING OFFICER WILLIAMS: Would the members of staff of the Energy Commission please stand so we can -- okay. Thank you.

There are presently no formal intervenors that I'm aware of at this point. Intervenors are folks who have the opportunity to sit up at the table, such as applicant and staff, and present evidence -- oh, we do have one. A request from -- we do have one here. The Committee hasn't acted on it, but I do see that we have one that's come in.

So, Margret will talk about the process of intervention and how you can become a party in this proceeding, and what that means.

Are there any governmental entities here represented by anyone? Could the folks who are with a governmental entity come forward and introduce yourself and let us know who you are.

MS. KING: I'm Tina King with the Santa Clara County Board of Supervisors, Office of Jim Beall.

HEARING OFFICER WILLIAMS: Thank you.
MS. TOLS: I'm Lydia Tols with the City of San Jose, Office of Mayor Ron Gonzales.

HEARING OFFICER WILLIAMS: Business cards, remember.

MR. MENA: Mike Mena, City of San Jose Planning Division.

MR. ADAMS: Harry Adams representing Assemblywoman Sally Lieber from the 22nd Assembly District.

MR. SANTOS: Richard Santos, Alviso resident, but also Director of the Santa Clara Valley Water District. This is my area.

HEARING OFFICER WILLIAMS: Thank you, sir. Again, if the representatives of governmental entities are going to speak or would like to speak later, I would ask you to fill out a blue card, again, so we can have an orderly presentation on that.

Okay, what we're going to do here today is applicant and staff will make presentations on the proposed project. After the presentations by applicant and staff the Committee will reserve a portion of the agenda today to take evidence on the question of the proposed project's impact on a legal question in Public Resources Code section...
25552. We'll do that at the end of the day after
we take the presentations from applicant and
staff.

At this point are there any members of
the public that want to come forward and introduce
yourself and make a comment or -- does any member
of the public have anything to say at this point?
Okay.

I just want to note for the record that
the Committee and the participants here today
earlier visited the site, the Los Esteros
facility. And the plant is operational. I will
refer to it as Los Esteros 1, phase one. And
there is a phase one component of our proceeding
here today. There's actually two phases of what
the applicant is requesting. So there's a phase
one and there's a phase two.

The original project that you all saw
there today I will refer to as phase one. And
it's also something that we will be addressing as
part of the informational hearing today. So I
just don't want any confusion on that point. I
hope I haven't confused you. But applicant will
be presenting that in its presentation.

This informational hearing is the first
public event conducted by the Committee as part of
the Energy Commission's licensing proceedings on
the Los Esteros Critical Energy Facility. Notice
of today's hearing was posted on the Commission's
website at www.energy.ca.gov. and sent to all
parties, adjoining landowners, interested
governmental agencies and other individuals on

In addition, notice of today's event was
published in a local newspaper of general
circulation, The San Jose Mercury News, on May

Documents pertinent to today's hearing
include applicant's proposed schedule for the
project filed on April 27, 2004; staff's issues
identification report filed April 23, 2004; and
the statutory question that I referred to earlier
that relates to Public Resources Code 25552.

The purpose of today's hearing is to
provide a public forum to discuss the proposed Los
Esteros project; to describe the Energy
Commission's review process; and to identify the
opportunities for public participation in the
process.

Electrical energy produced by this
proposed merchant power plant will be sold in California's competitive deregulated electricity market. A merchant plant is built with private funding without creating any direct financial liability for electricity consumers.

Applicant's plan in this single AFC proceeding is two-pronged. I mentioned that before. The first thing applicant is wanting to do is to continue to operate the Los Esteros phase one in simple cycle mode, producing 180 megawatts of electricity beyond expiration of the current license on July 2005.

The second thing that applicant wants to do in this AFC process is to get a license to begin construction and start operation some 19 months later of the simple cycle plant as a combined cycle facility which will produce, in the end, a maximum of 320 megawatts of electricity. And applicant will get into the detail about that.

Today's event is the first in a series of formal hearings which will extend over the coming months. The Commissioners conducting this proceeding will eventually issue a proposed decision containing the recommendations on the proposed power plant.
It is important to note that by law the proposed decision must base its recommendations solely on the evidence contained in the public record. To insure that this happens and to preserve the integrity of the Commission's licensing process, the Commission regulations in the California Administrative Procedure Act expressly prohibit off-the-record contacts between the participants in this proceeding and the Commissioners, their Advisors and the Hearing Officer. This is known as the ex parte rule. This means that all contacts between the parties in this proceeding and Chairman Keese, and the second Commissioner, when that Commissioner is appointed, and it very well may be Ms. Pfannenstiel, -- you can't talk to them concerning a substantive matter unless it's in the context of a public discussion, such as will occur today; or in the form of a written communication that's distributed to everybody, to all the parties. So, no ex parte contacts.

The purpose of this rule is to provide full disclosure to all participants of all the information which may be used as a basis for the future decision.
Again, as I said, today we will have presentations by the applicant and then by staff. After those presentations are concluded and any questions presented by the participants are addressed, then we will take comments.

During the course of the hearing we will proceed in the following manner: Applicant will describe the proposed project and explain plans for developing the project. Commission Staff will provide an overview of the Commission's licensing process and its role as an independent party. Again, Commission Staff is an independent party in reviewing the project.

After each presentation again we will take questions or comments from interested agencies and members of the public.

Then the Public Adviser's Office will come forward and explain to you how to become more involved, if you desire, in the process than merely a member of the public.

After Ms. Kim does that, then the final thing that we'll do is we'll turn to a discussion of the project's compliance with the requirements of the expedited review process set forth in Public Resources Code section 25552.
With that said I think we're ready to proceed to applicant.

MR. WHEATLAND: All right, well, thank you. For the applicant's presentation I'll turn the microphone over to Mr. Tetzloff.

MR. TETZLOFF: Thank you, everybody, for coming out tonight. I appreciate you sacrificing a Tuesday night for this.

A format question. Are we allowed to take questions during the presentation, or do want to save that till later?

HEARING OFFICER WILLIAMS: Well, we don't want to interrupt your flow, so it probably would be better to do it after your presentation.

MR. TETZLOFF: No problem, okay. My presentation tonight is to discuss the project in general, and then talk about the aspects of relicensing for phase one, and also the new licensing for phase two, the combined cycle conversion.

Calpine Corporation was founded in San Jose 20 years ago. It started out as a tiny company with just a handful of employees, and now is the largest independent power company in North America. There's well over 3600 employees with
projects that are throughout North America, Canada, U.S. and soon to be in Mexico. And there's also one large plant in the U.K.

Calpine's strategy or business model is based on two different technologies. One is renewable geothermal, which is primarily the Geysers facility north of San Francisco, and natural gas. With natural gas plants and the geothermal plants we have a total of 87 plants in operation today with a total of 22,000 megawatts.

