

MANDATORY STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification)
For The MARIPOSA ENERGY PROJECT) Docket No. 09-AFC-3
Mariposa Energy, LLC)
-----)

BYRON BETHANY IRRIGATION DISTRICT
7995 BRUNS ROAD
BYRON, CALIFORNIA

WEDNESDAY, OCTOBER 6, 2010
4:00 P.M.

Reported by:
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Transcribed by:
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APPEARANCES

COMMITTEE MEMBERS

Jeffrey D. Byron, Commissioner, Presiding Member
Robert B. Weisenmiller, Commissioner, Associate Member

HEARING OFFICER

Kenneth Celli

ADVISORS

Kristy Chew
Kevin Barker
Eileen Allen

STAFF

Kerry Willis, Staff Counsel
Craig Hoffman, Project Manager

APPLICANT

Gregg Wheatland, Esq., Ellison, Schneider & Harris, LLP
Chris Curry
Paula Zagrecki
Bo Buchynsky, Diamond Generating Corporation

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APPEARANCES (Continued)

INTERVENORS

Robert Sarvey

Rajesh Dighe

Morgan K. Groover, Mountain House Community
Services District

ELECTED OFFICIALS

Iris Obregon, for Assemblymember Joan Buchanan

Karyn Cornell, for Contra Costa County Supervisor
Mary Piepho

ALSO PRESENT

David Wiseman, Esq., Galati Blek, for PG&E

Jeff Carroll, PG&E

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P R O C E E D I N G S

1
2 PRESIDING MEMBER BYRON: Good afternoon,
3 everyone, and welcome to the Byron Bethany Irrigation
4 District offices. Ms. Garr, thank you so much, and
5 everyone here, for hosting us for this meeting. This is
6 about as nice a venue as we ever get for a meeting, and we
7 appreciate it very much.

8 We are here for a meeting with regard to the
9 application for certification of the Mariposa Energy
10 Project, or Mariposa Energy for short.

11 I'm Commissioner Jeff Byron of the California
12 Energy Commission. I'm the presiding member on a
13 two-person committee, and I'll explain that in just a
14 minute, of a five-member commission. With me is the
15 associate member of my committee,
16 Commissioner Weisenmiller.

17 And, you know, I'll just finish up on the
18 introductions at the dais here, and then if it's all
19 right, I'd like to make a few remarks and see if
20 Commissioner Weisenmiller wants to make some as well.

21 So by way of introduction, to my left is our
22 hearing officer, and he's the trained attorney, so he'll
23 be conducting our hearing, Mr. Ken Celli. To his left is
24 my advisor, Kristy Chew, and working down the other side
25 of the dais is Kevin Barker and Eileen Allen,

1 Commissioner Weisenmiller's advisors.

2 You know, I just wanted to say a few things
3 before we got started just by way of explaining the
4 process and where we are, and then we'll get into
5 introductions of all the different parties that are
6 involved in this process.

7 And I understand there's some refreshments that
8 might be out front, courtesy of the applicant, I believe.
9 Thank you very much. I also noticed there's also a number
10 of bottles of water that are sitting right in front of a
11 perfectly good drinking fountain, and I encourage you to
12 use the drinking fountain; that's just a personal bias
13 that I have. I hear the water here is very good.

14 Let's see. Process. As I indicated, our hearing
15 officer will be conducting this meeting, and we rely on
16 him to make sure that we all follow process, but I think
17 it's worth a little bit of an explanation as to the way
18 the Energy Commission works.

19 Commissioner Weisenmiller and myself will act
20 somewhat as judges in this case, but we both forgot our
21 black robes today.

22 How many of you were here with us when we went
23 out on the bus just a little bit ago for the site visit?

24 Okay.

25 And how many of you are local residents here in

1 the area of Mountain House and Byron, et cetera?

2 Okay. Very good.

3 We received an application for certification from
4 the applicant a little over a year ago, and it's our
5 job -- one of our jobs at the Energy Commission is to
6 review those applications, conduct a thorough evaluation
7 of it in accordance with the California Environmental
8 Quality Act and all the -- you'll hear the term LORS,
9 L-O-R-S, laws, ordinances, regulations, and standards.
10 And we make a determination in an effort to balance all
11 these issues with regard to the application that is before
12 us.

13 We don't get a choice on what comes before us.
14 That comes from the applicant. And our staff at the
15 Energy Commission are well-trained; in fact, they're
16 experts in about 26 or -7 different disciplines that they
17 will evaluate under -- the application under. We have no
18 part in that, Commissioner Weisenmiller and myself; that
19 is conducted independently, and the staff is viewed as a
20 party, as is the applicant, as is some other individuals
21 that are before us that Mr. Celli will introduce
22 momentarily. We have no contact or meetings with any of
23 the parties except in a publicly-noticed meeting.

