

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

In the Matter of:)
)
Amendment to Application for) Docket No.
Certification for the) 01-AFC-6
MAGNOLIA POWER PROJECT by)
Southern California Public)
Power Authority)
_____)

BURBANK WATER AND POWER
FIRST FLOOR LOBBY
164 WEST MAGNOLIA BOULEVARD
BURBANK, CALIFORNIA

MONDAY, OCTOBER 29, 2001
5:35 p.m.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Susan Gefter, Hearing Officer

Scott Tomashefsky, Advisor to Commissioner Laurie

STAFF PRESENT

David F. Abelson, Senior Staff Counsel

James W. Reede, Jr., Siting Project Manager

Ila Lewis, Compliance Project Manager

Julie Colier

Natasha Nelson

James Fore

Fred Greeve

Dale Hunter

James Adams

Ngar Fahiti

Lisa Blewitt

Will Walters

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Scott A. Galati, Attorney,
Grattan and Galati

Steven Broils, Attorney

Bruce E. Blowey, Licensing
Magnolia Power Project
Southern California Public Power Authority

APPLICANT

Bill Carnahan, Executive Director
Southern California Public Power Authority

Douglas L. Hahn
Vicki J. Hoffman
Robert Collacott
URS Corporation

Ron Maxwell
Bibb & Associates

Tom Lenhoffer
NTREX Corporation

Hagop Hernlian, Interpreter

Shelley Logo, Interpreter

INTERVENORS

Sky C. Stanfield, Legal Assistant
Adams, Broadwell, Joseph and Cardozo
California Unions for Reliable Energy

ALSO PRESENT

Ron Davis, General Manager
Fred Fletcher, Assistant General Manager
Tom Jamentz, Board Member
Paul Lambert, Board Member
Bill Barlak, Board Member
Burbank Water and Power

Bob Kramer, Mayor
Bud Ovrum, City Manager
Robert Olson, City Council
David Laurell, City Council
Stacey Murphy, City Council
City of Burbank

James E. Starbird, City Manager
City of Glendale
Ignacio R. Troncoso, Director of Water and Power
City of Glendale Water and Power

ALSO PRESENT

Karl Schwarm
Steve Sciortino
City of San Marcos

Kattie Wilson
City of Cerritos

Knut Beruldsen
South Coast Air Quality Management District

Tony Rizk
California Regional Water Quality Control Board
Los Angeles Region

John Krikorian, Publisher
"Business Life" and "Senior Living" Magazines

Scott Ceier

Ed Freudenburg, Principal
EDS Communications Associates

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I N D E X

	Page
Proceedings	1
Opening Remarks	1
Introductions	2
Official Remarks	10
J. Starbird, City of Glendale	10
R. Olson, City of Burbank	12
T. Jamentz, City of Burbank	13
I. Troncoso, City of Glendale	14
Commission Procedure Overview	15
Hearing Officer Gefter	15
Outreach	19
Public Adviser Mendonca	19
Applicant	27
Project Presentations	30
Applicant	30
CEC Staff	40
Issue Identification Report	51
Water Resources	51
CEC Staff	51
Questions/Comments	54
Regional Water Quality Control Board	54, 58
Questions/Comments	57, 60

I N D E X

	Page
Issue Identification Report - continued	
Air Quality	70
CEC Staff	70
South Coast Air Quality Management District	72
Questions/Comments	72
Environmental Justice	77
CEC Staff	77
Visual Resources	78
CEC Staff	78
Questions/Comments	79
Public Comment	84
Scott Ceier	84
Scheduling	87
Closing Remarks	98
Adjournment	98
Reporter's Certificate	99

P R O C E E D I N G S

5:35 p.m.

HEARING OFFICER GEFTER: Good evening, ladies and gentlemen. My name is Susan Gefter; I'm the Hearing Officer for the California Energy Commission that is considering the Magnolia Power Project.

The Commission is the agency that licenses power plants in the State of California. And the Energy Commission has appointed two Commissioners, Robert Laurie and Arthur Rosenfeld, to be the Committee Members that will hear this case. Unfortunately, neither Commissioner was available this evening. Due to the energy crisis, we have a heavy workload and they had commitments to handle other cases this evening.

However, when we reach the point where we will be doing evidentiary hearings in this case, the Commissioners will attend the hearings. And I will explain that later on in the process.

Scott Tomashefsky, who is Commissioner Laurie's Advisor, is here with us on the dais this evening, and represents Commissioner Laurie.

We also provide official transcripts of these proceedings. A court reporter is sitting

1 here with us and will be transcribing the
2 proceedings. And a transcript of the proceedings
3 will be on the Commission's website for everyone
4 to access. And, again, we will provide the
5 Commission website address also later in the
6 hearing.

7 The applicant, Southern California
8 Public Power Authority, which I understand is
9 called SCPPA here, filed an application with the
10 Energy Commission to obtain a license to build the
11 Magnolia Power Project here in the City of
12 Burbank. SCPPA requested an expedited review
13 under the Commission's new six-month review
14 process. And I'll describe that in a few minutes.

15 But what we want to do this evening is
16 to discuss this six-month process, and also to
17 identify issues of concern that the staff has
18 already noted in its staff issues identification
19 report, which is available for you to look at.
20 It's on the back table.

21 At this time I'd like to ask the parties
22 to introduce their representatives, beginning with
23 the applicant, Mr. Blowey.

24 MR. BLOWEY: Thank you, Susan. First
25 I'd like to introduce our host for Burbank Water

1 and Power, Mr. Ron Davis, the General Manager of
2 Burbank Water and Power.

3 We have the Burbank Mayor with us, I
4 believe, Bob Kramer, in the back. City Manager,
5 Bud Ovrum. He left? All right, he was here. We
6 have some Burbank Water and Power Board Members,
7 Tom Jamentz; we have Paul Lambert, thank you.

8 We have Bob Olson and we have David
9 Laurell, City Councilmember from Burbank, in the
10 back by the kiosk. Here's Stacey Murphy, Burbank
11 City Councilmember in the back there. We have
12 another Board Member, Bill Barlak.

13 Okay, did I miss any of the officials
14 from the City of Burbank before I move on? We
15 have Fred Fletcher in the white shirt standing up
16 there. He's the Assistant General Manager of
17 Burbank Water and Power.

18 We have Karl Schwarm from the City of
19 San Marcos. If I'd have him stand up you wouldn't
20 miss him at all. Steve Sciortino, there, he stood
21 up. We have Ignacio Troncoso from Glendale Water
22 and Power, the General Manager there. And his
23 City Manager, Jim Starbird.

24 We have also Kattie Wilson from the City
25 of Cerritos. Any of the other, any other city

1 folks, other participants? Okay, thank you. Oh,
2 I didn't want to miss Bill Carnahan, raising his
3 hand there in the back. Bill is the Executive
4 Director of SCPPA, Southern California Public
5 Power Authority. He used to be General Manager,
6 City of Riverside, for the Riverside Water and
7 Power.

8 We have a number of staff folks. On my
9 left we have Scott Galati; he's our licensing
10 counsel located up in Sacramento. We have Douglas
11 Hahn; he's with URS Corporation in their Santa
12 Barbara office. We have Ron Maxwell over here;
13 he's with Bibb and Associates. He's going to help
14 us with the presentations.

15 We have Steven Broils, also an attorney
16 with the project. Tom Lenhoffer there in the
17 back; he's with NTREX Corporation. Anybody else
18 that would like to introduce themselves from the
19 participants side?

20 HEARING OFFICER GEFTER: Mr. Blowey, I
21 understand there is a Spanish interpreter that you
22 have --

23 MR. BLOWEY: Oh, yes. We have two
24 interpreters here with us this evening to provide
25 us assistance if you wish. Hagop Hernlian, right

1 here; he's an Armenian translator if you need that
2 service. We have Shelley Lugo, a Spanish
3 interpreter if you'd like to have that service.
4 And please identify yourselves to them so they can
5 get with you to do any translation you may need.

6 HEARING OFFICER GEFTER: Okay. Also, we
7 are being videotaped this evening for local access
8 tv for the City participants in this project. And
9 if people need information on how to access the
10 videotapes we can provide that information after
11 we conclude the hearing. And also I think that
12 SCPPA would be able to provide that information
13 locally to the local City members.

14 At this time I'd like the Commission
15 Staff to introduce the representatives that are
16 here this evening.

17 MR. REEDE: Good evening, ladies and
18 gentlemen. My name is James Reede, and I am the
19 Energy Facility Siting Project Manager assigned to
20 the Magnolia Burbank application for
21 certification.

22 At this time I'd like to introduce
23 Senior Staff Counsel, Mr. David Abelson; and
24 members of the Commission Staff. I have Ms. Julie
25 Colier. Doing biology, Ms. Ila Lewis, the

1 Compliance Project Manager who will take over
2 after this proceeding has been completed.

3 I have Mr. Fred Greeve, who is doing
4 noise issues; Mr. Dale Hunter doing geological and
5 paleontological resources assessment. I have Mr.
6 James Adams and Ms. Ngar Fahiti doing
7 socioeconomics and environmental justice issues.

8 I have Mr. James Fore, who is doing
9 traffic and transportation issues. I have Ms.
10 Lisa Blewitt and Mr. Will Walters on air quality
11 issues. And I believe that's all of the staff
12 present that are working.

13 However, we do have approximately 25
14 different technical disciplines reviewing the
15 application for certification. Many of those
16 staff members will come down at a later time for
17 either the data response workshops or issue
18 resolution workshops.

19 Thank you.

20 HEARING OFFICER GEFTER: Thank you. I
21 understand we also have a representative from the
22 intervenor CURE here this evening. Would you
23 please come up and state your name. We have a
24 microphone over here on the side.

25 MS. STANFIELD: I'm Sky Stanfield here

1 representing CURE, the California Unions for
2 Reliable Energy.

3 HEARING OFFICER GEFTER: Thank you. In
4 addition there are other governmental agencies
5 represented this evening. Is there someone here
6 from the publicly owned treatment works, the water
7 agency?

8 MR. REEDE: That would be the City of
9 Burbank.

10 HEARING OFFICER GEFTER: City of
11 Burbank, all right. And is the person doing water
12 here tonight? Or it's just the City of Burbank?

13 MR. REEDE: It's just the City of
14 Burbank, but we --

15 HEARING OFFICER GEFTER: All right.

16 MR. REEDE: -- do have the Water Board
17 here.

18 HEARING OFFICER GEFTER: Okay, and I
19 have Dr. Tony Rizk. Could you just go up to the
20 microphone and introduce yourself and tell us who
21 you represent.

22 DR. RIZK: My name is Tony Rizk. I'm
23 with the California Regional Water Quality Control
24 Board, Los Angeles Region. Thank you.

25 HEARING OFFICER GEFTER: Thank you for

1 being here this evening, Dr. Rizk. We'll ask you,
2 if you don't mind, staying for a little while so
3 that if we have questions regarding the water
4 issues if you would be available. Thank you. I
5 know you have to leave early this evening, is that
6 right? Yes, okay. Thank you.

7 Also is there a representative here from
8 the South Coast Air Quality Management District?
9 Could you please go up and introduce yourself into
10 the microphone.

11 MR. BERULDSEN: Yeah, I'm Knut Beruldsen
12 with South Coast Air Quality Management District.

13 HEARING OFFICER GEFTER: Thank you. Are
14 there any other representatives from other
15 governmental agencies here this evening, other
16 than the ones we've already heard from? Is there
17 someone else? All right. Let us know later if
18 you want to address us.

19 Are there any community organizations,
20 any representatives from local organizations here
21 this evening? All right.

22 And are there media representatives
23 here? I don't hear from anyone -- yes, sir, would
24 you come to the microphone.

25 MR. KRIKORIAN: Yeah, I'm John

1 Krikorian, publisher of "Business Life Magazine"
2 and also "Senior Living Magazine" that covers
3 basically the areas that you're talking about.

4 HEARING OFFICER GEFTER: Thank you very
5 much.

6 MR. KRIKORIAN: And also I'm working
7 with the Armenian community here, too.

8 HEARING OFFICER GEFTER: Thank you.
9 Could you spell your last name for us so the
10 reporter --

11 MR. KRIKORIAN: It's K-r-i-k-o-r-i-a-n.
12 First name John

13 HEARING OFFICER GEFTER: Thank you.
14 Also with us this evening is Roberta Mendonca who
15 is the Energy Commission Public Adviser. Roberta
16 is raising her hand. Later this evening I'll ask
17 Roberta to address us to explain to us what she's
18 done to contact the community. And she'll explain
19 how the members of the public can participate in
20 the review process.