To give you an idea, one megawatt is the equivalent of electricity used by anywhere between 750 and 1000 homes. So the phase one plant that we saw today, 180 megawatts; that's the equivalent of about 135,000 homes that it provides electricity to.

And the last point is critical for Calpine's success that we be a good neighbor and a responsible corporate citizen.

As Mr. Williams noted the facility you saw today was phase one. It's a state of the art, natural gas turbine power plant, 180 megawatts. And there are certain features of the plant that have been designed into it to allow an easy conversion in phase two to combined cycle.
The phase two portion that we're also seeking a license for is to convert the facility to combined cycle, which is one of the most efficient technologies available today for new plants. And it will have a total capacity of 320 megawatts.

As we discussed, the current license expires in July of '05. I'll talk a little bit later about the reasoning for that. We're also seeking the licensing for phase two, which will be the combined cycle conversion. And that both increases the efficiency of the facility and the capacity.

A little history for phase one. The application was initially filed in August of 2001. And was deemed data adequate about a month later. And this was in the expedited process, which is, on paper, supposed to be a four-month process. In this case it took ten months. And that mostly speaks to the thoroughness of the environmental review that was conducted for that process.

It received a full environmental review just like it would if it would have not been in the expedited process.

That license for phase one, along with
the other permits that you see listed up there, were approved around the June/July of 2002 timeframe. The project went immediately into construction and started its first operation in December of that year, which is a very short construction period. And joined full operation in March of '03.

Benefits of the project. The primary one is that it's alleviated the strain on the power grid in the south Bay Area. The Bay Area is a huge load center with very few generation resources. And so having generation close to load, and with technology that's as clean as a facility like this, it enables the transmission system to actually -- it alleviated any of the -- not any, but some of the constraints that you'd normally have trying to bring power into a large population center where all the electricity usage is.

Actually, there's a system impact study that Pacific Gas and Electric just finished for the phase two facility. And that study is still being completed, but the preliminary results show that the addition of the 140 megawatts for phase two actually reduces, in all cases that they
studied, the different cases and constraints that they found in the San Jose area.

Another benefit of the project is that we spend somewhere roughly around $1 million a year on local services and supplies to support phase one. And that phase one, since it was envisioned to have the eventual buildout to phase two, has a lot of the infrastructure, a lot of the pipelines, a lot of the design of the general site was designed to enable the phase two construction.

So when phase two does go into construction all of it, except the short transmission line that will go right to that SVP portion, all the construction is going to be within the fenceline.

Another benefit from the project, of course, is property tax revenue. The first column is the actual costs expected based on the assessments from '03 to '04 of phase one. The total is about $1.5 million. That get sent to the County. And then the County distributes it according to percentages, which I broke out in that table there.

For phase two, if it was operational today these would be the estimated property tax
revenues based on that. The far right column for phase two, those costs are all in addition to the phase one. So if you look at the very bottom the total of the facility would be about $2 million per year.

And, again, going back to the point of Calpine being a good neighbor and corporate citizen, the plant's only been operational for about a year and these are many of the things that we've been involved in and contributed to, thanks to the hard work of people like Richard Santos and Councilman Reed and the people that are operating the facility.

Some of them, you'll notice, are for the school. I mean all these areas are focused on helping the neighborhood that we operate in.

Need for additional power generation.

Here are some quotes from a few of the public officials in the state. First one is from Governor Schwarzenegger, "If we do not act now California will face energy shortages as early as 2006." I won't read them all, but the next one is from Senator Dianne Feinstein, and the last one is from Assemblyman Fabian Nunez.

They basically call, or giving warnings...
that, you know, we're out of the energy crisis of 2000. And a lot of projects were built as a result of that, like Los Esteros phase one. But there's been a huge drop-off in new projects being constructed. And with the economy coming back as it is, we're looking at another mismatch in supply and demand looking forward unless new generation is built.

And if you don't want to take the word of politicians, here's some actual facts dealing with this issue. One of the biggest issues is that there's a lot of just old generation in the state. Forty percent are 30 to 40 years old. And that's towards the end of useful life of most power plants.

Another issue that just happened a couple months ago in March, the Independent System Operator issued a stage one alert, which means that the amount of capacity that's available is only barely meeting the demand for that day. So the reserves, which is the amount of capacity that's available but not operating was getting too small.

And as a result of that stage one alert the ISO President and CEO commented that
California will likely face emergency power situations or stage alerts this summer, given the state's sum capacity reserves.

And further evidence of that just in the last week we've had two, including one yesterday, supply emergency notices. What those notices are, it's a lower level condition than a stage one alert; it's basically when the ISO tells the plants to be in hands-off condition. So when a plant would normally switch pumps on or off, they're basically asked to, if it's running don't touch anything, because we can't risk any outages.

As far as the phase one licensing, it was licensed under the expedited licensing provisions. And that, again, was a four-month process that took ten months. And the reason, again, for that was that the process went through a full environmental review. And these are some of the things that had to be demonstrated in order to have that license approved.

You had to prove that you did not have a significant adverse effect on the environment or the electrical system. You had to be equipped with the best available control technology for air emissions. You had to not be a major stationary
emission source under the Clean Air Act. You have
to comply with all laws, ordinances, regulations
and standards. And most importantly, which brings
us to the recertification of phase one, you had to
be recertified, converted to combined cycle
operation or cease operation within three years.

That three-year period ends for phase
one in July of 2005. What we're pursuing with
this process are the first two aspects of that.
We're seeking to recertify phase one to allow it
to continue operating until we do the second,
which is convert it to combined cycle.

And, again, this went through an
expedited process. It's very important to realize
that the phase one project was still subject to a
full environmental review and the same review that
it would have received if it had been filed under
the typical 12-month process.

The facilities that you saw today, we
talked about a lot of that already. But there's
four aeroderivative LM6000 gas turbines. That's a
modified version of the engine that you see on
747s. They start quick; they're very efficient;
and they're able to ramp up and down and load very
quickly.
And the large, gray tall structures, those are empty right now. But for phase two they'll be filled with heat exchanger surface. Right now all they have in them are emissions control equipment, which helps to control NOx emissions and carbon monoxide emissions.

Some of the other things that are important there to note is plume abated cooling tower which we talked about at the site. Again, that's designed to eliminate the visual white vapor cloud that you see coming up out of many other towers around the area.

The recycled water supply line is also an important feature of this plant. And the visual screening we talked about when we first stopped along the road, that whole screening design was discussed and approved unanimously by an architectural subcommittee that was formed as a result of the phase one license. It had members from the City of Milpitas, City of San Jose, the CEC and Calpine. And the design that they came up with where the sound wall that surrounds the facility; the bermed landscaping around the outside of that wall; and also the large berm with trees that are on the southwest side.
And they were designed to screen the views of people that are driving along 237, which is a scenic corridor, I believe. And it will allow you to screen the view of the facility so you'd see a natural landscape, but yet not obstruct your view of the hills in the background.