24 Commissioner Weisenmiller and I did not have the
25 opportunity to see the site last year, and we wanted to

1 see it, and we were just going to come out and drive our
2 van out there and take a look, but we realized that others
3 might see it as well. And again, in the abundance of
4 caution we try and do everything in public that we can, we
5 just didn't want to trouble everybody. Turns out there
6 was a lot of interest. So we appreciate the applicant
7 doing -- organizing a second site visit, which they
8 certainly don't need to do, but I think -- I think it was
9 a good thing to do, and I appreciate very much the expense
10 and the effort to take us out there and see all that.

11 So we call this process an ex parte
12 communication. I'm not saying it right, I'm sure, but
13 basically there's no communications between the parties
14 except in a public meeting. And I think it's important
15 for everybody to understand that.

16 Commissioner Weisenmiller and I will conduct
17 hearings, evidentiary hearings following all the different
18 workshops and meetings that the staff will conduct. And
19 we will prepare a Presiding Member's Proposed Decision, or
20 we call it a PMPD, and that will go before my full
21 Commission, it will also be publicly available for
22 comment. This is one of the best things I believe that
23 our Commission does, is we conduct a very open and
24 transparent and public process around the siting of power
25 plants.

1 Unfortunately today, our public advisor, this is
2 one whose job at the Energy Commission, again, independent
3 of the commissioners, is to advise the public on their
4 rights and opportunities to voice their opinions, comments
5 or to participate as intervenors. Unfortunately,
6 Ms. Jennings is not here today, I understand she's on
7 vacation, and so we're all kind of filling in for her, but
8 I don't want to confuse the process.

9 At this particular meeting we have a sign-up
10 sheet. If you want to be contacted with her, I believe
11 that sign-up sheet is out front -- it's in the back, and
12 you can certainly put whatever information is requested on
13 there if you wish to speak with her or if you have
14 questions or you want information. Again, it's just to
15 make sure that we keep all the parties separated so you
16 can get the straight scoop. However, because she's not
17 here, my advisor, Kristy, has been running around
18 gathering blue cards; we're going to make sure we provide
19 an opportunity for public comment.

20 We do have some business we need to conduct here
21 today, and, of course, we conduct it in public, in the
22 open, and you'll get a sense of that in a moment, but we
23 will -- Commissioner Weisenmiller, unless you have any
24 obligations before midnight tonight, we will stay and hear
25 what any of -- all of you have to say.

1 Let's see. I also note that there are a number
2 of elected officials that may be here, some of which may
3 have other obligations this evening. And so I would like
4 to do this: You have a long list of folks here, and I'm
5 not going to read them off, but I'd like to ask if you'd
6 be willing to stand and introduce yourselves.

7 Unfortunately, you need to come to a microphone so that we
8 can get everything on the record. There is a transcript
9 of this so that it all can be recalled, and we'd very much
10 like to have on the record those elected officials or
11 appointed officials that made an effort to be here this
12 evening on behalf of their constituents or the community.

13 So if you don't mind, those of you that would
14 like to identify yourselves, if you could come up to the
15 podium, and please do so, I'd appreciate it at this time.

16 MR. LAMB: I'm Jim Lamb. I'm with the Mountain
17 House Community Services District. I'm one of the board
18 of directors. And Mr. Groover is our intervenor.

19 PRESIDING MEMBER BYRON: Well, and again, thank
20 you, thank you for being here. We'll do the intervenors
21 in just a second, okay?

22 MS. OBREGON: Iris Obregon, field representative
23 for Assemblymember Joan Buchanan.

24 PRESIDING MEMBER BYRON: Did you want to make
25 some remarks on behalf of the Assemblymember?

1 MS. OBREGON: I did. Thank you.

2 PRESIDING MEMBER BYRON: Please.

3 MS. OBREGON: On behalf of Assemblymember Joan
4 Buchanan who represents the district in which the Mariposa
5 Energy Project is being developed, we appreciate and
6 strongly support the investment being made by Diamond
7 Generating Corporation in the Mariposa Energy Project. We
8 believe that the Mariposa project will greatly benefit the
9 energy need of the bay area load pocket and projects like
10 Mariposa play an important role in helping the state meet
11 its renewable portfolio standard goals because projects
12 like this are critical to integrating renewables into the
13 grid.

14 Also, we support this project because of its
15 economic development impact on the region. The project
16 represents a significant investment of private capital and
17 job creation in addition to being part of our energy
18 strategy for the region.

19 For these reasons Assemblymember Buchanan
20 strongly supports the Mariposa Energy Project and asks the
21 CEC to approve it.

22 Thank you for your time.

23 PRESIDING MEMBER BYRON: Thank you. Thank you
24 for being here.

25 MS. CORNELL: Good afternoon, I'm Karyn Cornell

1 from Contra Costa County Supervisor Mary Piepho's office,
2 and I'm also staff support to the Byron Municipal Advisory
3 Council. The Byron Municipal Advisory Council is the
4 local advisory group that the supervisor counts on for
5 recommendations on how the local community feels about
6 projects.