21 We welcome all the public officials that
22 are here this evening. Mr. Blowey introduced
23 quite a number of you and we're very glad that
24 you're participating in this process with us.

25 If anyone is here who would like to

1 offer us any remarks that you prepared for this
2 evening, this is the time. And so we ask any of
3 the officials who are here this evening if you'd
4 like to come forward and address and we would
5 certainly convey your message to the
6 Commissioners. This evening, as I said, is being
7 transcribed. Please.

8 MR. STARBIRD: Good evening, thank you.
9 My name is Jim Starbird and I'm City Manager of
10 the City of Glendale, a small community of 200,000
11 residents directly to the east of Burbank.

12 And you will find that we and Burbank
13 share a long history in the local generation
14 business. Glendale also has our own local
15 generating and distribution system.

16 That history dates back about 75 years
17 when Glendale and Burbank got into providing
18 public power. And I suspect that this evening's
19 meeting may be somewhat unique for the Commission
20 in that probably your staff and the governmental
21 representatives outnumber the residents who are
22 concerned here.

23 And that's because I think you'll find
24 what I found in coming to Glendale three and a
25 half years ago is that there's a tremendous pride

1 in the communities about their local generating
2 facilities, about the ability of those communities
3 to provide independent, self reliant, competitive
4 and quality power to the residents and businesses.
5 A tremendous asset, and one that I do believe
6 you'll see is a sense of pride in the community,
7 and that pride continues.

8 We are here in support eventually of the
9 approval and construction of the Magnolia project.
10 Glendale and Burbank have 75 years of working
11 together in providing power to our residents; of
12 supporting each other; of supporting the region
13 when the region needs additional power, as we
14 found it did this last spring and summer.

15 And it's been our view that the strength
16 of Burbank is good for the community of Glendale
17 in the same way that Glendale's strength and the
18 strength of other power providers is good for our
19 community.

20 But there is a very unique relationship
21 among us, and that is one of strong cooperation,
22 support and mutual benefits for our residents and
23 businesses.

24 In Glendale, like in Burbank, as I say
25 we pride ourselves on a long history of providing

1 competitive, reliable, and I want to stress
2 reliable, as well as quality power and water for
3 our residents.

4 So we want to, in any way we can,
5 support Burbank in its effort and urge eventually
6 approval of their project.

7 And I'm happy to answer any questions
8 you might have. If not, thank you.

9 HEARING OFFICER GEFTER: Thank you, Mr.
10 Starbird. I did have some cards from Mr. Olson,
11 who is on the Board of the BWP. Did you have
12 comments for us this evening, Mr. Olson?

13 MR. OLSON: One thing I would like to
14 reiterate is the degree to which the community of
15 Burbank, and as a community representative on the
16 BWP Board, supports this project.

17 I would like to make a personal comment,
18 and that is I know that the licensing process is
19 to some degree a process that involves a project.
20 But I'd like to just take a moment and talk about
21 the project management side of it.

22 Burbank is the project manager. I would
23 like to go on record as saying that the people on
24 the staff of Burbank Water and Power, from the
25 General Manager on down, have earned a tremendous

1 amount of kudos from our community.

2 I come out of the entertainment business
3 and I have a great respect for particularly our
4 General Manager's ability to have stepped in and
5 seen us through a terrifically difficult time in
6 terms of the power crisis facing the State of
7 California.

8 So my comments really are to ask this
9 Board when you're considering the licensing to
10 also recognize that on the project management side
11 I don't think there's a finer group of people that
12 can be brought to bear on this project than those
13 people that represent the City of Burbank, and who
14 will ultimately manage the project on behalf of
15 the SCPPA licensing process.

16 Thank you very much.

17 HEARING OFFICER GEFTER: Thank you, Mr.
18 Olson. Also, Mr. Jamentz from BWP.

19 MR. JAMENTZ: I'll be real brief here.

20 HEARING OFFICER GEFTER: Did I pronounce
21 your name correctly?

22 MR. JAMENTZ: Jamentz.

23 HEARING OFFICER GEFTER: Thank you.

24 MR. JAMENTZ: This project I really want
25 to urge you to support the licensing of this.

1 This is a real clean and efficient project. It
2 bring local generation to Burbank. This is good
3 for Burbank. This is good for the other
4 participating cities.

5 And I think people have to realize that
6 even though we've had a very mild summer and we
7 have not had problems with rolling blackouts, that
8 we need this, the State of California needs this.
9 This project is going to be good for the State of
10 California and it will help insure that we don't
11 have blackouts in the future.

12 And, again, I want to just urge you to
13 support the licensing. Thank you.

14 HEARING OFFICER GEFTER: Thank you very
15 much. Is there anyone else, member of the public
16 officials, who would like to address us right now.
17 Yes, please come forward.

18 MR. TRONCOSO: Good evening. My name is
19 Ignacio Troncoso. I'm the General Manager of
20 Glendale Water and Power, the sister utility to
21 Burbank Water and Power.

22 And one thing I'd just like to mention
23 is all of these projects, especially this
24 technology that Burbank is proposing to utilize,
25 is a big improvement for all of us. With the

1 technology benefits that we've all had, you now
2 get more megawatts that are produced with greater
3 efficiency and less pollution.

4 We, at Glendale, are looking to do the
5 same thing for the benefit of our residents, and
6 certainly applaud the efforts that Burbank has
7 started and showing us the way.

8 But everybody wins under this scenario.
9 You have less consumption of very important fuels
10 and you have less emissions into the atmosphere.
11 So this definitely provides a step in the right
12 direction.

13 HEARING OFFICER GEFTER: Okay, thank you
14 very much. I want to just provide a little
15 background as to why the Energy Commission is
16 here.

17 I'm sure most of you know that the
18 Energy Commission is a state agency. We license
19 power plants that generate 50 megawatts or more of
20 electricity.

21 The Commission accepted the application
22 for the Magnolia Power project on September 26th
23 under the six-month process, which is described in
24 section 25550 of the Public Resources Code. This
25 is a new provision of the Public Resources Code.

1 It went into effect in the year 2000.

2 It allows the Commission to accelerate
3 the licensing process to meet the state's energy
4 demand. And at this point the Magnolia Power
5 project is a 250 megawatt combined cycle facility.
6 And that's a nominal number. And it would be
7 operational by the summer of 2004 according to the
8 applicant.

9 Earlier today we toured the proposed
10 site as was previously noticed in this, when you
11 received the notice of this hearing. And most of
12 the people in the audience here this evening
13 joined us on the walking tour of the site.

14 For the record, the notice of this
15 hearing was mailed on October 3rd to all the
16 parties, to adjoining landowners, to the
17 interested governmental agencies and to other
18 individuals.

19 In addition, the notice was published in
20 The Burbank Leader on October 24th and 27th; and
21 also in La Opinion on October 26th.

22 This is an informational hearing. It is
23 the first in a series of Commission events that
24 will extend over the next six months. At the end
25 of the review period the Committee, which consists

1 of the two Commissioners, Commissioners Laurie and
2 Rosenfeld and myself and Scott Tomashefsky here,
3 will issue a proposed decision containing our
4 recommendations on the project.

5 The proposed decision will be based
6 solely on the evidentiary record that will be
7 established during evidentiary hearings which we
8 will schedule for early next year.

9 The evidentiary hearings are our formal
10 process. It's much like a court where we take
11 evidence under penalty of perjury; people testify.
12 And the record consists only of that particular
13 evidence that we admit into the record.

14 To preserve the integrity of the
15 licensing process, the Commission's regulations
16 expressly prohibit contacts between the parties
17 and the Committee Members with respect to any
18 substantive matters. This prohibition against
19 private communications with the Committee is
20 called the ex parte rule.

21 And it means that all contacts must
22 occur in the context of a public proceeding such
23 as the one we're conducting this evening, or in a
24 written communication that is sent to all the
25 parties. And by parties we mean the applicant,

1 the staff, CURE is now a party because they've
2 intervened in the proceeding. And these are the
3 entities that have a vested interest in the
4 process.

5 The ex parte rule will insure full
6 disclosure to all the participants of any
7 information that could be used as a basis for the
8 decision.

9 There are additional opportunities for
10 the parties and governmental agencies and the
11 public to discuss substantive issues in workshops
12 and other conferences that staff will sponsor with
13 respect to some of the issues that will be
14 discussed even this evening and other topics that
15 may arise which may be of concern to the
16 community.

17 The information regarding communications
18 between the parties and the governmental agencies
19 will be published in reports or in letters, and
20 those reports and letters will be up on our
21 website, as will information regarding our
22 scheduling of hearings and the progress of the
23 case.

24 As I noted, the application review
25 process is a public proceeding in which members of

1 the public are encouraged to actively participate
2 and to express their views on any aspect of the
3 project.

4 Members may also intervene as parties
5 and participate, which includes examining and
6 cross-examining witnesses, and putting in evidence
7 into the record.

8 Our Public Adviser, Roberta Mendonca,
9 there she is, will explain how individuals or
10 organizations can intervene as formal parties.
11 And also Ms. Mendonca has been engaged in a public
12 access program, I guess you would call it, and she
13 has a report where she will explain to us what
14 she's been doing to contact the community.

15 MS. MENDONCA: Good evening; my name is
16 Roberta Mendonca. And thank you, Ms. Gefter, for
17 the very nice words. And I must say also to Mr.
18 Tomashefsky, I'm very glad that you're on the
19 podium this evening, because your name is harder
20 to pronounce than mine.

21 Basically my report will be in two parts
22 this evening. And the first part will cover what
23 the public can do in the way of public
24 participation at the Energy Commission. And the
25 second part will be the report that Susan

1 mentioned, a summary of what my outreach has been
2 in the community to date.

3 So I believe we're set. In case any of
4 you wondered what meeting you're attending this
5 evening, it's the informational hearing and the
6 site visit, and it is here at Burbank.

7 And I'm Roberta Mendonca, the Energy
8 Commission's Public Adviser. One of the things
9 that the Public Adviser does right away, and this
10 application was received at the Energy Commission
11 back in May, so we mailed copies of three
12 applications for certification to the local public
13 libraries. And those libraries are listed.

14 We find out from the local library what
15 their hours are. That information is available to
16 you. And also if there's a public computer that
17 people from the public can use at the library to
18 access the Energy Commission's website.

19 In addition to the application for
20 certification Susan has mentioned several of the
21 documents, but the process of keeping track of
22 what happens at the Energy Commission is following
23 the documents in the case. Not all the documents
24 are as involved as an application for
25 certification. You might want a staff report.

1 You might want to know what questions are being
2 asked and what answers to those questions are.

3 That information is available -- the
4 application for certification is available at the
5 Energy Commission's library; the Energy
6 Commission's website, which is www.energy.ca.gov.
7 If you go to siting cases and there is an S on
8 cases-Magnolia, you can access information about
9 this project, including what would be called the
10 docket log, which will list for you the documents
11 that have been filed in the case.

12 In addition, the docket unit is given to
13 you. If you find on the docket log that you want
14 certain copies of things you can contact the
15 docket log, or you can contact the Public Adviser,
16 because the Public Adviser will be glad to assist
17 you in getting copies of materials.

18 Ms. Geftter mentioned that our meetings
19 are publicly noticed. And this is an opportunity
20 for me to mention the sign-in sheet at the back of
21 the room. If you sign in on our informational
22 meeting sign-in sheet and check the box we will
23 place you on our public mailing list. And you
24 will receive notice of all future conferences,
25 meetings and workshops.

1 And that gives me an opportunity to kind
2 of talk about the terminology. Tonight's hearing
3 is called an informational hearing. And they are
4 slightly more formal than what I'm going to talk
5 about next, which are the staff workshops.

6 Hearings, conferences are attended by
7 the Commissioners, the decision makers. The staff
8 of the Energy Commission has the responsibility of
9 doing an independent analysis. They call their
10 meetings workshops. And you might be invited to
11 an informational workshop or a data request, data
12 response, issue resolution or a staff assessment
13 workshop.