The recycled water is a feature we're very proud of. The water pollution control plant that we drove by to get to the facility, obviously it's very close to Los Esteros. Before they had this South Bay water recycling program all their -- they collect wastewater from about nine different cities in the area, including Milpitas, Santa Clara, and San Jose.

All that water gets treated. And once it's suitable quality it's then discharged down the Guadalupe River into the Bay. And what they found is that water is converting the salt water marshes that are in the South Bay into fresh water marshes because of this discharge during drought periods.

So they started the South Bay water recycling program to try to minimize that effect. And what they do is they allow that higher quality reclaimed water, they call it recycled water, to
be available for use on nondrinking water uses,
such as irrigating golf courses, irrigating
property around commercial areas, schools. Or for
use in a facility like Los Esteros.

All the water that we use onsite, except
for some drinking water that gets trucked in for
the employees, all the water that's used is the
recycled water from the water pollution control
facility.

And the water that -- we also discharge
wastewater. That goes back to the treatment plant
for further treatment and process.

The second license we're seeking is the
conversion to combined cycle. That will result in
an increase to 320 megawatts for the facility, all
within the existing fenceline except for the one
short transmission line that will just cross our
northern boundary into the SVP switching station.

We're also working with Mike Mena and
his group, the City of San Jose, on conforming the
zoning for phase two. Right now the zoning is
specific to phase one. The zoning stipulates that
it's only for 180 megawatts. So the rezoning is
to increase that to the full capacity for phase
two of 320.
The schedule for phase two. We're planning on starting, assuming we're issued all the permits and licenses, is to start construction in 2006 with commercial operation, which is full operation of the facility, in 2008.

The additional equipment that we added for phase two. The large, we call them HRSG ducts, that houses the exhaust of the gas turbine, that's a big empty chamber at this point, except for the emissions controls. We would fill that with duct burners and water and steam heat exchangers that take the heat out of that exhaust and convert it to steam. And that steam energy then turns a steam turbine which generates electricity in its generator.

Along with that equipment we have a large cooling tower that gets added. It looks just like the one that's out there, only there will be six cells instead of one. There will be a 140 megawatt steam turbine. And associated with that are the condenser pumps and circ waterlines.

And then we'll have, from the switchyard we'll have two lines that go to transformers that will be able to feed into the SVP switching station.
As far as what the -- this is a picture that was taken within the last six months, I believe. This is a view from the Zanker Road entrance ramp onto highway 237. And you can see the berm that -- we were parked on the other side of that. That berm, itself, obstructs the view somewhat. And then the trees are planted on there were designed to eventually screen off the majority of the facility. This was one of the primary views that was used to base the screening design on.

So, what will phase two look like? Flip back and forth to that one. This is the existing plant as it is. And then this next one is with the new phase two equipment shown.

The biggest thing you see there is just the six cell cooling tower. That's probably the closest to you at this point from this viewpoint. But it's about the same height as the steam turbine that'd be on the other side of that. That's, like I said, about the same height.

And this is -- if phase two was inserted at the site with the landscaping as it is right now. With five years of growth that would look like this. All those trees that were planted on
the berm, as well as surrounding the site, you can
tell at this point provides pretty good screening.
Just about everything except the tops of the
stacks.

And then we also did one for what it
would look like after 20 years. At that point you
have full screening.

And that's the end of the presentation.

HEARING OFFICER WILLIAMS: Thank you
very much. You can applaud, that's okay.
(Laughter.)
(Applause.)

HEARING OFFICER WILLIAMS: Thank you
very much, again. Lights. We're going to proceed
next with staff. Again, Energy Commission Staff
is going to explain their role in this licensing
process.

MR. WORL: We can do this with the
lights on, too. People see this clearly?

My name is Bob Worl. I'm the Project
Manager for the licensing procedure for Los
Esteros. I also was fortunate enough to work on
the original Los Esteros facility. So I have a
little bit of familiarity, and hopefully that will
be helpful as we go forward.
The Energy Commission, as was pointed out earlier, has responsibility to insure that the facility that's reviewed for licensure eventually is licensed if it complies with all laws, ordinances, regulations and standards. At the same time, has no negative impacts on the environment that aren't mitigated. And has no negative impacts on the electrical system.

And anyway, that brings us up here. The purpose here is to insure that the Commission fulfills its mission of taking licensing responsibility for power plants that are 50 megawatts or larger.

In that process we also have control over the transmission lines, the water supply systems, natural gas pipelines, waste disposal facilities, access roads. We act as the lead state agency for California Environmental Quality Act, often known as CEQA.

And in order to fulfill our role, to determine if the proposal complies with the laws, ordinances, regulations and standards, often you'll hear the term LORS. We tend to sometimes forget that that acronym is not likely understood outside those involved in the process.
We conduct a complete engineering and environmental analysis of the application. We identify issues; evaluate alternatives in terms of sites, and also technologies. Our role is to also identify mitigation measures for impacts that are identified. And to recommend conditions of certification that assure compliance with those findings.

Part of the process also involves facilitating public and agency participation. We try to work very closely with regulatory agencies, cities, counties, anyone that has a direct interest, relationship or responsibility in regards to the project.

Generally our staff products are a preliminary staff assessment and a final staff assessment. And we make recommendations to the Committee. The Committee, represented here by Chairman Keese, actually are the decisionmakers in the process.

And as pointed out earlier by Major Williams, we are an independent party to the process. In other words, our evaluation is not subject to control of any other party to the process.
Staff works, as I said, closely with the other agencies. In this case we have the City of San Jose, Santa Clara County, Bay Area Air Quality Management District, the South Bay water recycling folks, and several others. This was not meant to be all-inclusive. This is merely representative.

With the state, we also pay close attention to recommendations, evaluations by the Air Resources Board, the California Department of Fish and Game. And at the federal level, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the Army Corps of Engineers, to name just a few. All have had input into the original process, and also have the information in the application for certification currently before us to provide feedback on, as well.

We do our environmental analysis in approximately 19 areas, actually 20-some, some of which are combined. But rather than read them all, I think that they speak for themselves. And I see many of you already have the handout. The handout, by the way, mirrors this presentation. The only thing you're missing is the sonorous tones of my voice and whatever patter I can put in
between the lines. Please feel free to take one
of those with you.

We also do -- this is an indication of
the process. It indicates staff and our
assessment in testimony at hearings. We take
information from the applicant, from the public,
from intervenors, from local, state and federal
agencies. And we use that in preparing our staff
assessment, both preliminary and our final staff
assessment.

And you'll note there for both
intervenors and the public there's an asterisk
that refers everyone to the Public Adviser's
Office, who is there to fulfill the function of
insuring that there's adequate opportunity and
adequate assistance in presenting points of view
from both the public and from those who become
formal intervenors. The process is fairly open,
and we want to make sure that we hear from those
who have concerns, questions or, in many
instances, are just curious.