7 The Byron MAC held a meeting earlier this year
8 and voted to support the project as a benefit to the local
9 economy. Additionally, both the planning commission and
10 the county board of supervisors have come to the same
11 conclusion when they voted unanimously to support the
12 project at their meeting on September 28th.

13 Thank you.

14 PRESIDING MEMBER BYRON: Thank you. We're not
15 tallying votes here by the way, we're just letting the
16 elected officials speak.

17 Are there any other elected officials that wish
18 to identify themselves?

19 So we're getting feedback somewhere.

20 (Discussion off the record.)

21 PRESIDING MEMBER BYRON: So is there anybody else
22 that would like to introduce themselves to the public
23 that's an elected official?

24 Okay. If there is during the course of the
25 meeting someone else that arrives, one of your elected

1 officials that wishes to talk, please let me know, and
2 we'll be more than happy to get them on.

3 So I think at this time I'd like to turn to my
4 fellow commissioner and ask if he has any comments before
5 I turn it over to the hearing officer.

6 Commissioner Weisenmiller.

7 COMMISSIONER WEISENMILLER: Thank you,
8 Commissioner.

9 Appreciate everyone's attendance. As
10 Commissioner Byron indicated, California Energy Commission
11 has a public process for siting. The Energy Commission
12 was established in the middle '70s. Legislation was
13 signed by then Governor Reagan and then implemented by
14 Governor Brown. The legislation was written by Charlie
15 Warren and Al Alquist. Charlie Warren was determined to
16 have a public process to do very thorough analysis and to
17 do environmental mitigation of the impacts, and Al Alquist
18 was determined to have a one-stop siting process that
19 would expedite siting in California. So we have a joint
20 responsibility to do a very thorough case to look at
21 stuff, but also to be timely.

22 So we have, as Commissioner Byron understands, so
23 do most people, we've had a real crush in the siting area
24 in terms of the solar projects in the desert, and because
25 of that, this project has in a way been on a backburner

1 for a while, but now we've gotten those obligations behind
2 us, most of those; we still have three to go, but now
3 we're turning our attention to this project.

4 So again, it's very important for us to have the
5 public participation in the project, because we want to
6 hear your comments.

7 PRESIDING MEMBER BYRON: Commissioner, it sounds
8 like you knew Senator Warren.

9 COMMISSIONER WEISENMILLER: I've met him.

10 PRESIDING MEMBER BYRON: Well, I knew
11 Senator Alquist.

12 All right. Well let's do this then: Let's
13 turn it over to our hearing officer, Mr. Celli.

14 And, Mr. Celli, I'd ask if you could go through
15 the agenda a little bit as to what we're going to
16 accomplish so folks have a sense of that, finish up the
17 introductions, and we'll conduct our business.

18 HEARING OFFICER CELLI: Thank you,
19 Commissioner Byron.

20 Can you everyone hear me? In the back?

21 Okay. My name is Kenneth Celli. The way that
22 we'll be proceeding today is we will -- in a moment we
23 will finish introductions so you know who the parties are
24 and what the parties are about. Then the reason we have
25 the status conference today is the parties specifically

1 requested that we look at creating a new schedule; in
2 particular, the applicant is interested in speeding up the
3 schedule. So we'll have some discussion of the schedule
4 followed by public comment.

5 Really, the only reason we're here today is to
6 discuss the schedule and to hear from the public members.
7 So this is your opportunity to speak to the commissioners
8 who make up this Committee. So after that we will
9 adjourn.

10 So with that, I'm going to continue with the
11 introductions. You've met the Committee. The Committee
12 are the people who are essentially going to make the
13 decision on this -- on whether to license to power plant
14 or not, that's the commissioners.

15 There is an applicant. The applicant are the
16 people who are the proponents of the power plant. And I'm
17 going to turn it over now to Greg Wheatland to introduce
18 the applicant's party, please.

19 MR. WHEATLAND: Good afternoon. I am Greg
20 Wheatland, the attorney for the applicant. And with me at
21 the table today is Chris Curry and Paula Zagrecki, who you
22 met on our site visit. We have other members of the
23 Mariposa team here today. I will not introduce them, but
24 they will be available if needed to assist the Committee.

25 Thank you.

1 HEARING OFFICER CELLI: Thank you. Also, there's
2 the California Energy Commission staff. The staff is not
3 a part of the Committee, they're a separate entity.
4 They're essentially a party to these proceedings. The
5 staff is represented by Kerry Willis at this time.

6 If you would introduce the staff, please,
7 Ms. Willis.

8 MS. WILLIS: Thank you. Good afternoon,
9 Commissioners, Mr. Hearing officer. My name is
10 Kerry Willis, I'm senior staff counsel. And with me is
11 the project manager, Craig Hoffman.