14 The main difference between the
15 Committee meetings and the staff meetings is that
16 the Committee meetings are formally transcribed
17 and a transcript is available; where staff
18 workshops are informal, rolled-up sleeves, sit
19 down and talk about it back and forth across the
20 table.

21 There are several ways to participate in
22 the Energy Commission meetings. Informally, like
23 you've done this evening. You've shown up; you've
24 filled out a blue card; you've given us your
25 business card; you've had an opportunity to come

1 forward and comment. That opportunity is
2 available at each and every public notice meeting.

3 For some people, however, they may wish
4 to be more involved, and for them the opportunity
5 exists to intervene, which is a process of
6 becoming a formal party in the case.

7 To intervene you file a petition to
8 intervene. Anybody who lives in the community or
9 has a stake in this siting case can file. So
10 intervention does not mean you have to be a part
11 of the City, nor do you have to be a part of one
12 of the Boards involved. You can be a resident, a
13 landowner.

14 The best time to intervene is as soon as
15 you can in the case. The reason for that is you
16 can participate more fully if you receive all the
17 documents. The deadline for intervention has not
18 yet been established for this case. It will come
19 out in the schedule, but generally the rule is you
20 must have your petition to intervene in 30 days
21 before the formal hearings begin.

22 The responsibilities of intervenors
23 include making your information available to all
24 of the other parties, which means you must furnish
25 your documents and your copies of documents and

1 serve your documents. You must be willing to
2 answer questions that are asked of you in a formal
3 way. And you must behave as a party.

4 Again, I mention how to become an
5 intervenor is to file a petition and we can go on
6 to the next one, because it gives sort of an
7 outline of a petition to intervene. It's small.
8 You can hardly read it, but the idea that I'm
9 trying to convey with this slide is that the
10 process of intervention is not difficult.

11 It would require for you to provide
12 basic information, your name, your address and why
13 you want to intervene in the project. That
14 information and form is available through the
15 Public Adviser's Office, and I would be more than
16 happy to assist anybody with that information --
17 with that form.

18 The benefits of intervention include you
19 receive all the documents that are exchanged
20 amongst all the other parties. You can get notice
21 whether you're an intervenor or not, but if you
22 are an intervenor you definitely get all the
23 notices of all of our meetings and workshops.

24 You can fully participate formally in
25 the formal hearings. And by fully participate

1 formally I mean that you can present your own
2 witnesses -- oh, good, I got a vacuum to contend
3 with -- you can present your own witnesses and you
4 can cross-examine the witnesses.

5 HEARING OFFICER GEFTER: I'm sorry,
6 Roberta. Let's go off the record for a moment.

7 MS. MENDONCA: Okay.

8 (Off the record.)

9 MS. MENDONCA: Thank you. I think we
10 got down to filing documents. If you file
11 documents as a party to the case your documents
12 receive the same handling as the other parties'
13 documents. And they have an opportunity to become
14 a formal part of the evidentiary record which is
15 used for decision making in this case.

16 You can present evidence and present
17 your own witnesses, and you have the opportunity
18 to cross-examine witnesses.

19 Again, I'm Roberta Mendonca. My job at
20 the Energy Commission is to assist any member of
21 the public who would like to participate in any
22 way, formally or informally, at the Energy
23 Commission. And this is quite a unique role,
24 because I am not a decision maker, and I am not an
25 analyst. So my job is very focused and very

1 direct and very service oriented to you all.

2 In passing, I would like to mention I
3 told you about the libraries, the applicant has
4 provided a sign-in sheet at the back of the room
5 if you want to obtain a copy of the application
6 for certification on CD ROM. They're making that
7 available.

8 And that wraps up the participation part
9 of my report. I would like to say once again, in
10 the outreach area, the Public Adviser made copies
11 of the application for certification available at
12 local libraries.

13 And we approached a two-prong approach,
14 both notice to public schools and notice to local
15 area churches. We distributed 10,000 flyers to I
16 believe it was 12 elementary, junior high and high
17 schools that were distributed back in May before
18 the school children went home. And we also
19 networked with local community churches who have
20 the -- we sent packets of 25 flyers to announce
21 the arrival of the project.

22 Again, the Public Adviser's role is
23 unique. I'm here to serve. And thank you very
24 much.

25 HEARING OFFICER GEFTER: Thank you very

1 much. I also understand that the applicant has
2 been involved in a public outreach program, and
3 Mr. Blowey would like to tell us about that, as
4 well.

5 MR. BLOWEY: Yes. The project has made
6 a significant effort to notify people in the
7 community. We provided a notice of this meeting
8 in Burbank and it was through an array of public
9 communications, including newspaper advertising in
10 three languages.

11 We have distribution of news release and
12 community letters; public service announcement on
13 the Burbank public access cable television
14 channel. As I noted earlier, we have two
15 interpreters that are available for the public in
16 either Spanish or Armenian.

17 We began a campaign in October 9th when
18 we sent letters out announcing the public hearing
19 and the site visit. We not only mailed out to the
20 owners of properties within 1000 feet of the
21 project, but also those that are occupying those
22 homes and businesses. An additional 214 involved
23 the -- there were 223 occupants and 214 owners of
24 properties.

25 Then on October the 15th we distributed

1 a hearing announcement news release to the entire
2 Los Angeles area news media through BusinessWire.
3 This electronic distribution included
4 approximately 140 daily and weekly newspapers,
5 wire services, radio and television stations. The
6 news release also was placed on the project's
7 website for public reference. And copies were
8 individually delivered to Burbank community
9 newspapers.

10 Beginning with the October 18th
11 editions, a display advertisement was published in
12 eight Los Angeles area newspapers serving the MPP
13 or Magnolia site area. These included two column
14 by six-inch ads in The Los Angeles Times, Valley
15 edition; Los Angeles Daily News, and La Opinion on
16 October 18th. The La Opinion ad was printed in
17 Spanish.

18 We've also put ads in the Armenian
19 language newspapers, The Armenian Observer,
20 Azbarez, Masus and NorOr over the October 18th
21 through October 27th period.

22 We indicated in those advertisements
23 that interpretation for Armenian and Spanish would
24 be available for this hearing.

25 To further assist public notification

1 the Burbank public access cable television channel
2 has utilized a scrolling public service
3 announcement since October the 10th.

4 In addition, the project has arranged
5 for the informational hearing to be videotapes, as
6 you can see, for multiple broadcasts on Burbank's
7 public access channel. Copies of these videotape
8 productions are being made available to
9 participating cities for similar cable access
10 broadcasts.

11 Thank you.

12 HEARING OFFICER GEFTER: Thank you.

13 I want to move on, it's after 6:00 and I
14 know some people have to leave, so we're going to
15 try to move on to the heart of the meeting
16 tonight.

17 During the course of tonight's hearing
18 the parties will make presentations in the
19 following order, according to our agenda: First
20 SPCPA will describe the proposed project and
21 explain the plans for developing the site.

22 Next we'll ask Commission Staff to
23 provide an overview of the six-month process and
24 staff's role in reviewing the application.

25 There will be time at the end of the

1 presentations for members of the public to make
2 comments and ask questions.

3 At this time are there any questions
4 about the agenda for the evening? All right.

5 We will also ask staff to discuss
6 scheduling and the issue identification report
7 later in the evening, and at that time we will ask
8 the agencies that are here this evening,
9 particularly the water agencies, the Air District
10 and Caltrans, to participate in that discussion.

11 At this time I'd like to begin with the
12 applicant's presentation about the project.

13 MR. BLOWEY: Thank you. As soon as we
14 get the first slide up. I really want to welcome
15 you all for this presentation. I thank you for
16 the opportunity to explain our application.

17 The City of Burbank and the other
18 participating cities have a long history of low
19 cost, reliable electric power, as you heard
20 earlier from Glendale. This project will enable
21 that legacy to continue in an even more efficient
22 and cleaner manner.

23 The primary purpose of this presentation
24 is to briefly describe the project as provided in
25 the application for certification.

1 As also was mentioned earlier, Burbank
2 will act as the project manager in the
3 development, designing and construction phase; and
4 then be the operating agent for the operation of
5 the facilities by onsite people.

6 We refer to the application for
7 certification as the AFC, the California Energy
8 Commission as the CEC. We've been working at this
9 application for over 12 months. We've engaged
10 several world class consultants to assist in this,
11 including NTREX, Black and Veach Corporation and
12 URS Corporation. The culmination of these efforts
13 is documented in the AFC, and there's a copy at
14 the back if you wish to leaf through it. And it's
15 also available by CD.

16 I'm going to summarize several aspects
17 of the projects, including the location and the
18 need, the schedule, safety and environmental
19 considerations.

20 The location of the project which is
21 this area right in here, what you have is the
22 steam turbine generator building right here.
23 Behind it you have the heat recovery unit for the
24 combustion turbine --

25 HEARING OFFICER GEFTER: Mr. Blowey, for

1 the record, on the transcript you're referring to
2 the photosimulation of the project.

3 MR. BLOWEY: Yes.

4 HEARING OFFICER GEFTER: And there's a
5 picture of that on the screen.

6 MR. BLOWEY: It's on the front of the
7 cover of the application, as well as in the text
8 of the application.

9 HEARING OFFICER GEFTER: Thank you.

10 MR. BLOWEY: The exhaust stack is right
11 here, 150 feet tall, same height as the Magnolia 3
12 and 4 stack that's existing. This is the existing
13 facilities here, Magnolia 1, 2, 3 and 4. Magnolia
14 5. There's a Magnolia 4 cooling tower.

15 This would be the new cooling tower for
16 the Magnolia project. You see in the background a
17 little bit of Magnolia Boulevard, along here, the
18 bridge. Here's the Western Burbank Wash where the
19 discharge from the existing reclaim plant is up in
20 here, passes water through the plant site. And
21 discharge number 1 is located right in this area.

22 And these are the cooling towers for the
23 Olive units which are off the left side of the
24 photograph there. Here is Olive Avenue. Off to
25 the right is railroad tracks, and the interstate 5

1 freeway.

2 The Southern California Public Power
3 Authority, SCPPA as we call it, is created under
4 the Joint Powers Act, and has the ability to build
5 and own and operate transmission and generation
6 facilities. Burbank has been a member of this
7 organization since its inception in 1980.

8 These seven cities that you see listed
9 are the participating members of SCPPA in this
10 project. As I mentioned, SCPPA can build
11 projects. It has a total of 13 members, and once
12 you have at least two members within SCPPA they
13 can get together and under the umbrella of SCPPA
14 build and operate facilities.

15 There's been a long history of joint
16 projects among these cities, starting back in the
17 1930s with Hoover Power Project. They started
18 generating power in 1935, bringing power into the
19 cities in southern California.

20 The ability to transport power long
21 distances has become more difficult. The existing
22 plants in the communities are becoming older.
23 They're less efficient than what is available now.
24 They're not as clean as what is available now.
25 And this project will assist the issue of the

1 problems of bringing power into this area, balance
2 it with more up-to-date environmentally friendly
3 power generation in the local area, less reliant
4 on the transmission lines.

5 Burbank not only is the project manager,
6 operating agent, but they are a major taker of
7 power; at least right now about 31 percent of the
8 power will be used right in the community.

9 The schedule is such that we have the
10 permitting process started last fall of 2000,
11 expect it to last through the first quarter of
12 2002. We're in this, we've gone through this
13 pre-filing activity phase. We made a final
14 submittal on -- a submittal on May 14th. The
15 decision that we were data adequate occurred on
16 September 26th.

17 We're in what we call the discovery
18 phase. There's an analysis phase that's ongoing.
19 Hearings and decision, final decision is scheduled
20 in the late March timeframe of 2002.

21 Along parallel with these activities is
22 the development. With seven cities and SCPPA as
23 the umbrella organization, there's a number of
24 contracts that need to be set up among these
25 cities, some between SCPPA and the cities to take

1 the power; contracts between SCPPA and Burbank to
2 build and operate the plant. An arrangement to
3 use the onsite facilities and the land. There's a
4 number of arrangements that are undergoing being
5 developed right now.

6 We're kind of also starting into
7 engineering so that we can start construction soon
8 after receiving our certification. The
9 construction is expected to last at least two
10 years, through into the summer of 2004.