This one here indicates that the
decisionmakers, again Chairman Keese and Jackalyne
Pfannenstiel, who is here, another Commissioner,
basically will work with the Hearing Office,
represented by Major Williams. And they will take
the information from the applicant, public
comment, the agencies, our comments, reports,
intervenor comments and they will then come up
with another document that's called a Presiding
Member's Proposed Decision.

And again, each of these Commission
documents, whether it's by staff or by the
Committee, in this instance, also have a hearing,
so that there's public airing of the documents,
public opportunity to participate in reviewing
those documents.

And the proposed decision is a
preliminary document that presents the findings of
the Committee in this instance, and would be their
recommendation to the full Commission for making a
decision. And the final decision also in that box
is a function of the five Commissioners who form
the full Energy Commission. And they are the
final arbiter of what the result is.

Again, the public process is very open.
We'll have, throughout this process, workshops
which are less formal, but are noticed. And are
an opportunity to discuss each of the technical
areas, and what our staff have found and provided

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in their analysis. And we'll, through
discussions, be moving into a preliminary and a
final staff assessment.

Hearings are basically a more formal
function. Those are chaired, again, by the
Hearing Office, Major Williams; and have
representation of the Committee, be one of the two
Commissioners assigned to the case. And the
hearings are basically a formal means of providing
an opportunity for airing differences and
attempting to come to resolution of those things
that may be still out there.

Again, our documents, we've made
available through a number of sources. They're
available on our website, but we've also provided
copies to public libraries in Alviso and San Jose,
as well as a number of universities and large
cities. Also available in the Energy Commission
Library in Sacramento. And, again, our website is
up there, and all the documents, as they're
prepared, will be available on the website.

And I might also note, because we are in
phase one, looking again at the original Los
Esteros process, we've asked that the Commission
website also provide the original documents from
the Los Esteros for access. So those are back up
if anybody's tried to find them. Until recently
they were not available, other than the Commission
decision. But now the hearings and the staff
documents are back up there for people, should
they be interested.

You can participate, and again this is a
function of the Public Adviser's Office, but we
generally include this in our presentation.
Anyone can submit written comments or statements
to the Commission. We encourage that. You can
provide oral comments at public meetings such as
this one; or at workshops. Workshops are also
noticed, and though they're less formal you're
certainly entitled to attend and participate
there, as well.

And if you're interested in becoming a
formal intervenor, having a seat at the table,
being able to cross-examine witnesses, present
testimony, et cetera, then if you have questions
about that process, please contact Ms. Kim, who's
here, and who's also accessible via the 800 phone
number that I'm sure she'll provide you later.

Also, anyone can provide written
comments on the preliminary and final staff
assessments. And also on the Presiding Member's Proposed Decision. And bear in mind that the preliminary and final staff assessments are staff documents, and the Presiding Member's Proposed Decision is essentially a Commission or a Committee document.

So, as was mentioned earlier by Major, the staff, preparing the preliminary and final staff assessments, are an independent party. And the Presiding Member's Proposed Decision, again, is a decisionmakers' document.

I’ve provided some contact information. You can -- I hope that that’s accurate. Anybody whose name I put up there with inappropriate information please feel free to correct it. But the intent was to provide you something in the handout that would allow you, at a later point in time, to be able to access the various parties to this process, and to get answers to questions or be able to be put in touch with people who might be able to answer your questions.

I don't know whether you want to move on to the issues at this time, Major, or whether you want to wait. We just have a few that I thought maybe we could save that for a later part of the
process here, or we could just go on.

HEARING OFFICER WILLIAMS: Margret, do you want to give your presentation first?

MS. KIM: Yeah, I'll be very brief.

(inaudible).

HEARING OFFICER WILLIAMS: Yeah, let's -

- 

MR. WORL: Yeah, that's what I thought.

I don't mind. That's why --

HEARING OFFICER WILLIAMS: I think it would be -- normally we take questions between each presentation. We haven't done that. So I take it nobody has a burning question. But I promise I'll take all questions after Ms. Kim's presentation. That way she may say something that may answer a question, or she may say something that may raise another question.

So, we'll take public comment after the presentation by our Public Adviser's Office.

MS. KIM: Good evening. My name is Margret Kim and I am the Energy Commission's Public Adviser. We have a couple of handouts over there and Mike Monasmith, who is our Association Public Adviser, on Q&A, then acronyms.

I know it's getting late so I'm going to
be very brief. What I'm about to tell you is
probably one of the most important things for you
to remember. I'd like to see a show of hands, how
many of you have participated in the process
before? Wonderful.

I'm going to talk about two things. One
is what I do. What is the Public Adviser, and
what does she do? And the second part is how you
can participate.

I'm an attorney appointed by the
Governor to advise both the Commission, as well as
the public, on public participation. It's my job
to provide opportunity for you to meaningfully
participate.

The definition of the public is rather
broad. It includes not only individuals, but
organizations, companies, agencies. So while I
cannot represent you as your lawyer on any
substantive issues, I can render independent
advice and advocate points of procedures. So I
am, nonetheless, an advocate for process.

What that means is I will provide you
with legal guidance so your voice can be heard.
You may be wondering why the Commission is so
interested in getting public input, and it's
rather simple. That first, you have the right to participate; second, the Commission will make a better decision because they'll be better informed.

Moving on to how you can participate. You may be wondering would it really make any difference whether I participate. Can I really influence the decision. And the answer is yes. There are two ways. One, you can just provide public comments; as mentioned earlier, you'll be invited. We'll provide you with notice so you'll know to come.

You can provide written comments or oral comments. When you provide written comments it will be docketed and be made part of the administrative record. If you show up at any hearings, the Hearing Officer may accept your comments and it will be made part of the hearing record.

What that means is the public comment that you provide will support or explain the decision that the Commission will ultimately make.

Now that's different from participating as an intervenor. As an intervenor, you will be made a party. And it comes with certain rights
and obligations. You have a right to offer testimony and exhibits, and that will be taken under oath. You have the right to file petitions, motions, briefs. And when the Commission makes its decision it has to rely on such evidence.

But it also comes with obligations and duties. You will have to respond to certain data requests. You will be subject to cross-examination. And you will have to comply with certain filing and service requirements. Which means you have to provide copies to other parties.

Of course, you can always petition financial hardship and if that status is granted, then the Public Adviser's Office, together with staff, will assist in the proof of service and providing the copies.

So you may ask yourself how can I intervene if you are interested. We have a copy, and Mike has a set there you can take a look at. It's a sample of how to intervene. But you may not wish to intervene, and that's perfectly fine. You can always provide your public comments.

And that's basically what I have. But through the process you can always call us, email us, and I'll be there. And if you intend to
intervene but you want assistance, we will provide
a separate workshop just on the legal procedure.

Thank you.