12 HEARING OFFICER CELLI: Thank you.

13 Also as part of the process, any of you, any
14 member of the public can make a motion or petition to
15 intervene and become an intervenor. An intervenor is a
16 party who has equal standing with all of the parties.
17 They participate in the process, they participate in
18 discovery, they can put on evidence, they cross-examine
19 witnesses, they submit briefs, and they very, very
20 importantly influence our process.

21 So I'm going to move I guess from my left, your
22 right to left, starting with Mr. Sarvey. I'm going to
23 need you all to go up to the podium so you make the
24 record. Speak in the microphone, please.

25 Mr. Sarvey, go ahead.

1 MR. SARVEY: Yeah, my name is Bob Sarvey. Around
2 these parts I'm known as Al Bundy. I own a shoe store
3 about seven miles down the road. And I want to welcome
4 you to San Joaquin County. We love our county. This is
5 the center of the water wars in the State of California,
6 so it's a pretty vibrant place, we have a lot of politics
7 going on.

8 And we appreciate you coming down here for a
9 second time and giving us a site visit, and I look forward
10 to discussing the schedule today. And I want to thank you
11 very much.

12 HEARING OFFICER CELLI: Thank you. And thank you
13 for submitting your proposed schedule, Mr. Sarvey.

14 Mr. Rajesh Dighe. I'm sorry, if I mispronounced
15 your name.

16 MR. DIGHE: Yes, Dighe.

17 HEARING OFFICER CELLI: Please come forward.

18 MR. DIGHE: Hi. I first thank you for having me
19 here. I'm Rajesh Dighe. I live in the Mountain House
20 community about 2.5 miles, a very, very young exciting
21 community, a growing community. And I'm happy to be able
22 to participate in this discussion. Thanks.

23 HEARING OFFICER CELLI: Thank you. And thank you
24 for your participation.

25 Mr. Groover.

1 MR. GROOVER: Good afternoon. My name is
2 Morgan Groover. I'm the senior staff representation for
3 Mountain House board of directors and officially the
4 intervenor for the Mountain House board of directors.

5 HEARING OFFICER CELLI: Thank you.

6 And we have a petition that has yet to be decided
7 for another intervenor. That would be the California
8 Pilots Association. But that has not yet been decided,
9 and they are not intervenors yet. That remains to be
10 seen.

11 So with that, I'm going to continue.

12 Is Albert Lopez here?

13 Mr. Lopez, if you wouldn't mind standing, if you
14 wanted to make any presentation to the commissioner.

15 Mr. Lopez is the planning director for Alameda
16 County.

17 MR. LOPEZ: That is correct. Yeah, I do have
18 a -- something I wanted to share with the Commission.

19 HEARING OFFICER CELLI: Please.

20 MR. LOPEZ: Okay. I'm here mostly to provide the
21 commissioner with the background material as it relates to
22 the county review of the Mariposa Energy Project. I
23 believe that you received copies of all of our
24 correspondence; if you haven't, I can provide you copies,
25 not today, but I could send them to you, that essentially

1 outline the city's review of the project. There was two
2 letters that were signed by our agency director, one dated
3 May 20th, and the other one dated September 17th, that
4 explain the county's review of the project mostly as it
5 relates to consistency in conformance with our general
6 plan.

7 In this case, the project is located in our East
8 Alameda County area plan, which is essentially the east
9 county portion of our general plan. The site is a bit
10 tricky in the sense that it's zoned agriculture, it does
11 have a Williamson Act contract on it as well. And it
12 contains an existing ag use, which I understand is
13 grazing. But because of the size of the size of the
14 Mariposa project and because of the size of the parcel,
15 and given what the state says about compatibility in
16 regards to agricultural uses, we found that the use is
17 compatible and subordinate to the main use of ag. And so
18 that May 20th letter essentially concludes by determining
19 that the project does comply with all the LORS
20 essentially, the laws, ordinances, regulations, and
21 standards.

22 There was a second letter that was sent
23 September 17th, mostly to clarify jurisdictional concerns
24 related to the Contra Costa County's Airport Land Use
25 Commission and their role in relation to the County of

1 Alameda. And there is -- there was some discussion about
2 and went into great detail about the jurisdictional
3 differences between the County of Alameda and Contra Costa
4 County. And I think that letter concludes essentially
5 that, you know, the jurisdiction is squarely within
6 Alameda County but that comments could be solicited by
7 Contra Costa County.

8 There are some more details in that particular
9 issue I won't go into it, but I would be happy to answer
10 any questions that you might have. All this is in the two
11 letters that we sent you, and it goes into a lot of detail
12 about the general plan consistency as well as this issue
13 about the airport.