11 Some of the key areas that the CEC looks
12 at for this fast track. The normal process has
13 been a 12-month review process by the CEC. They
14 instituted a new process that's a six-month, or a
15 fast track process for the review.

16 We are currently in that process. We're
17 trying to stay in the process. You have to have a
18 project that there's no public health or safety
19 concerns; any environmental impacts need to be
20 mitigated; no technical problems with the
21 transmission system; and comply with all legal
22 requirements and have a site and water available.
23 We've demonstrated compliance in all these areas.

24 In terms of health risk, the analysis
25 was done that there's less than one-tenth of the

1 level that's considered a threshold for concern of
2 health risk.

3 The existing Burbank and neighboring
4 transmission systems can handle the new project
5 without adding new transmission lines. So there
6 won't be any offsite construction of transmission
7 lines.

8 There's already adequate natural gas for
9 fuel at the site. Reclaimed water from a
10 reclamation plant that's just a few blocks north
11 of here is available for cooling water and other
12 nonpotable uses.

13 Again, because of those existing
14 services available at the site, there's no offsite
15 construction required.

16 There's been air modeling studies done
17 that demonstrate there's no significant impact due
18 to emissions from the plant. And, of course,
19 we're using best available technology to reduce
20 remaining emissions to the lowest level possible.

21 Back in 1994 there was an earthquake in
22 the valley; knocked out a lot of generation. The
23 City and surrounding area went black very shortly.
24 Burbank was able to recover very quickly because
25 of the fact they have onsite generation. For some

1 time during the recovery period after the
2 earthquake there was no outside generation
3 available.

4 There will be other built-in safety
5 systems, worker safety programs. It's going to be
6 designed to either run continuously or
7 intermittently as what is needed for the
8 participating cities. And, of course, highly
9 automated.

10 There were 17 environmental areas that
11 were analyzed. Air quality; traffic and
12 transportation; geological; noise; agricultural
13 and soils; visual; water; waste management;
14 hazardous materials handling; biological;
15 cultural; public health; paleontology; worker
16 safety; land use; socioeconomics and environmental
17 justice.

18 I don't think I'll go through each one
19 of those this evening, but I would like to
20 highlight three specific areas of air quality,
21 noise and water.

22 I have a little chart coming up next
23 compares the emissions of the existing units on
24 the site with the Magnolia project in terms of
25 pounds of NOx per megawatt hour. In other words,

1 how much emissions there is done for every unit of
2 energy that's produced by the project.

3 Going from left to right we have the
4 Olive units, then the Magnolia units, and the far
5 right bar that is a little difficult to see is the
6 new unit. I'm not going to apologize for the
7 difficulty in seeing it, but it just emphasizes
8 the relative amount of emissions from the new
9 project compared to the old project. The ordinate
10 is pounds per megawatt hour again. You can see up
11 to maybe 5 for some of the old peakers, and down
12 to less than a tenth of that for the new unit.

13 The particulate emissions are controlled
14 by using clean burning natural gas. Carbon
15 monoxide will be reduced by using the catalyst.

16 In the area of noise there are
17 regulations in the City of Burbank for noise
18 control, as well as the CEC criteria. We'll be
19 installing an exhaust silencer which is usually
20 the primary source of noise from a unit. Then the
21 rotating equipment, we put sound insulated
22 enclosures around the steam turbine. And there
23 will be special lagging on the combustion turbine.

24 In terms of construction mitigation
25 measures include limiting the hours to daylight

1 hours normally, at least for anything that might
2 be noisy. And a program to make sure workers are
3 aware and sensitive of noise-producing activities.
4 We will actually contact somebody if you have an
5 issue with noise being created at the site.

6 In terms of water, again we're using
7 reclaimed water for nonpotable needs. Typically
8 there's up to about 6 million gallons per day
9 available from the reclaimed water plant. Our
10 average use is more like 1.5 million gallons per
11 day.

12 There's also domestic water for service
13 water requirements, fire protection. And at times
14 maybe needed for backing up the reclaimed water if
15 it is restricted for any reason.

16 In conclusion, this is a state of the
17 art power plant. Scheduled for generation in the
18 summer of 2004. It will improve the electric
19 reliability of the region, not just Burbank.
20 Stabilizes power costs, and I think everybody can
21 appreciate that, based on what we've gone through
22 in the last year or so. And it will continue the
23 legacy of being a good neighbor to the community.

24 Thank you.

25 HEARING OFFICER GEFTER: Thank you, Mr.

1 Blowey. I'm going to move on and ask staff to
2 describe the review process. As we've indicated,
3 it's an expedited six-month process. And Mr.
4 Reede also has a slide show here, right?

5 MR. REEDE: Yes. Good evening, ladies
6 and gentlemen. Again, my name is James Reede.
7 And as soon as we get the slide show started I'll
8 be making the presentation.

9 The purpose of the siting process is to
10 insure that a reliable supply of electrical energy
11 is maintained at a level consistent with the need
12 for such energy for protection of public health
13 and safety, for the promotion of the general
14 welfare, and for environmental quality protection.
15 That is the charge of the California Energy
16 Commission.

17 My charge as the Energy Facility Siting
18 Manager is to insure the health and safety of the
19 residents of the State of California and to
20 protect our natural resources.

21 In the AFC proceedings there's a number
22 of different relationships. The first of which
23 are the decision makers, the five-member
24 Commission. From that five-member Commission two
25 Commissioners are selected. One is the Presiding

1 Member, the other is the Associate Member. Now,
2 the Hearing Officer is a representative of the
3 Commissioners when they're not available.

4 If you come down to the fourth row
5 you'll see Southern California Public Power
6 Authority, local, state and federal agencies,
7 Energy Commission Staff, intervenors, the public.
8 And to the side bar, the Public Adviser.

9 On the fourth row all of those are
10 independent parties to this particular proceeding.
11 The Energy Commission Staff does not take a
12 position siding for either or any of the parties.
13 We are a neutral party and independent of the
14 Commission. We will make recommendations as to
15 whether this plant should be licensed or not after
16 an objective review of all the data available.

17 Our siting process, under the Public
18 Resources Act, we have the permitting authority
19 for any thermal power plant 50 megawatts or
20 greater. And when I say a thermal power plant, I
21 mean that it needs heat in order to generate
22 electricity.

23 A thermal power plant could be
24 geothermal that's up in the Geysers, or out in the
25 Blythe and Bishop area, or up near Mammoth Lakes.

1 It can be a nuclear plant, even though there
2 probably won't be any nuclear plants ever built
3 again in California. It can be any power plant
4 that generates heat.

5 We're also responsible for the related
6 facilities. Now in the particular case of the
7 Magnolia Plant, none of these are applicable. All
8 other power plants we either have to have
9 transmission lines, a water supply system, natural
10 gas pipelines, a waste disposal facility and
11 access roads. As I said in this particular case
12 there will be no offsite construction.

13 And I also have to coordinate with the
14 different federal, state and local agencies. We
15 are the lead state agency for the California
16 Environmental Quality Act.

17 The local, state and federal
18 coordination, the 26 different staff members who
19 have to bear with me for the next six months.
20 We'll be coordinating with the City of Burbank;
21 the L.A. County Departments of Sanitation, Fire
22 and Public Works; the South Coast Air Quality
23 Management District.

24 Also going to have to work with the
25 State Department of Fish and Game; Caltrans; the

1 Air Resources Board; the Regional Water Quality
2 Control Board.

3 And they're also going to have to work
4 with the various federal agencies such as the
5 Environmental Protection Agency; the U.S. Army
6 Corps of Engineers; and the U.S. Fish and Wildlife
7 Service.

8 Now, when I said that we do a California
9 Environmental Quality Act process we do a full
10 review of all the potential environmental impacts.
11 And our analysis is subject to the principles of
12 the California Environmental Quality Act. We are
13 CEQA-certified, in that our review is the same as
14 an environmental impact review that may be done by
15 the Water Board or by the City of Burbank or the
16 City of Glendale or Pasadena.

17 And we review compliance with all
18 applicable regulations, all laws, ordinances,
19 regulations and statutes have to be complied with.
20 We also perform an engineering analysis. And we
21 hold public workshops and hearings.

22 Now the documentation that will come
23 about as part of our review we call a staff
24 assessment for the six-month project. For the 12-
25 month project we do a preliminary staff

1 assessment, and then a final staff assessment. In
2 this particular case we're going to do a staff
3 assessment; approximately January 25th that will
4 come out.

5 And then we'll take testimony from the
6 members of the community and from other state,
7 federal and local agencies. And if necessary,
8 issue a supplement, and we'll call it the final
9 staff assessment.

10 After that time there will be
11 evidentiary hearings. There will be a Presiding
12 Member's Proposed Decision that comes out, and
13 eventually the Commission decision.

14 Now the siting process has a certain
15 timeline. As you can see we start out with
16 pre-filing and we don't know when that starts. But
17 then data adequacy, when they file the application
18 for certification my staff has 45 days with which
19 to present to the Commission reasons to make a
20 decision whether or not they have met the minimum
21 requirements for information.

22 If they've met the minimum requirements
23 for information we begin the discovery process.
24 Now in the case of Magnolia, they were found to be
25 data adequate, meaning they met those minimum

1 requirements on September 26th, and that started
2 the 180-day clock.

3 At this time we're in the discovery
4 phase. We've sent out approximately 155 data
5 requests to SCPPA asking to fill in a bunch of the
6 holes that we determined existed in the
7 application for certification. We needed
8 clarification about certain things. We needed
9 additional information about certain things. We
10 needed certain studies that were referenced but
11 not contained in the actual document. And they
12 are required to provide those, I believe it's
13 November the 5th.

14 After that we go into our analysis. We
15 take all these data requests and we look at the
16 entire package to see if it meets all the laws and
17 ordinances and regulations and statutes of the
18 various locales, and also of the state.

19 We will then issue our staff assessment.
20 The Committee hearings begin approximately four
21 months after data adequacy. And that will be the
22 time that we submit our testimony, as does SCPPA,
23 as does any intervenor.

24 Evidence can be presented, witnesses can
25 be cross-examined. Someone may challenge the

1 finding of one of my staff members. And they may
2 want to ask more detailed questions or why did you
3 come up with this analysis of X doesn't equal Y.

4 We then have a Commission decision at
5 day 180, which in this particular case is actually
6 going to be day 179.

7 As I already spoke about data adequacy
8 they initially submitted it on May 14th and we
9 found it not to be adequate in a couple areas.
10 And they refiled on September 4th and it was found
11 to be acceptable.

12 Now, the discovery process, we have
13 staff information workshops; we have a Commission
14 information hearing and site visit, which is
15 actually a data gathering event for us. Because
16 if we get any comments from the public we're going
17 to take those into account and investigate them.

18 And then we have additional staff
19 workshops to gather information. We convene our
20 informal workshops to ask the applicant more
21 questions about the application. The public's
22 always welcome to participate by asking questions,
23 identifying issues, stating concerns or asking for
24 clarification.

25 And the workshops typically focus on a

1 few technical areas. So if there's a particular
2 area that you're concerned about you don't have to
3 sit through every one if your only concern is air
4 quality, or if your only concern is noise, or if
5 your only concern is traffic impacts, or are
6 traffic impacts.

7 As I said, our staff assessment will be
8 our first document containing our complete
9 analysis of the project. And we'll convene
10 workshops to listen to comments about the staff
11 assessment. And then we'll incorporate that in a
12 supplement to the staff assessment which
13 oftentimes we call the final staff assessment.

14 And that will be our testimony for the
15 evidentiary hearing. Now, the evidentiary
16 hearings, those are considered formal hearings as
17 Ms. Gefter explained earlier. Those are recorded.
18 There will be the opportunity for witnesses to be
19 cross-examined and the testimony is under oath.

20 The public is always welcome to
21 participate in this process from actually five
22 months ago until the project is either approved or
23 not approved.

24 For the decision, I don't make the
25 decision. The Commissioners will make the

1 decision. My staff will make recommendations on a
2 number of different environmental or engineering
3 issues. Once we've made our recommendation based
4 upon the evidentiary record -- remember I said
5 that our staff assessment is testimony --
6 intervenors may present testimony, and the
7 applicant may present testimony contrary to what
8 we've presented.

9 That's where the cross-examination comes
10 in. That's where the record is established. And
11 that's what they make their decision from.