HEARING OFFICER WILLIAMS: Thank you,
Margret. Is there anyone who wants to come
forward right now? Any public comment at this
point? Because where we're going to go now is
we're going to have staff finish talking about the
schedule, or what staff is recommending -- just
taking some blue cards. So we do have some folks
that want to comment.

PRESIDING MEMBER KEESE: I'll suggest
that staff -- the shorthand for what you've heard
is that staff does represent the public, also. So
I think it would be good at this time for the
staff to point out what they think the issues are.
And then the members of the public who wish to
comment can either add to that list, or reiterate
the points that you've made.

MR. WORL: Certainly, and we're prepared
to be pretty brief. And, again, I include this in
our handout, as well.

The staff issue identification report,
which is also on the back table, is primarily
oriented to inform participants of potential
issues; provides an early focus for the applicant, for the public, and for the Committee, and for staff, itself, to see the range of issues or potential issues that may be before the proceeding.

The criteria for identifying something as an actual issue are that it has impacts that may be difficult to mitigate or to essentially to reduce. That it's a noncompliance with laws, ordinances, regulations or standards. It's potentially contentious, something that causes argumentation about how to proceed or how to resolve the issue, or how to deal with the regulation.

And issues unresolved and could have impact on the schedule for continuing the proceeding and reaching conclusion is another way to identify an issue that gets raised at this point.

Again, I just wanted to reiterate what we're talking about here. The Los Esteros Critical Energy Facility 2, which is this particular proceeding, proposes two phases to be considered.

The first phase is the recertification
of the simple cycle license for the 180 megawatt
Los Esteros Critical Energy Facility that's
currently operating. And the second phase is a
license for modification and operation of the Los
Esteros Critical Energy Facility as a combined
cycle facility. And that's been explained by the
applicant, as well. Adding cooling towers, steam
generator, and associated equipment, and
increasing the output to 320 megawatts.

The potential issues that we've
identified, and I'll go through them real quickly
here. In air quality for phase one, there's a
proposed rise in particulate matter 10 microns or
smaller emissions, we call PM10. And they may not
-- our air quality staff, in reviewing it, say
that they may not be sufficiently offset. And,
again, that is an early supposition. It's not a
declaration of fact by any means, but it's
something that's based on the initial review of
the project. And is also indicated and followed
up with data requests from the Commission Staff to
the applicant.

For phase two air quality, again the
proposed PM10 emission limits may not be
sufficient offset. And the proposed nitrogen
oxide best available control technology may not meet the standards, or the original BAAQMD licensing criteria.

Biological resources. One of the issues that is before us is the need or the potential need for consultation with the U.S. Fish and Wildlife Service regarding nitrogen deposition and the potential impact on serpentine soils, and the follow-on impacts to Bay checkerspot butterfly, which are an endangered species.

We have under land use, the City of San Jose must rezone the site for the changes in the phase two combined cycle project. And we identified that because it's one of those things that can impact the schedule, depending on how the City of San Jose proposes to proceed with that.

And visual resources, phase two may have the potential to produce steam plumes from the stacks, not just from the cooling towers. And the City of San Jose has a zero plume policy. And so we've identified that as something that needs to be discussed.

And for water resources, for phase one actual recycled water use and wastewater return to the water pollution control plant can be evaluated
for perhaps more efficient environmental use. And
for phase two, water use and returns will increase
significantly, use a lot more water, more than
double, I think. And will be evaluated for
consistency with Energy Commission's policy. We
call it zero liquid discharge policy.

And I think that that pretty much is it.

Now we've moved on to our proposed schedule. And
this differs somewhat from the applicant's
proposed schedule, both of which, again, are
included in our presentation and also in the
applicant's, their version of it, as well.

But as you can see here, we have a fine
line that shows approximately -- well, we haven't
gone all the way to the Committee and the
Commission's part of this. We've stopped here
short and dealt solely with the staff's
responsibilities and the things that are directly
within the staff's control.

Again, we start with the AFC being
deemed adequate at the business meeting March
17th. We're currently at the informational
hearing and site visit, which is May 4th. There's
May 18th, we have a possibility of holding our
first issue resolution workshop.
And moving on, we have, if needed, a second round of data requests, and the potential of additional workshops. We have a timeline where we expect the local, state and federal agencies' draft determinations so they give us a preliminary determination of their requirements, their permits.

And then we will prepare a preliminary staff assessment. File that. We'll have a workshop on that. We then expect that the local and state agencies would make their final determinations. Probably the key one here would be the Bay Area Air Quality Management District and a document that they call a final determination of compliance, which sets out the air quality requirements for operation.

And we would then prepare a final staff assessment. Again there would be additional opportunity to provide input at that time. The Committee and the Hearing Office take over, and again, working on a Presiding Member's Proposed Decision. And going on forward to holding formal hearings with formal presentation of evidence; cross-examination of witnesses of the various parties; and the preparation of a final Commission
decision that would be voted on by the five
members of the Commission.

Anyway, that's pretty much it.

PRESIDING MEMBER KEESE: All right, why
don't we ask members of the public to comment.
Mr. Gross, do you wish to say anything at this
time?

DR. GROSS: Mr. Chairman, Members of the
Commission, Bob Gross. I have just a few comments
to make here.

First, when Calpine came to this
community they came here to try and be a good
neighbor. They held meetings here with the
community, a number of them are here tonight. And
one of the things that we raised were several
questions. One was air quality. And there was
mention of a diesel, using diesel generators. We
said absolutely not. They changed 180 degrees
overnight.

The other thing is we talk about size.
And I said, don't go in with a small plant. If
you're going to build it, do it right. And,
again, they went ahead in that direction.

I feel very pleased. I was a member of
that architectural committee that helped landscape
that program over there. As you can note, down
the road it's going to look like a forest out
there.

And believe me, Calpine -- in fact, I
argued with a number of the members on the
Commission. I said, you know, this is private
industry; this isn't government. You just can't
keep spending and spending. But Calpine went out
of their way, and bought many plants, a lot larger
than they normally would have for their
landscaping program. They were very cooperative
in that direction. And I says, you can see you're
going to have not only a natural look, but it's
going to be a real excellent visual screen.

And the last point, as a 30-year veteran
in the water industry I was involved in the South
Bay recycling, I was one of the founders of that.
I was State Chairman for the water recycling. And
I'm so pleased to see purple pipes everywhere out
there. Because, you know, we live in a desert.
And Calpine stepped forward, and I said you can't
use that much water. They said let's use
recycled.

So today the City of San Jose, along
with the other agencies, are really pleased that
Calpine stepped forward and said we're going to use that water. So I think environmentally addressed it.

And I'm also pleased that Dick Santos now, he took my place on the Water Board. He's also picking up this. And I just want to say this. Calpine has been a good neighbor. We've argued with them. We've fought with them. But in the end I think we still remain friends. We expected more out of them, and they stepped to the plate each time. And I just wanted to compliment them.

Thank you, Mr. Chairman.

PRESIDING MEMBER KEESE: Thank you.