14 So with that, I'll conclude and answer any
15 questions that you might have.

16 HEARING OFFICER CELLI: Commissioner Byron?

17 PRESIDING MEMBER BYRON: None.

18 HEARING OFFICER CELLI: Commission Weisenmiller?

19 COMMISSIONER WEISENMILLER: I just wanted to be
20 clear that the airport itself is located in
21 Alameda County?

22 MR. LOPEZ: Contra Costa County.

23 COMMISSIONER WEISENMILLER: But jurisdiction is
24 with Alameda?

25 MR. LOPEZ: Of the airport?

1 COMMISSIONER WEISENMILLER: Yes.

2 MR. LOPEZ: No.

3 COMMISSIONER WEISENMILLER: Okay.

4 MR. LOPEZ: It is not.

5 COMMISSIONER WEISENMILLER: Thank you then. I
6 didn't hear it right.

7 HEARING OFFICER CELLI: Thank you. Thank you for
8 coming. Appreciate your comments.

9 Richard Clark, Contra Costa planning
10 commissioner.

11 MR. CLARK: Good afternoon. My name is
12 Richard Clark. I'm a member of the Contra Costa County
13 Planning Commission. I'm the third longest serving, and
14 I've been on the Commission 22 years. The six current
15 members of the Commission represent something north of a
16 hundred years of experience on that Commission.

17 We heard about this project some time ago, we're
18 concerned about it because of its proximity to the
19 airport, and asked our department to do some research and
20 put it on our agenda.

21 The applicant came, made a presentation. We
22 were -- gathered some information and essentially we were
23 enthusiastically supportive of the project.

24 We're the only agenda or the only Commission in
25 Contra Costa County that reviews land use applications for

1 their consistency with our general plan and with our
2 policies and with land use objectives that we have as a
3 county.

4 We are particularly pleased with the way this is
5 structured because of the fact that we believe it not only
6 does not impact the operations of the airport, but the
7 applicant has generously offered to donate \$800,000
8 towards the implementation of some of the future plans we
9 have. And we have expectations of a ten-to-one funding
10 from the federal government, so the applicant goes forward
11 with its application. We will benefit perhaps to
12 \$8,800,000, which is, in our budget, a significant amount.

13 And I would like to point out we only found out
14 about that after we had written a letter to this
15 Commission in support.

16 In September of this year, our board of
17 supervisors reviewed the work we did and also unanimously
18 voted in support of the project. I know it's not
19 Contra Costa County, but it's very close to the county
20 line and adjacent to a significant asset within the
21 county.

22 If you have any questions -- as someone who sits
23 on a podium like this two or three times a month, I
24 promised myself I'd be brief. If you have any questions,
25 I'd be more than glad to answer it. The bottom line is

1 we're enthusiastically supportive of this application and
2 hope to participate as it goes forward.

3 PRESIDING MEMBER BYRON: Not really a question,
4 Mr. Clark, but five years on my Commission seems like a
5 lifetime at this point, and I think it's extraordinary,
6 22 years of service, and certainly would thank you, I
7 think that's fantastic, the county has the benefit of your
8 services for that length of time.

9 MR. CLARK: Well, you're very kind to say so, and
10 not everybody in the county --

11 PRESIDING MEMBER BYRON: But hang in there, maybe
12 you'll break a record.

13 MR. CLARK: Every time we make a decision,
14 somebody's angry, either those who were in favor or those
15 who were opposed. So I'm careful where I shop.

16 Thank you for your comment. Anything else I can
17 offer, Commissioner?

18 PRESIDING MEMBER BYRON: No, thank you.

19 MR. CLARK: Thank you for your diligence in this
20 matter.

21 HEARING OFFICER CELLI: Thank you.

22 Katherine Kutsuris, Director, Contra Costa
23 Department of Conservation and Development, are you here
24 today?

25 Okay. Tommy Vanderbrook from Contra Costa

1 Supervisor Mary Piepho's office?

2 MR. VANDERBROOK: I already spoke.

3 HEARING OFFICER CELLI: Oh, okay, I'm sorry.

4 Iris spoke.

5 Dennis Lopez from Byron. I have Byron MAC. I
6 don't know what that stands for.

7 MR. LOPEZ: Municipal Advisory Council.

8 HEARING OFFICER CELLI: There you go. Thank you.

9 MR. LOPEZ: Well, my daughter wrote something up
10 for you here.

11 Good afternoon, Commissioner, first of all.
12 That's the way I like to be treated.

13 My name is Dennis Lopez. I've been here a
14 resident of Byron my entire life in the community. My
15 family owns property here locally, we have been here
16 121 years. I'm a member of the Byron Municipal Advisory
17 Council, but today I speak on behalf of -- as a community
18 member, not as the council member.