12 There will be a 20-day public comment
13 period after the Presiding Member's Proposed
14 Decision is issued. And depending on whether or
15 not the Committee wants to hold a hearing they
16 have that option.

17 At the Commission Business Meeting on or
18 about March 25th of next year they will debate and
19 make a final decision as to whether or not the
20 application should be approved or not.

21 As I said, in the siting process this is
22 an open public process. We will hold a number of
23 workshops and hearings and we will always notify
24 the public at minimum ten days in advance,
25 normally 15 to 20 days in advance.

1 As Ms. Mendonca said, there are sign-up
2 lists so that you can be included on a mailing
3 list. There's also, if you go to our website, an
4 electronic method of signing up to be put on the
5 mailing list. And where you can obtain documents
6 at all the libraries -- at three of the libraries
7 in Burbank, which Ms. Mendonca showed earlier; at
8 the Los Angeles Main Library, and at UCLA. You
9 can also obtain them at the Energy Commission
10 library in Sacramento, and at the docket unit.
11 And because they were good enough to supply us
12 with electronic formatted AFC, it's already on the
13 website.

14 Finally, I'm going to leave this
15 particular slide up here. If you have concerns
16 I've given my phone number and my email address so
17 that you can email me or call me. I've also given
18 Ms Gefter's phone number, whether she likes it or
19 not, but if you're upset with her don't call me.

20 Anyhow, and Ms. Mendonca, who has an 800
21 number that you're welcome to call at anytime.
22 And she will provide any assistance you need.

23 And I'll take any questions, with your
24 permission, Ms. Gefter.

25 HEARING OFFICER GEFTER: I was going to

1 ask if anyone in the audience has any questions of
2 Mr. Reede at this point regarding the process. If
3 you have any questions about the project for Mr.
4 Blowey.

5 MR. REEDE: I noticed that I have one
6 other staff person here, one of my biologists,
7 Natasha Nelson, who I didn't introduce earlier. I
8 try not to miss my staff so they won't miss my
9 dates.

10 HEARING OFFICER GEFTER: All right.
11 Well, since no one has indicated that they have a
12 question at this point, we can move on to the
13 issue identification report. And as I indicated,
14 there are copies in the back.

15 And we're going to switch the topics.
16 On the agenda I had indicated we will discuss air
17 quality, water resources and visual resources.
18 We're going to switch it and talk about water
19 first because I understand that the water folks
20 have to leave.

21 So, Mr. Reede, if you would like to
22 begin, and rather than summarizing your report,
23 because everyone has an opportunity to read it,
24 perhaps you could just go right directly to the
25 concerns that staff has with the water issues.

1 MR. REEDE: Okay. We identified three
2 issues that have potential significant impacts
3 which may be difficult to mitigate. Those are air
4 quality, visual resources and water resources.

5 Under water resources, California Water
6 Code section 13550 requires the use of reclaimed
7 water where available. The use of potable
8 domestic water for nonpotable uses including
9 industrial use is a waste or an unreasonable use
10 of water within the meaning of section 2 of
11 article 10 of the California Constitution if
12 recycled water is available.

13 Reducing water demands and reducing
14 reliance on fresh inland water sources is
15 consistent with the State Water Resources Control
16 Board policy 7558.

17 Staff has a concern that the Magnolia
18 Power project may not be fully compliance with
19 section 13350 of the Water Code because it does
20 not appear to be using the reclaimed water
21 available to it as efficiently as would be
22 reasonably expected.

23 The inefficient use of the available
24 reclaimed water supply appears to be resulting in
25 the Magnolia Power project using other sources of

1 fresh water for wet cooling such as groundwater
2 and even potable water.

3 The second water issue is wastewater
4 discharge to the City of Burbank publicly owned
5 treatment works. The impact of the project on the
6 publicly owned treatment works receiving the
7 wastewater discharge has not been adequately
8 characterized.

9 The AFC supplement stated that the
10 project will obtain approval from the publicly
11 owned treatment works and that the project will
12 manage the water sufficient to maintain compliance
13 with the discharge limitations.

14 The discussion of the changes that will
15 occur because of the project is the subject of a
16 number of data responses that would need to be
17 evaluated by staff. The supplement also stated
18 that the NPDES permit for the Burbank Water and
19 Power discharge includes the use of performance
20 goals rather than performance based limitations.
21 The goals are not listed to allow determination of
22 the impact on the plant, on the publicly owned
23 treatment works discharge, nor does it
24 substantially address in the revised AFC sections
25 3 and 5.

1 It is apparent that the project will at
2 least consume part of the current excess
3 performance of the treatment works; however, this
4 is not quantified and may require a major rewrite
5 of those sections of the AFC.

6 There is also the issue of the Burbank
7 publicly owned treatment works legal challenge to
8 the L.A. Regional Water Quality Control Board's
9 proposed NPDES permit effluent limits, and the
10 appeal of the Regional Water Quality Control Board
11 of the legal decision rendered.

12 This is closely related to the water
13 discharge issue and will need to be evaluated by
14 staff as to whether it will impact the ability of
15 the project to stay in the six-month licensing
16 process.

17 We have tonight with us from the
18 Regional Water Quality Control Board Dr. Tony
19 Rizk, who is the staff assigned to this AFC from
20 another state agency. Dr. Rizk.

21 HEARING OFFICER GEFTER: Dr. Rizk,
22 please come up. Before we discuss this I was
23 informed that copies of staff's issue
24 identification report, apparently on the copies it
25 was just every other page. Do people have full

1 copies or are pages missing from your copies?

2 MR. REEDE: It's apparent that the air
3 quality page is missing.

4 HEARING OFFICER GEFTER: All right.

5 MR. REEDE: If we have a copier machine
6 still in the back, I see somebody raising their
7 hand.

8 HEARING OFFICER GEFTER: Okay, well then
9 we can take care of that off the record. But I
10 also have a question with respect to the issue
11 that you raised regarding the discharge. And I
12 know that the Water Quality Control Board deals
13 with the discharge issue in the NPDES permit, but
14 I want to put out on the table for Mr. Blowey and
15 for staff the concept of zero liquid discharge,
16 and whether or not that is being considered as an
17 option in this case. And I'd like to have that
18 addressed, as well in your discussion at this
19 point.

20 Dr. Rizk, we'll be happy to hear your
21 comments at this time.

22 DR. RIZK: Thank you. For the record my
23 name is Tony Rizk. I'm Staff with the Regional
24 Water Quality Control Board. And I apologize to
25 my colleague from the Air Quality Management

1 District for going first. Thank you.

2 Last year during the -- when the energy
3 crisis became quote-unquote visible the Regional
4 Board management assigned me the task of
5 coordinating regional issues related to power
6 plant development and the energy crisis.

7 So I have been active in several power
8 plants. And we have a team that includes
9 biologists, engineers, chemists that have been
10 consistently providing feedback and working
11 together to essentially facilitate and expedite
12 new power plant permitting issues so that we can
13 work together with the California Energy
14 Commission and expedite and facilitate rather than
15 to be in any way, form or fashion an obstacle to
16 progress. In that spirit we are here today.

17 The issues concerning the Magnolia Power
18 Plant extend from our very focused mission. As
19 you know, within the State Water Resources Control
20 Board we have the Department of Water Resources
21 that normally handles the issue of water supply
22 and water consumption. And the concerns brought
23 up by Mr. Reede concerning the 13550 section of
24 the Water Code are valid and need to be looked
25 into closer.

1 On the other hand, the State Water
2 Resources Control Board has assigned nine regional
3 boards, one of which is the Los Angeles Basin
4 Regional Board that covers Los Angeles and Ventura
5 Counties. And our responsibility is to handle
6 discharges and the water quality protection.

7 Although we have specific guidelines
8 within our basic plan, and as directed by State
9 Water Resources Control Board, we also have a
10 mission to protect and enhance our aquatic
11 environment. Some of it through our NPDES
12 program, our waste discharge requirement. Others
13 through the total maximum daily load, the TMDL
14 program for example for the Los Angeles River.

15 Concerning the Magnolia Power Plant, the
16 quote-unquote issues that have arisen, and I'd
17 like to qualify in that our view is still
18 preliminary. We are in the process of defining
19 the issues and refining them so we can resolve
20 them very quickly.

21 One issue is we are quite honestly
22 confused as to who is the project owner. We
23 recognize that the City of Burbank stated that
24 they are the project manager. But that may or may
25 not be consistent with the SCPPA, Southern

1 California Public Power Authority, being the
2 project owner. So we --

3 HEARING OFFICER GEFTER: Let me stop you
4 right there and ask Mr. Blowey or Mr. Galati to
5 respond to that concern.

6 MR. GALATI: Yes, Scott Galati,
7 representing the applicant. Mr. Rizk, the SCPA
8 will be the project owner. And as you have heard
9 tonight, I think there are seven cities that are
10 participating members. The City of Burbank will
11 operate, as well as the City of Burbank will
12 manage the development and permitting.

13 So the City of Burbank will operate it,
14 and there will be a facility services agreement
15 between the City of Burbank and SCPA for that
16 operation. And that facility service agreement
17 will deal with the waste discharges you
18 identified.

19 HEARING OFFICER GEFTER: Mr. Galati,
20 when the Energy Commission issues a decision and
21 has conditions in the decision, we always cite to
22 the project owner. So we need to have that very
23 clear before we enter evidentiary hearings who the
24 project owner is. And I understand that the
25 Regional Quality Water Board also has the same

1 issue.

2 MR. GALATI: Yes. SCPPA will be the
3 project owner, will be responsible for the
4 compliance with the conditions on this project,
5 and will be responsible for the compliance with
6 the discharge limitations under the NPDES permit.

7 DR. RIZK: We would appreciate a written
8 statement to that clarification so that we can
9 move forward. Thank you.

10 HEARING OFFICER GEFTER: Yes.

11 DR. RIZK: The other issue, as has been
12 alluded to earlier is the issue of the existing
13 legal challenge between the City of Burbank, the
14 Department of Water and Power and the State Water
15 Resources Control Board.

16 The 1998 permit was based on, at that
17 time, the National Toxics Rule, and Anti-Back-
18 Sliding Rule within the USEPA, as well as the
19 Basin plan provisions at that time.

20 The challenge was made; the court agreed
21 with the City of Burbank. And the Regional Board
22 is now appealing that decision.

23 Meanwhile, the California Toxics Rule
24 was promulgated by the USEPA, and the State of
25 California, the State Water Resources Control

1 Board, adopted the policy for implementation for
2 the California Toxics Rule discharges into inland
3 estuaries -- into inland surface water in closed
4 basin estuaries.

5 We have a knack for very complicated
6 long names and I apologize about that. Like I
7 said, instead of saying Los Angeles Regional
8 Board, we say California Regional Water Quality
9 Control Board, Los Angeles Region.

10 Right now staff working on two-pronged
11 approach. One legal, presenting the legal
12 challenge for the appeal. The other one is that
13 staff has been directed to develop a draft permit
14 as per the California Toxics Rule.

15 And the interesting part is that when it
16 comes down to it, there's not a whole lot of
17 difference between the NTR and the CTR, the
18 National Toxics Rule and the California Toxics
19 Rule.

20 So we are in the process of reviewing
21 that. If the outcome of that would be certain
22 compliance schedules our new policy is to include
23 compliance schedules in the NPDES program. And as
24 I understand that has been one of the issues
25 challenged by the City of Burbank.

1 Also we can work with the California
2 Energy Commission toward setting a compliance
3 schedule that would be consistent with the project
4 certification. So that together that the synergy
5 and cost effectiveness for the City of Burbank,
6 and can expedite the process.

7 These are basically the key issues that
8 we have at this time.

9 HEARING OFFICER GEFTER: What's the
10 timeline on your ability to cooperate with the
11 applicant and the staff in coming to some sort of
12 conclusion on the issue?

13 DR. RIZK: As Mr. Reede has testified,
14 we maintain regular contact and coordination on
15 issues. As far as the ability to bring in the
16 compliance schedule into this certification
17 process, which really depends on whether the legal
18 challenges with the City of Burbank are observed
19 or not.

20 MR. REEDE: Ms. Gefter, I have some
21 questions. If the legal challenge is not resolved
22 favorably to the Water Board, is there any
23 possibility that the permit would have to be
24 reissued in its entirety?