Since you introduced Mr. Santos, Mr. Santos.

DR. GROSS: By the way, this isn't nepotism.

(Laughter.)

MR. SANTOS: Richard Santos, Alviso resident and Director of Santa Clara Valley Water District. Always a hard act to follow Bob. I've been doing it for over 20 years.

But I wear two hats and one of the agencies that you did leave out was Santa Clara Valley Water District. We worked very closely.
with Calpine, restrictions, permits and I can go
on about water runoff and so on. So we worked
really closely with them and we continue to do.

The other issues on environment dear to
me was the recycling. Bob, before me, I took over
the committee on recycling. And I'm just pleased
as heck any time you use millions of gallons for
recycling water. That was poured into the
Guadalupe, it was 123 million gallons a day that's
helping to destroy our river. When I think of
these millions of gallons of recycling, it's that
much less. So we applaud Calpine for going from
180 to 320 megawatts.

We have no problem. They have been good
neighbors from the day they got here to the
present. And it's been a very good relationship.
As a very active person here in Alviso socially
and politically, we have an incentive program, I
helped fund the library, I have my -- here. We
have many many volunteers, and Calpine's been good
neighbors. They helped us with providing
scholarships, incentive program out here in Alviso
where we have 1500 children; gift, free books,
pictures of Santa Claus, and families that low
income children cannot afford to go to Macy's and
get these things. Calpine did it. Calpine has
been there for us.

They attend our meetings once a month,
and we solicit for the first six months of every
year to keep that program running. So it's paying
off.

You know, I know we also talk about tax
revenues. Yeah, I'm excited. Special districts.
Talk about $78,000. That's what keeps us going.
We do a lot of environmental work and flood
protection. So that money is very valuable.

And, of course, for flood protection
also. They came to our meetings when we were
fighting for this -- extension and we're still
working on it. Calpine wrote letters, attended
our meetings, and was good neighbors and support.
We appreciate that.

One other thing that you may not know
was my grandfather was the first non-Asian laborer
when Calpine first came here they were asking what
can we do for the community and so on. And they
did various things. But one thing they did, we're
going to be having a big event out here. They
named their frontage road Thomas Fu Chu
(phonetic). And that'll provide, the rest of our lives, the legacy of Thomas Fu Chu who brought my family here as laborers. He ran this camp. And there is no documentation out here for Chinese history. We'll keep that forever. His family, we still get together today, 30 members of the family. So it's a big deal for Alviso, and the community can preserve that Chinese history that's been forgotten. And I thank Calpine.

Again, when you take a look at that and you take a $5 billion investment to help solve the energy crisis in California, I think that's marvelous. And I support phase one and two. And I support the expansion. I think they're very good for our community.

Thank you.

PRESIDING MEMBER KEES: Thank you very much.

HEARING OFFICER WILLIAMS: Mr. Santos, I have a question for you. I don't know if you know it or not, but it just occurred to me when you're driving by that water treatment facility, that it's a huge facility. How big is it in relation to other such facilities in the country, do you know?
MR. SANTOS: Well, you know, it's a tri-party, so it's huge, yes. But we're partners in that along with Milpitas and Santa Clara, I can go on and on. Try to get this recycling issue. This is the biggest issue going on. And everybody stepped up to the plate.

We're trying to reduce the 123 million gallons daily going in that Guadalupe. But, yeah, the plant is huge compared to anywhere else. But we're making great strides, and we've been, you know, Bob before me 20 years invested; and I've been on it four, going on my second term.

And we're here to preserve this community. I don't know if you know about the history here, but we get flooded tremendously throughout the years. And now we're trying to make headway to prevent that. With these kind of partners I believe we're going to succeed.

HEARING OFFICER WILLIAMS: Thank you.

MR. SANTOS: So, thank you for your time.

PRESIDING MEMBER KEESE: Thank you. Mr. Garbett, nice to see you back, again.

HEARING OFFICER WILLIAMS: Just for those folks in the audience who don't know,
Mr. Garbett participated as an intervenor in the phase one process.

MR. GARBETT: Yes, I'm William J. Garbett and I was with an environmental group called T.H.E.P.U.B.L.I.C. And we're waiting for the corporation's statements to renew our registration. We've been sitting there for a long time now. The state is not quite as fast on the mail response as they used to be. We may be an intervenor once again.

We had many pointed conversations in the past, and there were many issues. And the plant out there is testimony that actually a good product has resulted. And the construction that was already in place anticipating the expansion and the upgrading of the plant is well appreciated and very good economy and far-sighted thinking.

We do have a couple of issues, though, a number of them along the way. So I'll throw everything out on the pile here at the very beginning so we know where we're going. One of the issues is what has been the generation capability of the plant? How much power? How many hours of actual power generation level has been introduced, as opposed to how many hours the
We go and look at what did the taxpayer truly get for their money, because the taxpayers aren't subsidizing this, not necessarily, the private market buying electricity.

We'd like to go and see in this process here, in phase two, a de novo review of phase one and two. Basically any party will probably stipulate that most of the stuff in place has already been good work product. And so we don't anticipate any surprises, but there are some rough edges because this was an expedited procedure under the Commission rules in the past. So therefore we can just clean up a few minor things that continue to nag.

The ownership of the plant has always been one in dispute. Is there going to be a change as of tomorrow? Is there an LLC going to be in? What is going to be the responsibilities of ultimate cleanup and other things? So the true parties, as far as the applicant, we need to know that for a very good reason.

There have been some violations in the
construction of the plant. There was request for different power routing in and out of the plant. There has been violations on that. And if you can go and throw a four-inch duct down for fiberoptics, why can't it be for the conductors going between the plant and the substations?

In the future you're talking about 230 kV service out of the plant. In the past the community wanted no more than 115 kV limit the ultimate potential of the plant. And if you do, for some reason, do go to 230 kV, I hope you recycle the 120 kV transformers to other assets that Calpine owns where they'll be better used and actually get the highest efficiency with the correct voltage that we go to. That's problematic because we're still going to look at 125 kV and Silicon Valley Power not being in the issue.

With the plant, itself, the appearance of it, we wonder why the color change of the cooling tower from the rest of the plant, and that distinguishing feature on the architecture there.

We don't see why you can't use potable water brought in by a pipeline from the City for drinking water on the premises or other purposes.

We don't believe everything has to be, you know,
Alhambra or another type of water brought in in vast quantities.

One issue of emissions that we didn't address before was the engines for the gas compressors. So that might be one of those things.

As far as the air quality issues, if you put in more units we expect more PM10. What's the problem with that? Well, really, the plant is fairly clean on PM10 emissions by and large. The Commissioners, in the instance of Metcalf, when the PM10 became a little bit problematic, just added extra stages of catalyst, which was very far reaching.

However, I hope they look at perhaps another alternative, and perhaps address PM2.5, using the electrostatic precipitation to catch both of them. And that might be an alternative that you may want to look at, because, in fact, the PM2.5 emissions are the major portion of the emissions from these plants.