19 I am in support of the Mariposa Energy Project,
20 to encourage the Commission and staff to do all they have
21 to move the project's schedule forward. I support the
22 project because it is clean, safe, and well-sited.
23 Mariposa will help prevent electrical brown-outs, and I
24 really believe that and support the production of
25 renewable wind power to support it and have here in the

1 region. Most of all I support the Mariposa Energy Project
2 because it will be good for the local economy, it will
3 bring much-needed jobs and money to the local goods and
4 services.

5 Thank you for the opportunity to speak.

6 HEARING OFFICER CELLI: Thank you.

7 Jim Sweeney from San Joaquin Valley Air Pollution
8 Control District, are you here, Jim Sweeney?

9 MR. SWEENEY: Hi.

10 HEARING OFFICER CELLI: Did you wish to make a
11 comment before we proceed?

12 Thank you for being here.

13 Brenda Cabral or Brian Bateman from Bay Area Air
14 Quality Management District? Hello, did you wish to make
15 a comment at this time?

16 Okay. We may call upon you later.

17 Are there any other people here that are with a
18 federal agency or a state agency? We've heard from
19 Contra Costa, San Joaquin County, Byron Airport. We have
20 people from Mountain House Community. PG&E?

21 Okay. Well, ladies and gentlemen we're going
22 to -- oh, come forward, please, David.

23 MR. WISEMAN: Good afternoon, everybody. My name
24 is David Wiseman with Galati Blek. And I brought with me
25 here today Mr. Jeff Carroll with PG&E. Jeff Carroll is an

1 engineer with PG&E in the gas section, or gas sector.

2 We'd be willing to answer questions today
3 regarding this project, Mariposa Energy Project's
4 interconnection into their -- or connection into their gas
5 lines for the purpose of bringing gas to the project. So
6 we're here to help, be responsive, and answer any
7 questions that we can about the project.

8 PRESIDING MEMBER BYRON: Mr. Wiseman, are you
9 here on behalf of PG&E as their counsel?

10 MR. WISEMAN: I am.

11 PRESIDING MEMBER BYRON: Okay. Thank you.

12 HEARING OFFICER CELLI: Thank you for being here,
13 Mr. Wiseman and Mr. Carroll.

14 We will give everyone another opportunity after
15 we hear from the parties to comment publicly to the
16 commissioners, and so please hang in there. If you have a
17 comment, we will call upon you in a moment.

18 PRESIDING MEMBER BYRON: Mr. Celli, I just wanted
19 to add I have no affiliation with the City of Byron, I'm
20 just proud to have the same name.

21 HEARING OFFICER CELLI: Thank you, Commissioner.

22 The status conference on the proposed Mariposa
23 Energy Project was set at the request of both staff and
24 applicant. The Committee scheduled today's event by
25 notice dated September 13th, 2010. And in the notice

1 staff and applicant were ordered to submit an issue
2 statement. Issue statements were received from the
3 applicant, staff, and intervenor Robert Sarvey.

4 The purpose of today's conference is to hear from
5 the parties regarding the applicant's proposal to dispense
6 with the preliminary staff analysis and proceed directly
7 with a single staff analysis and to discuss the scheduling
8 of future events in this proceeding; of course, the
9 parties may raise other issues as necessary. Another
10 purpose is to allow the public to comment on the Mariposa
11 Energy Project in general to the Committee.

12 As far as the procedure, what we will do first is
13 provide the applicant and then staff an opportunity to
14 summarize their view of the case and their recommendations
15 with regard to future scheduling. Then the other parties,
16 known as intervenors, will comment on staff's proposed
17 release of a partial preliminary staff assessment and
18 suggested time frame for the rehearing conference. We
19 will then provide an opportunity for the general public to
20 make a comment.

21 So first with the applicant, Mr. Wheatland?

22 MR. WHEATLAND: Well, thank you. As you heard
23 today, this project is located in Alameda County, but the
24 project faces some very special challenges being located
25 this close proximity to Contra Costa and to San Joaquin

1 County. And over the year that this project has been
2 pending before the Commission, the applicant has worked
3 very hard to meet with the public and elected officials
4 and staff of all three jurisdictions in order to address
5 and resolve their concerns. And we're very heartened by
6 the fact that you heard today of the support from three
7 separate jurisdictions to this project.

8 The project was found inadequate in 2009, and you
9 know the statutory guidance for the Commission is to
10 accomplish licensing the projects within 12 months, but we
11 are in month 13 now of this proceeding, and the reasons
12 that we're here are in many respects as to water under the
13 bridge, but I think it's important to emphasize here that
14 the reasons for the delays that have been encountered have
15 nothing to do with the efforts or the diligence of either
16 the applicant or the staff. There have been some external
17 factors of other agency reviews that are needed to move
18 the project forward.

19 But both the applicant and the staff have both
20 been working very hard in the processing of this
21 application, and we especially appreciate all of the
22 staff's efforts.