25 DR. RIZK: The permit would be reissued

1 in its entirety. Whether -- if we prevail then
2 the permit that was issued in '98 becomes
3 effective. If we do not prevail then the new
4 permit, according to the California Toxics Rule
5 policy for implementation will have to become
6 effective.

7 MR. REEDE: Okay.

8 DR. RIZK: And the difference between
9 the two is mostly in the wordings and in some of
10 the subtle descriptions.

11 MR. REEDE: Okay, what is number one,
12 the expected timeframe for resolution of the
13 litigation? And number two, what is the timeframe
14 for the issuance of the permit should it be --
15 should the litigation be resolved tomorrow?
16 Knowing that isn't going to happen because lawyers
17 are involved. Okay, so what is the expected
18 resolution of the -- when is the expected
19 resolution of the litigation?

20 And then if it were to be resolved
21 tomorrow, how long would it take you to issue this
22 revised permit?

23 DR. RIZK: If the issue is resolved
24 tomorrow, or from the date that the issue is
25 resolved, if it's resolved favorably in the

1 original Board's favor, then it would take effect
2 essentially within the 180-day period, I believe,
3 for --

4 MR. REEDE: The what?

5 DR. RIZK: -- for comments. Within a
6 limited period for comments.

7 MR. REEDE: Within the 30-day
8 requirement?

9 DR. RIZK: Yes.

10 MR. REEDE: Okay. Now, if it isn't?

11 DR. RIZK: If it isn't, then the
12 California Toxics Rule permit would have to take
13 effect. And that depends on our resources and
14 staff time.

15 Based on historical experience it can be
16 anywhere from six months up to two years.

17 MR. REEDE: Okay. That's what I needed
18 answered.

19 HEARING OFFICER GEFTER: Mr. Galati, do
20 you want to address the zero liquid discharge
21 issue?

22 MR. GALATI: I would like to address two
23 things, and I don't want to ask any more questions
24 of Dr. Rizk. I know he needs to leave. But,
25 basically if I could first start by saying that

1 whether or not the litigation prevails between the
2 City of Burbank, not SCPPA, but the City of
3 Burbank, and the Regional Water Quality Control
4 Board, SCPPA and the Magnolia Power project are
5 committed to meeting whatever discharge limits are
6 in effect.

7 Had staff picked up on that particular
8 issue and asked for clarification in their data
9 request on how to demonstrate that we could comply
10 with both sets of limitations, depending on the
11 outcome of either one of those -- the outcome of
12 the challenge. We are responding to those. The
13 answers will be turned in by November 5th in our
14 data request.

15 And the issue of the timing of that
16 litigation should be unrelated, in our opinion, to
17 this proceeding.

18 With respect to zero liquid discharge,
19 we have also provided additional information in
20 our supplement as well as information in our data
21 responses on zero liquid discharge and what the
22 constraints are on the site here.

23 And we are continuing to develop those.
24 Those will be addressed in response to staff's
25 data requests and available for the public on

1 November 5th.

2 HEARING OFFICER GEFTER: Do you want to
3 give us some sort of preview of what the data
4 responses are going to be on this issue?

5 MR. GALATI: I think I'm going to need
6 some technical help to do that, or I'm going to
7 confuse everybody in the room.

8 MR. BLOWEY: Bob, do you want to respond
9 to the ability of Magnolia to meet whatever limits
10 that may be imposed on Burbank, or actually in
11 this case, I'm sorry, Scott reminds me it's zero
12 discharge issue?

13 I guess from my perspective some of the
14 larger issues involved are land use. To have a
15 zero discharge you'd have to have evaporation
16 ponds or you'd have to have dry cooling, either of
17 which takes up a lot of land that we don't have.

18 But, go ahead, Bob.

19 MR. COLLACOTT: That was something that
20 was reviewed by the project engineer who is --

21 HEARING OFFICER GEFTER: Sir, before you
22 begin would you give us your name and spell it,
23 please.

24 MR. COLLACOTT: My name is Bob
25 Collacott; the last name is C-o-l-l-a-c-o-t-t.

1 HEARING OFFICER GEFTER: And your
2 position, please.

3 MR. COLLACOTT: And I'm with -- I'm the
4 head of the water team -- I'm with URS
5 Corporation.

6 HEARING OFFICER GEFTER: You're a
7 consultant to the applicant?

8 MR. COLLACOTT: Yes, I am.

9 HEARING OFFICER GEFTER: Thank you.

10 MR. COLLACOTT: Okay. I'm not
11 representing the project engineer, but the project
12 engineer did look at crystallizing and evaporation
13 as two alternatives to arrive at a zero discharge.

14 Clearly there's insufficient space in
15 this area, you saw it today, for evaporation
16 ponds. Those would be rather large, probably as
17 large, or perhaps larger than this entire
18 facility. So, that was ruled out as an
19 alternative.

20 I believe they also looked at
21 crystallizers, and part of the reason for
22 dismissing that alternative was the cost of the
23 equipment, and also the ongoing operational costs
24 for operating a crystallizer. That would require
25 staff present on a 24-hour basis, and, you know,

1 additional training and so forth.

2 I believe all that is addressed in our
3 data response package that will be provided to the
4 staff.

5 And could I also clarify at least my
6 understanding of where things stand with the City,
7 and we'll provide additional status report on
8 this, and that's the status of the litigation
9 between the City of Burbank and the Regional
10 Board.

11 My understanding is is that the City of
12 Burbank appealed the permit and their appeal was
13 successful. It is now the Regional Board that's
14 appealing that permit to the State Supreme Court.
15 And whether that appeal will be heard, to my
16 understanding, has not been determined as of this
17 time.

18 But we'll provide an issue paper
19 clarifying that.

20 HEARING OFFICER GEFTER: All right.
21 Another question while we have you here. With
22 respect to staff's concern about the use of
23 potable water or fresh water, in the event that
24 reclaimed water is not available, what is the
25 applicant's view on that, or position on that?

1 MR. COLLACOTT: Again, that will be
2 addressed in more detail in our data response.
3 There's, most of the time, I think 84 percent of
4 the time we've determined that no nonreclaimed
5 water source would be needed for operation of the
6 plant outside of for potable uses.

7 MR. REEDE: One of the things I had seen
8 during Mr. Blowey's presentation was that you were
9 planning to use 1.5 million gallons of recycled
10 water for daily use. Okay, that will be for all
11 industrial uses except that which humans come in
12 contact with?

13 MR. BLOWEY: Right, the potable water
14 uses would be you would utilize domestic water for
15 makeup deminimizer, for the steam equipment.
16 We're going to use reverse osmosis equipment to
17 clean up the reclaimed water for that use, and for
18 other --

19 MR. REEDE: So the only potable water to
20 be used onsite would be for drinking, shower,
21 restrooms?

22 MR. BLOWEY: Correct.

23 MR. REEDE: And cooking, because I know
24 you got a kitchen. Okay. So there would be no
25 uses of potable water for industrial applications?

1 MR. BLOWEY: Not normally.

2 MR. REEDE: Pardon me?

3 MR. BLOWEY: Only as a backup to the
4 reclaimed water when it's unavailable.

5 MR. REEDE: Okay, now if it's being used
6 as a backup to reclaim water where's that water
7 coming from?

8 MR. BLOWEY: There's a number of sources
9 that the City has, MWD water which comes from the
10 state, from the Colorado River. There's
11 groundwater available, a number of sources --

12 HEARING OFFICER GEFTER: Okay, I'm going
13 to interject here. Okay, with respect to the
14 details on this, should be discussed in a public
15 workshop after the data responses are filed. But
16 it does sound right now that there is confusion,
17 and the issues are not resolved and they need to
18 be resolved in an expedited fashion.

19 I also wanted to point out that the
20 regulations, section 2022 of the Commission's
21 regulations on data adequacy require a will-serve
22 letter from the water agency. And I'm inquiring
23 whether there is a will-serve letter on file?

24 MR. GALATI: Yes, we have a will-serve
25 letter --

1 HEARING OFFICER GEFTER: Okay.

2 MR. GALATI: -- from the City of
3 Burbank.

4 HEARING OFFICER GEFTER: Okay. And also
5 to let you know that Commissioner Laurie is very
6 interested in will-serve letters and water
7 agencies. This is one of the topics that he is
8 particularly concerned about, and will be looking
9 at the resolution of the water issues very
10 closely.

11 And so I am advising all the parties to
12 attempt to resolve these issues before we get to
13 evidentiary hearings.

14 MR. GALATI: Okay, we certainly will.
15 And I think that our data responses are going to
16 clarify. We're going to go above and beyond the
17 question, then get to the intents of the questions
18 and provide those responses on water.

19 I would like to say, though, before
20 Commissioner Laurie, if he happens to pick up the
21 transcript, that the project, as far as the will-
22 serve letter is concerned, the City of Burbank
23 supplies both the reclaimed and non reclaimed
24 water. So if you see their will-serve letter it
25 will cover all the water uses at the site.

1 HEARING OFFICER GEFTER: Including the
2 backup water?

3 MR. GALATI: Correct.

4 HEARING OFFICER GEFTER: All right. Any
5 other comments on the water issue?

6 MR. REEDE: Not at this time.

7 HEARING OFFICER GEFTER: Okay. Anyone
8 in the audience on water? Okay, we're going to
9 move on to the air quality issue. Thank you very
10 much.

11 And, Mr. Reede, would you summarize
12 staff's concerns and --

13 MR. REEDE: Okay, there's three
14 potentially critical air quality issues that may
15 affect the timing and possible outcome of the
16 licensing process for the project.

17 They include emission reduction credits,
18 best available control technology and air quality
19 permits.

20 Since this issues identification report
21 was written the applicant has secured a number of
22 emission reduction credits for the NOx, volatile
23 organic compounds or VOCs, and carbon monoxide
24 emissions.

25 And it's my understanding that they just

1 closed the purchase of those particular emission
2 reduction credits this past Friday, I believe,
3 Thursday or Friday.

4 Additionally, I've spoken with the Air
5 Quality Management District relating to the PM10s
6 priority reserves, and it appears as if because
7 Southern California Public Power Authority is a
8 public agency, that there should be no problem in
9 them getting the necessary PM10 priority reserves.
10 The same with the sulfur dioxide of SOx.

11 The best available control technology,
12 though, is still a concern. Relating to the
13 volatile organic compounds, the project has
14 proposed using 6 ppm or parts per million for
15 their BACT emission levels when duct firing at 15
16 percent O2. This is outside of -- this does not
17 meet BACT requirements.

18 And until such time the Air Quality
19 Management District nor the Commission could
20 approve this application because EPA has come out
21 with 2 ppm at 15 percent O2 on a one-hour average
22 BACT determination.

23 So until that BACT issue is resolved we
24 may not be able to issue a favorable
25 recommendation.

1 The air quality permits, I've spoken
2 with the Air Quality Management District and based
3 upon our conversations they can meet our schedule
4 of issuing the preliminary determination of
5 compliance on November 26th. However, if the BACT
6 issue is not resolved, they may issue a negative
7 preliminary determination of compliance.

8 HEARING OFFICER GEFTER: Okay, what --

9 MR. REEDE: So that has been identified
10 as one of the critical path items on page 5 that
11 needs to be resolved actually within the next five
12 days, even though it says November 1st. They need
13 to get the information to the South Coast Air
14 Quality Management District as quickly as
15 possible.

16 HEARING OFFICER GEFTER: Mr. Beruldsen,
17 are you still here? Yes. Would you please come
18 up and perhaps you can clarify some of these
19 issues for us. And, again, identify yourself for
20 the record.

21 MR. BERULDSEN: Yeah, I'm Knut Beruldsen
22 with the South Coast Air Quality Management
23 District. And as James Reede said, BACT is 2 ppm
24 for VOC. That will be corrected to 15 percent
25 oxygen. And all the other BACT seems to be

1 somewhat in order. EPA is trying to drive BACT
2 down right now, so they're looking at CO.

3 I think everything's in order on NOx.
4 And hopefully I guess it would depend on -- given
5 this type of gas turbine I don't -- it should be
6 possible to get down to 2 ppm I think with the
7 technology they're proposing.