The particular water problem with recycled water and other such things could be addressed with dry cooling. With dry cooling the architectural impacts and other things wouldn't be
there. And the hazards of recycled water are ever present. The amount of asthma and other bronchial-type illnesses are ever present.

Cooling towers are used for the perpetration of germ warfare. The sewage plant nearby is relining their digesters just for extra ingredients in the future here.

And we worry about the use of recycled water being spit into the air where it actually can be lodged in your lungs, the most sensitive area for infections. Has it made a difference?

Well, my daughter works on one side of the plant, lives on another. She's packed up her bags and left the state, or is in the process. So it's affected me family-wise, because my daughter's been around me all my life, among other things.

And there are other people doing the same thing.

So, look to the recycled water as being one of those issues that needs to be taken care of.

And as before, Calpine, we're looking for you to being in the neighborhood at a bigger capacity, because the Commission has never turned down any petition in the past for a power plant by and large. They all generally get on through, and
we figure you'll do well on this one.

Thank you.

HEARING OFFICER WILLIAMS: Thank you, Mr. Garbett. Rather than have applicant address some of the points you raised, because of the lateness of the hour I think, you know, you can raise those through the workshops and what-have-you that will be coming up, whether or not you decide to intervene in the process.

So, we won't address those directly tonight. But we expect that you will present those to Calpine in the appropriate forum.

PRESIDING MEMBER KEESE: And I think most of the staff of Calpine have heard your comments tonight. I would imagine they'll have responses for you.

Mr. Enrique Aldana.

I will just recite his question and that's probably why he wrote his question out.

"There were promises made of hiring local residents from Alviso. Has the hiring procedure been implemented?"

Is that an easy enough question to answer?

It sounded to me, from one of our
earlier witnesses, like there had. There were
people from Alviso working on this project. Okay.
Take that one to the workshop, too, please.

That's the end of the written comments
we have here. Anybody else dying to ask a
question?

I do have one question, Mr. Worl. Zero
liquid --

MR. WORL: ZLD.

PRESIDING MEMBER KEESE: What we were
talking about, as I understood it, was taking the
water out of the plant and back into the sewage
treatment plant.

MR. WORL: That's what --

PRESIDING MEMBER KEESE: Is that
considered zero?

MR. WORL: I think they're --

PRESIDING MEMBER KEESE: You're going to
look at the aspects of that, or --

MR. WORL: Yeah. The Commission's
policy is to, in the recent IEPR, was to look at
utilizing the water through several cycles of
concentration onsite, and then essentially using
it to the point that adding to it as needed, but
basically through filtration, insuring that
there's none or near none going back to the water pollution control plant.

Right now I believe, I'm not sure, I think that it's indicated that you're getting two, sometimes three cycles of concentration out of the recycled water at this time. And the original evaluation we were looking at reusing the water as many as four to six times.

So it's just basically looking at a means of reducing the amount of total water with high concentrations of total dissolved solids, going back to the water pollution control plant, and potentially causing problems for them in terms of what they discharge to the Bay.

And it's a question for evaluation; it's not a demand for action, so to speak, as yet.

PRESIDING MEMBER KEESE: Thank you.

HEARING OFFICER WILLIAMS: Any questions? Okay. So, applicant, do you have anything further?

MR. WHEATLAND: We don't have an answer for you in terms of the hiring practices during the construction phase of the project. But we will look into that and provide an answer to that question.
HEARING OFFICER WILLIAMS: Anything further that you want to address that we haven't had the opportunity to address --

MR. WHEATLAND: Are we moving now to the discussion of the schedule?

HEARING OFFICER WILLIAMS: Excuse me?

MR. WHEATLAND: We have some comments on the schedule at the appropriate time.

HEARING OFFICER WILLIAMS: Well, now is the appropriate time.

MR. WHEATLAND: Well, we tendered to the Committee a suggestion for several schedules. One schedule would use the model of a single staff assessment. In the Russell City Energy Center proceeding we had what we felt a very successful experience using a single staff assessment.

That was a proceeding, you may recall, where the number of issues were relatively few that were contested. As in this case, we also have very few serious issues that are identified by the staff as potential issues.

And in Russell City we found that we were able to proceed with a single staff assessment rather than producing two full documents, both the PSA and an FSA.
And in this case, too, we really have already a form of an FSA because we have the FSA that was done for the Los Esteros facility as it was originally licensed. So we think there's a good building block of basic information that has already thoroughly analyzed many aspects of the plant as it currently exists.

And we would encourage the Commission to look at the opportunity of using just a single staff assessment in this particular proceeding.

We agree with the staff that this facility requires a very thorough and careful review of all of the issues involving both the relicensing and the combined cycle. But we would respectfully submit we don't believe that the facility requires a one-year review. Under the Commission's standard licensing procedure, typically it takes a year to look at a new facility, for example a 1000 megawatt plant that would be constructed on a greenfield.

But here we're talking about a small incremental addition to an existing facility primarily within the fenceline of that facility. And so we'd like to encourage the Committee to develop a schedule that would provide a more
timely consideration of that particular scale of
project.

In addition, we would encourage you to
consider a possible expedited consideration of the
question about the extension of the facility and
its life. We will be trying to consider this
facility for RMR contracts for next year. And if
it is possible for the Commission to arrive at a
final decision with respect to the extension of
the facility beyond June 30th of 2005, it will
vastly simplify our ability to have this facility
considered for that type of generation next year.

HEARING OFFICER WILLIAMS: For the sake
of the court reporter, could you spell out the
acronym that you used?

MR. WHEATLAND: Sometimes I can speak in
sentences and just use acronyms and never say a
real word.

(Laughter.)

MR. WHEATLAND: Which one did I --

HEARING OFFICER WILLIAMS: R --

MR. WHEATLAND: Oh, that's RMR, it's a
term of regulatory must run, I believe is what it
is referred to. And it's a -- reliability must
run?

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UNIDENTIFIED SPEAKER: Reliability must run.

MR. WHEATLAND: Reliability must run. And in that instance it would be a contract that we would enter into for the sale of power. And so you'll see from the schedules that we've tendered to the Committee we proposed a final decision date of December 1st of this year, both for a schedule which would use a single staff assessment or for a schedule that would use a PSA and FSA.

The other thing I'd like to emphasize with respect to the schedule is that the applicant will do everything it possibly can to meet any time requirements, both in terms of data responses, participation in workshops, briefing or presentation of witnesses in evidentiary hearings that would help meet this schedule.

And finally, we'd really encourage you to look carefully at the date that you set for the local agencies to make their recommendations to you. Work expansile is to fill time available for its completion. And so whatever time you set for the local agencies to comment to you in terms of their recommendations, we can assure you they will take all of that time.
But as the Auditor General has suggested to the Commission, that's an area where the Commission can take advantage of maybe setting a more aggressive schedule in terms of how the local agencies will make their recommendations to you.