23 The challenge here, that is not to look backward
24 on why there's a delay but to look forward on how we can
25 accomplish a timely decision for this application. The

1 project is -- has a power purchase agreement with PG&E,
2 and that power purchase agreement has been approved by the
3 California Public Utilities Commission. So the only thing
4 now that stands between bringing additional power online
5 that PG&E and the state needs is the timely certification
6 of the project.

7 And this PPA places on the project certain
8 deadlines that we must accomplish or pay severe penalties
9 if we do not. Many of these deadlines involve basically
10 having the company make significant financial commitments
11 at the end of this calendar year in order to acquire the
12 equipment and plan for the commencement of construction
13 early in 2011.

14 Now, we and the staff both provided independently
15 to you proposed schedules. And when we saw the staff's
16 proposed schedule, we were very pleased that they
17 independently had arrived at recommendations that are very
18 close to what we would recommend to you. The staff's
19 recommendation is for a staff assessment followed by a
20 supplemental staff assessment, and we are very pleased by
21 the staff's recommendation.

22 In Table 2 of the issue statement that we
23 provided you, we laid out the staff's proposed schedule,
24 and we recommended several site revisions to that
25 schedule. And it's our understanding -- and the staff, of

1 course, will speak for themselves -- but with respect to
2 the issuance of the supplemental staff assessment that the
3 staff had proposed for December 20th of this year, we had
4 recommended that date be December 10th of this year. And
5 I understand that the staff is willing to make an effort
6 to meet that date.

7 We also proposed a slight acceleration in the
8 issuance of the PMPD and the Commission's final decision
9 so that that could be accomplished by March of 2011. And
10 if that can be accomplished, it would allow us to commence
11 construction of this project in the spring of 2011.

12 So I think that the staff and applicant are very
13 close in terms of a recommended schedule and a proposed
14 structure for your consideration.

15 The only other thing that I would want to mention
16 is that, as I mentioned earlier, the typical -- or
17 guidance for the Commission is a 12-month AFC, and the
18 Commission has accomplished guidance on what that schedule
19 would look like. Generally when you look at a 12-month
20 AFC and you look at the time between the issuance of the
21 staff assessment and the final decision, in the
22 Commission's typical schedule, that's a period of five to
23 six months. And if you look at what we are proposing as
24 the revised staff schedule, you will see that we're
25 proposing a period of approximately five months. So, in

1 fact, as we go forward, we're really not recommending any
2 acceleration of the Commission's typical schedule, we're
3 only urging the Commission to meet the standard schedule
4 that would be typically applied in an AFC proceeding.

5 HEARING OFFICER CELLI: Thank you, Mr. Wheatland.
6 Any questions, Commissioner Byron?

7 PRESIDING MEMBER BYRON: We'll comment later on
8 all of this.

9 HEARING OFFICER CELLI: Thank you, Commissioner.
10 Let's hear from staff, please, Ms. Willis.

11 MS. WILLIS: Thank you, Mr. Celli.

12 Staff reviewed both Table 1 and Table 2 of the
13 applicant's proposed schedules, and Table 1 was not
14 workable for us for quite a lot of reasons. But if we're
15 just looking at Table 2, as Mr. Wheatland said, there
16 really was only one change, and that was a shorter time
17 period for the supplemental staff assessment. A lot of
18 that depends on the issuance of the FDOC from the air
19 district. And I believe on Table 1 there's an assumption
20 that it's coming out November 1st, and I'm not sure how
21 accurate that date is.

22 I know there was a lot of discussion in
23 Mr. Wheatland's schedule, applicant's issue statement,
24 that a lot of the schedule was based on the Marsh Landing
25 Project and how we move forward with that. And being the

1 attorney, staff attorney on that project, I can tell you
2 that the -- the FDOC did not come out for probably a month
3 after we thought it would. So there was a delay in that.
4 And that would be one of the things that would hold this
5 date up.

6 Also, it also depends on, you know, what kind of
7 public comment we're getting, because we haven't had any
8 public workshops, you know, in quite a while on this
9 project. So following the staff assessment, we would
10 definitely want to have a public workshop and hear from
11 the intervenors and the public on this project. And that
12 would basically determine which sections would need to be
13 revised and would be included in the supplement, or if by
14 some chance there would not need to be a whole revised
15 staff assessment, we're not necessarily planning on that,
16 but that's also a possibility depending on how many
17 sections would need to be revised for the supplement.

18 HEARING OFFICER CELLI: May I ask you, have you
19 had a chance to speak with the -- this is in the Bay Area
20 Air Quality Management District, this project, about do
21 they have any new projections for you with regard to a
22 FDOC?