8 HEARING OFFICER GEFTER: For VOC?

9 MR. BERULDTSEN: Yeah, based on what
10 we've seen for other projects.

11 HEARING OFFICER GEFTER: We want to ask
12 a question. In the application there was some
13 language from the applicant that they would
14 attempt to meet a BACT of 2.0 ppm for VOC. Is
15 that what the applicant intends?

16 MR. BLOWEY: Yes, under normal
17 operations.

18 HEARING OFFICER GEFTER: I'm sorry?

19 MR. BLOWEY: Under baseload operations
20 we've committed to 2 ppm on VOC. The issue arises
21 when there's supplemental firing in the duct
22 burners.

23 MR. GALATI: Yes, and I would just like
24 to clarify for the record that we're going to
25 continue to work with South Coast. We do believe

1 BACT is not 2.0, but we'll accept whatever BACT
2 determination South Coast gives us.

3 We would continue to work and be able to
4 hopefully show that BACT for the project is 6.0
5 with duct firing. If we are unable, we would just
6 ask the South Coast Air Quality Management
7 District, would you issue a negative PDOC or would
8 your PDOC say BACT is 2?

9 HEARING OFFICER GEFTER: Has South Coast
10 revised regulations to establish a BACT of 2.0
11 VOC?

12 MR. BERULDTSEN: We don't really -- BACT
13 and LAER for these types of projects, it changes
14 as new technologies are achieved in practice, as
15 we review source tests and such.

16 For similar gas turbines that have gone
17 in other people have requested a 2.0 limit with
18 and without duct firing. And so there's some
19 precedent that's been set.

20 I haven't really looked into the issue
21 in enough detail to give a formal response.

22 MR. GALATI: My only question was
23 whether or not you would issue a PDOC that says we
24 can't approve the project, or would you issue a
25 PDOC that says we approve the project with the

1 following condition, and you would apply BACT at
2 2.0 in that case. Is that how it would come out?

3 MR. BERULDSEN: Yeah, I'd have to go
4 through my manager; I'm not really sure. I can't
5 answer that.

6 HEARING OFFICER GEFTER: What kind of
7 timeline are you looking at for issuing the PDOC?

8 MR. BERULDSEN: As James Reede said,
9 we're shooting for the end of November.

10 HEARING OFFICER GEFTER: Will you be
11 able to meet that deadline you believe?

12 MR. BERULDSEN: I'm going to try to, I
13 mean that's --

14 HEARING OFFICER GEFTER: Right.

15 MR. GALATI: I just want to also state
16 for the record, the applicant is committed to
17 doing BACT, whatever BACT is. And BACT is one of
18 those issues that is a sliding scale, depending on
19 what particular point you are in a process.

20 When we filed this application it was
21 not clear that BACT was 2. We're still not sure
22 we're there, but we'll continue to work with South
23 Coast and the Energy Commission.

24 HEARING OFFICER GEFTER: Do you
25 anticipate during the next week or so to have

1 meetings with South Coast on this topic?

2 MR. GALATI: I'll have to look at Mr. --
3 yes.

4 MR. REEDE: I believe there was a data
5 request also in that regard. So they have to have
6 it by the 5th anyhow.

7 HEARING OFFICER GEFTER: Okay. And what
8 is the status of the ERC purchases? Mr. Reede
9 indicated there was some movement on that, and
10 that the applicant has provided indication of ERC
11 purchases, so --

12 MR. BERULDTSEN: -- what I've heard. I
13 haven't actually received any of the
14 documentation. So that's something I need to get.

15 MR. BLOWEY: I can answer you where the
16 process is right now. We got approval to purchase
17 those offsets last week. We're basically in
18 escrow. We've sent the money to Cantor
19 Fitzgerald, who is our broker. They have lined up
20 sellers of those ERCs. We are purchasing known,
21 certified ERCs. So we're in basically the escrow
22 process. It should be closing by the first.

23 MR. REEDE: Okay, may I move to the next
24 issue.

25 HEARING OFFICER GEFTER: Are we finished

1 with air quality? Or do you have another question
2 on that?

3 MR. REEDE: No, I'm pretty much finished
4 with air quality.

5 HEARING OFFICER GEFTER: Okay.

6 MR. GALATI: I just wanted to state for
7 the record that when the offset package and those
8 particulars are identified we will give them to
9 the Energy Commission as soon as possible.

10 HEARING OFFICER GEFTER: Thank you.
11 Okay.

12 MR. REEDE: Okay, --

13 HEARING OFFICER GEFTER: Thank you for
14 staying this evening, Mr. Beruldsen.

15 MR. REEDE: Okay, I have two other brief
16 issues. The issue of environmental justice.
17 Based on census 2000 staff has determined that
18 there is a minority population greater than 50
19 percent within a six-mile radius of the proposed
20 plant.

21 Therefore there is a potential for an
22 environmental justice issue with this project.
23 Whether there is, in fact, an environmental
24 justice issue will not be known until staff
25 analyzes a number of different technical areas

1 that have been completed, and determinations of
2 whether there are any unmitigated significant
3 issues or impacts falling disproportionately on
4 minority populations.

5 The final issue is visual resources.
6 The proposed project has a potential to cause or
7 substantially contribute to adverse visual impacts
8 due to visible vapor plumes for the plant's
9 exhaust stacks and cooling towers.

10 This is due to the high number of
11 sensitive viewers in the vicinity of the proposed
12 project, and motorists using the Golden State
13 Freeway, interstate 5.

14 These viewers include residents at the
15 foreground and middle-ground distances from the
16 proposed project in the communities of Burbank and
17 Glendale. The issue is of concern and warrants
18 further study.

19 However, without data on existing and
20 proposed vapor plumes staff is unable to determine
21 if, in fact, a significant adverse impact or
22 effect could occur. Staff has issued data requests
23 to obtain required quantitative modeling of
24 existing and predicted plume occurrences.

25 When we're talking about existing plumes

1 we're talking about from the cooling towers that
2 we saw out there earlier.

3 Determinations of visual impact from
4 vapor plumes will be based on criteria of both
5 plume magnitude and plume frequency. If adverse
6 impacts are identified they can be potentially
7 mitigated with available measures and existing
8 technology.

9 We first identified ground-hugging
10 plumes on another plant that was before the
11 Commission. And subsequently because many plants
12 are now being located near freeways, Caltrans has
13 raised concerns about ground-hugging plumes
14 blocking the view of motorists.

15 Additionally, as staff and I spoke prior
16 to the meeting, staff identified that both
17 Magnolia Avenue and Olive Avenue, because they're
18 elevated roadways, could potentially be hit with a
19 fog bank that could cause a hazardous condition to
20 motorists.

21 Until that modeling has been completed
22 staff reserves its rights to ask additional
23 questions regarding the potential for ground-
24 hugging plumes.

25 HEARING OFFICER GEFTER: I see on the

1 proposed schedule that staff intends to conduct a
2 data request workshop on November 15th?

3 MR. REEDE: That is the date that we're
4 looking at right now. We're not sure if it's
5 going to be the 15th because I want to receive the
6 data responses from the applicant first. I'm not
7 going to firm the schedule until I have data
8 responses in my hand.

9 If we are going to get all the data
10 responses on the 5th, then I have the ten days to
11 notice it to the public and we can go from there.

12 HEARING OFFICER GEFTER: All right. And
13 if it's necessary to serve a second set of data
14 requests, what sort of timeframe do you
15 anticipate?

16 MR. REEDE: We would know whether or not
17 the data responses are adequate by the 10th of
18 November. And we would be issuing new data
19 requests prior to the data response workshop.
20 Either prior to or at the data response workshop.

21 The applicant would then have 20 days to
22 respond.

23 HEARING OFFICER GEFTER: All right,
24 so --

25 MR. REEDE: And we'd still be within our

1 discovery timeframe.

2 HEARING OFFICER GEFTER: Yes. But you
3 may run into a little problem getting your initial
4 staff assessment out in early December if you have
5 a second round of data requests.

6 MR. REEDE: I don't believe that that
7 would be a major impact to our staff assessment.

8 HEARING OFFICER GEFTER: All right.
9 Well, I want to indicate to applicant that there
10 is potential for a second round of data requests
11 if the first set is not sufficient. And the
12 issues that are being raised right now may
13 indicate that there may be a need for a second
14 set, particularly on the plumes, on the air
15 quality issue and probably on the water issue
16 again. And also on the EJ issue.

17 I would advise you to make sure that
18 your data responses are as complete as possible
19 this round so you don't have to go through the
20 second round. But if you do need to go through a
21 second round, I expect they will be a limited set,
22 the second set.

23 MR. REEDE: Yes, it would be follow-up,
24 it's typically follow-ups to the original
25 questions that aren't answered to our

1 satisfaction, or aren't answered sufficiently to
2 give us the ability to analyze that particular
3 technical area.

4 MR. GALATI: And the applicant is
5 committed, and I say this because I'm not on the
6 consulting team, the consulting team is committee
7 that they could respond in less than 20 days to
8 that second set of data requests if it is
9 necessary. Sorry, Doug.

10 HEARING OFFICER GEFTER: With respect to
11 environmental justice, or we call it EJ for those
12 in the audience, there was some concern about
13 current demographic data in the six-mile radius
14 that the analysis is conducted.

15 Has that demographic data been updated?

16 MR. HAHN: We had some difficulty in the
17 preparation of the AFC in obtaining current 2000
18 census data without getting into a great deal of
19 unnecessary detail, as it comes down to a lower
20 level of detail. And so in some areas we were
21 forced to rely on 1990 census data.

22 And I believe that EJ is one of those
23 areas. However, we, as was pointed out before,
24 the applicant has, you know, a community outreach
25 program in place, and we're pretty confident that

1 there aren't going to be significant impacts to
2 the population, particularly minority populations.

3 HEARING OFFICER GEFTER: Are you still
4 relying on 1990 census data?

5 MR. HAHN: To my knowledge the 2000
6 data, the level we needed for the area that we
7 needed is still not yet available.

8 MR. REEDE: That's correct. The low
9 income data has not been released by the Census
10 Bureau yet.

11 HEARING OFFICER GEFTER: Okay.

12 MR. REEDE: And it's not expected to be
13 released until December.

14 HEARING OFFICER GEFTER: We'll have it
15 before evidentiary hearings?

16 MR. REEDE: That's our American
17 Government. Sometimes it moves slower than we
18 need it to move. But I can't guarantee that it
19 will be here prior to evidentiary hearings.

20 MR. HAHN: I will, though, state that
21 the extent to which it does become available we're
22 committed to working with staff to turn that data
23 around in whatever appropriate way is necessary
24 to --

25 HEARING OFFICER GEFTER: Okay. Well,

1 again I point out that we haven't been satisfied
2 with 1990 data in other cases. And we would again
3 encourage you to try to obtain data. If you can't
4 obtain it through the U.S. Census Bureau, perhaps
5 you can obtain it in other methods.

6 MR. REEDE: But staff still has to
7 perform their own independent analysis --

8 HEARING OFFICER GEFTER: That's right.

9 MR. REEDE: -- whether or not they get
10 the information, so.

11 HEARING OFFICER GEFTER: That's right.

12 MR. REEDE: Should I move on to the
13 schedule now?

14 HEARING OFFICER GEFTER: We need to move
15 on to the schedule. Before we do that, I had a
16 comment here from Mr. Scott Ceier, Ceier. Would
17 you please come up, and it's your turn to speak to
18 us. Please spell your name for the record.

19 MR. CEIER: My name is Scott Ceier, and
20 it's spelled C-e-i-e-r. And I'm a local resident
21 here in Burbank, and I just had a few concerns.
22 They don't necessarily have to be answered right
23 now, but I would like them answered, to decide as
24 a resident whether this is a project that I wish
25 to support or not.

1 I'll start with the least important one
2 which was just recently addressed, and that's the
3 aesthetic issue of a 150-foot stack, which by your
4 photo demonstration would be larger in aspect than
5 the existing one.

6 And I just have a general concern about
7 another industrial edifice that would be the
8 largest thing between I-5 and Disney. So it's a
9 slippery slope to say it exists, and then it's
10 okay to do it again.

11 I have some questions about the City of
12 Burbank's legal and financial liability given that
13 they are a participant through BWP, but not the
14 owner of the project.

15 With the project on their land, and
16 adjacent to an existing facility that they own,
17 what will their legal and financial liability be.