We have a strong assurance from the Bay Area District of its cooperation in making its recommendations. And we'd encourage you to set an ambitious schedule in terms of their comments to you in this proceeding.

Those are our comments. Thank you very much.

HEARING OFFICER WILLIAMS: Staff, do you have a response?

MR. RATLIFF: Mr. Worl does, and then I have a couple comments to make, as well.

HEARING OFFICER WILLIAMS: Okay.

MR. WORL: I think that our comments regarding schedule are that number one, the Commission's experience with single staff assessments, Mr. Wheatland mentioned Russell City, but other attempts at doing things with a single document have not met with the same success, requiring numerous amendments and addendums. And in some instances, actually adding time to the
schedule, as opposed to expediting.

But more to the point, your point about
the agencies, we do not know what the Bay Area Air
Quality Management District has planned in terms
of the two different phases. They've indicated to
us that they want to issue a single document for
both phases, and are looking at a more extensive
analysis for phase two.

Now, I've heard some indication that
Calpine's in discussions with the Bay Area Air
Quality Management District regarding maybe
dealing with phase one a little bit differently.
But we don't have any indication of that, as yet.

Our concern is primarily in terms of
providing staff enough time with those decisions
that potentially impact the schedule. And, you
know, we're not -- I guess you'd say we're not
diametrically opposed to an expedited schedule,
but at this point in time we don't really feel we
have enough information to just say, sure, we can
do that.

We would certainly move to, if we have
the information and we have the response from the
agencies, and if we continue the cooperative
venture that we've embarked on with Calpine in
coming to terms on some of the other issues that
have been identified, we don't see major
impediments to moving very quickly through this
process.

HEARING OFFICER WILLIAMS: Dick.

MR. RATLIFF: I would just reemphasize
that frequently where we get bogged down in
schedules it's because we're waiting for an Air
District document. And we know that in this
instance, in this case Calpine is trying to
convince the District that a different BACT level
is applicable.

And if that should slow down the Air
District's production of a final determination of
compliance, it can slow down the final product, as
well. That frequently is a stumbling block for
meeting any schedule. So it's one of the
uncertainties we have to deal with about the
schedule.

Another aspect I think is important is
that we're really dealing with two licenses here.
One is the relicensing of the existing facility,
what we called phase one tonight. And the other
is phase two, which is the combined cycle project.

The relicensing of the existing project
is, I suspect, foremost on Calpine's mind when it comes to schedule. And it may be possible, if we can think it through clearly, to reach a resolution of that application before we come to a final conclusion about the phase two license, which involves significantly more work than does the relicensing of the existing facility.

So, we may want to consider whether, you know, at some point going forward with hearings on phase one prior to going forward on hearings on phase two would make sense.

PRESIDING MEMBER KEESE: I would just comment that this is our first introduction to the suggested timelines and everything. But, it would be my expectation that we would show some flexibility in the schedule at this point.

This does seem -- your point is very well taken that there are two phases here, and it may be that we want to handle one on a more -- or can handle one on a more expedited basis than the other.

But we'd certainly like to keep our flexibility. As Mr. Williams knows, when it comes to the amount of time we're going to spend on our report, we intend to trim the time that is in the
standard schedule. I hope that nobody thinks that
365 days just means we are going to take one year.
To the extent that we can shorten that as we go
on, we will. But, again, we're generally at the
hands of other parties; and they have to deliver
us the product so we can move forward.
I would think that we will mull over the
schedule here and go as rapidly as we can at the
front end. And we'll just see where we get.
Thank you.

MR. WHEATLAND: If I may just add, we
have a high level of confidence in the dates that
we proposed for the PDOC and the FDOC. It's based
on our discussions with the Air District. And if
you are to set dates for the delivery of these
products, we'd encourage you to set an optimistic
schedule.

PRESIDING MEMBER KEESE: Yes, and we'll
be optimistic that the suggestion staff has is
probably what they need to move forward in this,
will be able to be furnished, also. There's a
number of these issues that may be issues or may
not be issues. And the more that are not issues
as we go forward, the more expedited process, as
you know, we will have.
Mr. Trevino send us a card. Mr. George
Trevino, did you want to make a comment? He put
his name in; I guess he wants to get information
in the future. So, we'll file that one.

HEARING OFFICER WILLIAMS: One final
item, and it's a very important item, because it's
a threshold issue on the phase one. The Committee
has identified it as a threshold issue.

And the way we're going to handle it is
we're going to require briefing on this issue
initially. And a briefing schedule will be
forthcoming. Maybe with the scheduling order, or
maybe before, but we'll see.

The issue is, and I'll give it to you
now so you can start on it, and it certainly won't
be a surprise. But, the threshold question is
whether the project, once licensed under Public
Resources Code 25552 may be recertified as a
simple cycle facility to allow it to continue to
operate in that manner.

As I said, I don't expect that parties
are prepared to address the issue today, so that's
why we're going to call for it in briefs.

Now, it's important to look at the
original Los Esteros phase one project that was
licensed temporarily under PRC section 25552 in
June 2002 for a three-year period, okay. And
essentially what you're doing now is coming back
to the Commission and saying, well, we want to
relicense this facility permanently for the life
of the -- the operating life of the project.

The threshold question is can you do
that. I invite you to review appendix (e) of the
Commission's Los Esteros decision, specifically
the May 23, 2003 order re: PRC section 25552,
where the Committee, at applicant's request,
returned the project to the four-month process
after the Committee had ordered it to be reviewed
under the 12-month process.

So you specifically wanted the project
in the four-month process. And I believe, if my
recollecction is correct, applicant -- excuse me,
staff also joined in that motion.

I invite you to look at transcripts of
the hearing of May 20, 2002, where the matter was
argued. And the transcripts are online for the
parties to review.

So, in essence, the license will expire
under the three-year process unless you took
certain action. And there was an agreement with
the Commission for you to do that, to take certain action. Well, that precondition hasn't occurred. So now you're asking for the Commission to recertify you as a permanent facility. And that's not what the agreement was.

So, I would also ask the parties to specifically address the question of estoppel or waiver as it relates to applicant's election to proceed under Public Resources Code section 25552, as opposed to the 12-month process set forth in Public Resources Code section 25540.6.

So, it's a very important threshold issue. Essentially there was a deal that you take certain action and that has not occurred. So now you're asking us to take alternative action, and we want to know what the authority is for the Commission to do that.

Am I clear?

MR. WHEATLAND: Yes, we understand.

HEARING OFFICER WILLIAMS: Okay. So we will be taking briefs on the issue. And I think that's the first thing that needs to be addressed. And certainly the schedule will depend on the answer, or the resolution to that question.

Okay?
So, with that, I think we can adjourn.

PRESIDING MEMBER KEESE: This meeting's adjourned. Thank you.

(Whereupon, at 9:16 p.m., the informational hearing was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 2004.

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