18 I also have some questions about the
19 need really for Burbank. Not regionally, I
20 understand the need regionally, but as I
21 understand it Burbank did produce an excess of
22 electricity during the greatest period of need
23 this summer. And we also apparently have a \$60
24 million bond in place for an additional generator
25 and upgrades to the existing generators. So I

1 wonder how much more Burbank needs in order to
2 maintain a surplus.

3 And so the next question then is what is
4 Burbank's percentage of cost where this project is
5 related, versus the other participating cities.
6 And how much are we getting out of that. You said
7 roughly 31 percent, which just a quick calculation
8 is about 78 megawatts out of the potential. So I
9 wanted to see if that actually makes sense for us
10 locally.

11 The next question also comes down to
12 ownership, and that is we own existing, in
13 Burbank, existing power plants. This power plant,
14 I assume, will be competing on the open market
15 with those existing power plants while they're
16 still online. So to what extent will Burbank
17 receive a financial impact. Is this going to be a
18 net loss or a net gain for us. That's certainly
19 important for our local economy's health.

20 I'm very satisfied that the CEC is going
21 to address environmental issues, et cetera, but
22 these local quality of living and financial issues
23 I think need to be addressed for us.

24 I believe that really covers the
25 majority of my questions. Thank you.

1 HEARING OFFICER GEFTER: Thank you, Mr.
2 Ceier. I would ask the applicant to meet with you
3 off the record after we close this evening, or
4 perhaps you can contact them, you know, at another
5 time and actually get your questions answered in
6 person by contacting them.

7 Thank you very much for addressing us.

8 Is there anyone else here tonight, a
9 member of the public who has questions or
10 comments?

11 Okay, we will then continue with Mr.
12 Reede's discussion of the proposed schedule.

13 MR. REEDE: Okay. Thank you, Ms.
14 Gefter. As I stated, there are some critical path
15 items that are needed to remain in the six-month
16 process. And we are, during this process,
17 required to make status reports from time to time
18 as the Committee so orders.

19 The critical path items that we
20 determine that are currently needed to remain in
21 the six-month process include the delivery of
22 those ERCs, which the applicant has stated will
23 occur shortly.

24 The BACT resolution which must occur
25 within the next week. The responses to the data

1 requests need to occur by November the 5th. The
2 visual issues resolution, such as the modeling for
3 the plumes.

4 The water issues resolution needs to be
5 completed by November 11th. The PDOC will be
6 coming from South Coast Air Quality Management
7 District, but they need to be given the inputs in
8 a timely manner, which is one of the reasons that
9 the ERCs and BACT resolution are driving issues
10 for those two critical path issues.

11 On to the balance of the proposed
12 schedule, I will not go over what's already in the
13 past. The information hearing and site visit --
14 I'm reading from the last page of the issues
15 identification report.

16 I have placed copies of a revised
17 schedule on the back, that revised schedule was
18 necessary to conform with the new rules of
19 practice and procedures for energy facility
20 siting.

21 The information hearing and site visit
22 October 29th. Applicant provides data responses
23 November 5th. Data response and issue resolution
24 workshop will occur on or about November 15th.

25 Local, state and federal agency draft

1 determinations, basically they're draft permits,
2 including South Coast Air Quality Management
3 District's preliminary determination of compliance
4 shall be on November 26th.

5 The staff assessment will be filed
6 December the 10th. The staff assessment workshop
7 will occur December 20th.

8 Local, state and federal agency final
9 determinations January 10th of next year. South
10 Coast's final determination of compliance January
11 10th of next year. The final staff assessment
12 will be filed January 25th --

13 HEARING OFFICER GEFTER: I'm going to
14 stop you right here --

15 MR. REEDE: -- or supplement.

16 HEARING OFFICER GEFTER: Or supplement,
17 okay. The staff proposes to file the final staff
18 assessment or a supplement to the staff assessment
19 on January 25th. And then the proposed schedule
20 goes further, and proposes dates for the
21 evidentiary hearings and the proposed decision.

22 What the Committee will do is we will
23 issue a Committee schedule that will be based on
24 discussions this evening, including staff's
25 proposed dates for staff activities. And on

1 receiving the PDOC and the FDOC and other federal,
2 state and local agency permits.

3 However, after the staff assessment is
4 filed, the Committee determines the schedule in
5 terms of when evidentiary hearings will occur and
6 when the final decision will be issued, the
7 proposed decision and the final decision before
8 the Commission.

9 So at this point I also want to indicate
10 that under the regulations there is a 30-day
11 comment period after the proposed decision, not a
12 20-day comment period. So we need to include that
13 30-day review period in the schedule.

14 And you will see on the Committee's
15 schedule how we propose to try to meet the six-
16 month schedule, given the constraints under the
17 regulations.

18 Again, one of the things I wanted to
19 discuss with the applicant and staff in this forum
20 is the potential for some delay in receiving these
21 critical path permits, or letters, or some sort of
22 acknowledgements from the different agencies.

23 It's possible that the PDOC from the Air District
24 may not be issued on the date that's scheduled
25 here in this proposed schedule.

1 It's possible that, you know, the
2 Regional Water Quality Board would not be able to
3 resolve some of the issues that we discussed
4 earlier, et cetera. If that were to occur what
5 the Committee would include in the schedule would
6 be a slip in the schedule so that it would be a
7 commensurate skip in the schedule. We call it a
8 slippage. Where if, for example, the PDOC is not
9 issued for two weeks after the date that we have
10 in the proposed schedule, then the schedule
11 overall will slip two weeks, or some amount of
12 time necessary for staff to review that document
13 and include it in the staff assessment.

14 So I want to indicate that at the outset
15 that we would have a commensurate slip in the
16 schedule if some of these critical path items are
17 delayed.

18 MR. ABELSON: Ms. Gefter, could I ask a
19 related question on that. What you were just
20 describing has to do with a sister agency perhaps
21 being delayed in some way in getting a critical
22 piece into the record basically.

23 My question is given that the six-month
24 process is new and that the standard process for a
25 plant of this size would normally be a 12-month

1 process, what and how, if you're able to tell us,
2 would the Committee go about dealing with this
3 project if, as it evolves the ability to resolve
4 quickly the number of issues that we've talked
5 about tonight turn out to be more difficult than
6 people had thought.

7 Does it mean that the project is, in
8 effect, eliminated from the Energy Commission all
9 together and must be refiled as a 12-month? Does
10 it go into some sort of an extension? How does
11 that work?

12 HEARING OFFICER GEFTER: Okay, well,
13 there are two things that I wanted to indicate.
14 One is under section 2026 of the Commission's
15 regulations, which were adopted to enforce the
16 six-month process, sister agencies are required to
17 complete their reviews and issue their formal
18 findings within 100 days after the acceptance of
19 the application, which is September 26th.

20 Although there's the regulation, the
21 enforceability of that regulation is at issue.
22 However, we expect the sister agencies to do the
23 best they can. Everyone is constrained,
24 particularly now where we have budget constraints
25 at all levels, and staffing constraints, as well.

1 So we recognize that as a problem.

2 With respect to whether the project
3 would fall out of the six-month process, under our
4 regulations again any party can file a petition or
5 a motion with the Committee to move the project
6 out of the six-month process into a 12-month
7 process.

8 If we receive a petition from another
9 party such as staff or CURE or any other party
10 that's involved in this case who has formally
11 intervened, the Committee would consider that
12 petition and determine whether or not the project
13 would fall out of the six-month process.

14 What I'm proposing here is that we build
15 into the schedule the potential for delay so that
16 if these critical path items have not been
17 received in a timely fashion, rather than moving
18 the project into a 12-month process we do it on an
19 incremental basis and do a slippage based on the
20 delay in the time delay.

21 If it turns out that there are several
22 agencies that fail to provide the necessary
23 critical path documentation then we would expect
24 that staff most likely would file a petition to
25 move the project out of the six-month process.

1 Also we are going to require status
2 reports from the parties on a regular basis. And
3 often we do it on a monthly basis. In a six-month
4 process I'm going to suggest that we do it more
5 frequently. That way the Committee can keep track
6 of the progress.

7 And, again, the actual dates for those
8 status reports will be indicated in the
9 Committee's schedule. I expect to file that
10 schedule within a week. Under the normal 12-month
11 process we have 15 days. I would say that in this
12 process we would expect that the Committee could
13 get this issued within a week so you'll have a
14 formal schedule to indicate what the dates are.

15 MR. REEDE: Ms. Gefter, staff is opposed
16 to filing staff's reports in a shorter than a 30-
17 day period.

18 HEARING OFFICER GEFTER: They don't have
19 to be fancy status reports, Mr. Reede. It could
20 be for --

21 MR. REEDE: Staff is opposed to
22 providing status reports in less than a 30-day
23 period.

24 HEARING OFFICER GEFTER: Okay, I'll take
25 that under advisement and give that information to

1 the Commissioners. Thank you.

2 MR. REEDE: Based upon the workload,
3 since you're already talking about it, --

4 HEARING OFFICER GEFTER: I understand.

5 MR. REEDE: -- we would be opposed to --

6 MR. GALATI: Madam Hearing Officer, we
7 would agree to a day-for-day slip for things such
8 as the PDOC and things certainly beyond our
9 control. We'd acknowledge that staff has the
10 ability to petition the Committee for things that
11 they believe kick out of the six-month process.

12 However, I would like to just state for
13 the record that nothing in the six-month process
14 says that the applicant and all parties must agree
15 on every issue in order to stay in the six-month
16 process. And that would be a petition that is
17 made to the Committee, and the Committee would
18 make the decision based on hearing both sides.

19 And the six-month process does have an
20 evidentiary hearing process in which small focused
21 issues could be debated, and the Committee could
22 decide.

23 So we would acknowledge the staff at any
24 time, or any party has any time to make a
25 petition, but for things such as the PDOC being

1 delays, such as the Water Board lawsuit, things
2 that maybe it cannot be conditioned or something
3 along those lines, we would agree to a day-to-day
4 slip.

5 We also agree to whatever status reports
6 the Committee desires.

7 HEARING OFFICER GEFTER: Okay.
8 Sometimes we call it a day-for-day slip, and
9 sometimes we call it a slippage commensurate with
10 the delay. And prefer the latter view of it
11 because you never can estimate exactly a day-for-
12 day slippage.

13 But we also know that staff needs
14 sufficient time to review some of these items,
15 including the PDOC and the FDOC. And typically
16 need a reasonable amount of time to look at those
17 documents. So, I appreciate staff and applicant's
18 cooperation in this timeline.

19 Are there any other comments on the
20 schedule?

21 MR. REEDE: Excuse me, Ms. Gefter. In
22 section 2030 of the six-month statutes under the
23 Presiding Member's Proposed Decision and
24 Commission decision, I see where in the proposed
25 schedule I gave the Committee four days extra. So

1 that Committee files proposed decision should
2 actually be February 24th instead of February
3 28th.

4 But people only have 15 days to comment
5 on that proposed decision under subchapter (b).
6 They don't get 30 days to comment. It says at
7 least 30 days after filing the service of the PMPD
8 the Commission shall hold a hearing and do one of
9 the following. Basically that's the decision.

10 HEARING OFFICER GEFTER: Yes, but we
11 have the same language in the 12-month process,
12 which is that, you know, the comments are due 15
13 days or later within the 30-day comment period.
14 And there still is a 30-day period in which we can
15 accept comments and on the 30th day or so the
16 Commission can conduct a hearing on the 30th day.
17 So the comments can be accepted up to the 30th
18 day.

19 It's a 30-day comment period between the
20 date that the proposed decision is issued and the
21 date that the Commission conducts the hearing.

22 We can discuss interpretation of the
23 regulations --

24 MR. REEDE: Right, right --

25 HEARING OFFICER GEFTER: -- off the

1 record.

2 MR. REEDE: -- because we do have a
3 plane.

4 HEARING OFFICER GEFTER: Yes. At this
5 point, you know, it is getting late and I wanted
6 to give anyone who has been sitting here very
7 patiently an opportunity to address us before we
8 adjourn.

9 Seeing that no one is coming forward, we
10 appreciate everyone's patience this evening. It's
11 been a very interesting and informative event.
12 And we hope to see you again soon. Thank you very
13 much for coming.

14 The hearing is adjourned.

15 (Whereupon, at 7:47 p.m., the
16 informational hearing was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, 2001.

JAMES A. RAMOS

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