23 MS. CABRAL: We haven't had a chance to talk, no,
24 about the schedule.

25 HEARING OFFICER CELLI: Okay. Just checking in.

1 PRESIDING MEMBER BYRON: You need to come
2 forward.

3 THE REPORTER: We need you at the mic.

4 HEARING OFFICER CELLI: I'm sorry, please
5 identify yourself and start again.

6 MS. CABRAL: Hello, my name is Brenda Cabral.
7 I'm with Bay Area Air Quality Management District.

8 And we have seen the various schedules that have
9 been proposed, but we have not yet had a chance to discuss
10 with CEC whether we would be finished by the date that you
11 proposed, which was the middle of November. I mean, it
12 does seem feasible, but we do have comments to respond to.

13 HEARING OFFICER CELLI: Thank you.

14 MS. WILLIS: So that's actually middle of
15 November, not the 1st of November, which kind of pushes
16 that schedule that makes, I think, the Energy Commission
17 schedule maybe a little more realistic for the supplement;
18 although, you know, we would do our best to get it out as
19 soon as possible once we receive that final determination
20 of compliance.

21 HEARING OFFICER CELLI: Thank you for your
22 comment. Appreciate that.

23 Mr. Wheatland?

24 MR. WHEATLAND: The applicant has had an
25 opportunity to discuss the schedule issuance of the FDOC

1 with Mr. Brian Bateman of the Bay Area District. We met
2 with him on October 1st, and we understood from him at
3 that time that he believed it was feasible to issue the
4 FDOC by the end of October.

5 HEARING OFFICER CELLI: Thank you.

6 Staff, was there anything further regarding the
7 schedule?

8 Go ahead, Mr. Hoffman. Please identify yourself.

9 MR. HOFFMAN: My name is Craig Hoffman. I'm the
10 project manager for the California Energy Commission. And
11 I just wanted to give a little bit of an overview.

12 When the Committee requested staff to put
13 together really an issue statement, we took it very
14 seriously. We took a look at the current workload within
15 the siting department. As this Committee's very aware
16 from late night meetings that they've been holding on
17 individual projects, 2010 has been a challenge. We've
18 been focused on large scale solar projects that have been
19 working their way through siting into evidentiary hearings
20 on to full evidentiary -- or full Energy Commission
21 business meetings, and those projects are all currently
22 moving their way into the compliance area, which is
23 proving to have its timing and challenges. So when we put
24 together this schedule, we were trying to be very
25 realistic on the challenges that faced us as a division,

1 and the workload that we expected to see.

2 We strive to meet the expectations of the
3 Committee and of the Commission and make sure that this is
4 a very transparent and public process, but again, there
5 have been challenges in 2010, and we feel that this
6 schedule is conservative and realistic from our
7 standpoint.

8 HEARING OFFICER CELLI: Thank you.

9 Anything further, Ms. Willis?

10 Thank you.

11 Mr. Sarvey, please, if you would come to the
12 podium.

13 PRESIDING MEMBER BYRON: Mr. Sarvey, I thought
14 you said we were in San Joaquin County.

15 MR. SARVEY: Yes, you are. Alameda County, I
16 believe, starts just right down the street.

17 MR. LAMB: Actually, we are in Contra Costa. I
18 just drove by the sign that said you're entering
19 Contra Costa County.

20 MR. SARVEY: We're in Contra Costa County.

21 PRESIDING MEMBER BYRON: I didn't mean to start a
22 dispute around this.

23 MR. SARVEY: If you step on a line over there,
24 you're probably in all three counties.

25 MR. LAMB: Sorry, Bob.

1 MR. SARVEY: That's okay, I need to be corrected.

2 PRESIDING MEMBER BYRON: Excuse me, gentlemen,
3 we're in Byron, okay?

4 MR. SARVEY: The applicants basically raised
5 three issues here, why we need to expediate the schedule,
6 you know; and one was that there could be a possibility
7 that PG&E would fall below its planning reserve margin in
8 2012 if this project didn't come online at that date. So
9 what I've given you in this handout is the CAL ISO summer
10 outlook. And for 2009, the CAL ISO summer outlook says
11 PG&E agency service territory has a 30.6 percent planning
12 reserve margin. 2010, PG&E service territory has a 38.5
13 percent planning reserve margin. So I don't think there's
14 any danger that we're going to fall below the 17 percent
15 planning reserve margin in any case any time soon, so I'd
16 just like to make that fact a little clearer.

17 Second fact --

18 PRESIDING MEMBER BYRON: We're well aware of
19 that, Mr. Sarvey.

20 MR. SARVEY: I know.

21 PRESIDING MEMBER BYRON: You would have done much
22 better had you provided the Energy Commission's summer
23 outlook instead of the ISO's summer outlook.

24 MR. SARVEY: I have that too if you want that.

25 PRESIDING MEMBER BYRON: They both have -- they

1 both have the same conclusion, and we're well aware of
2 that. I think what the applicant was talking about was
3 their contractual obligations.

4 MR. SARVEY: Well, one of the issues was their
5 contractual obligation. I want to address that as well.

6 The applicant has said that they're subject to
7 penalties, and they have certain online data. Well,
8 that's great, but that contract cannot be viewed by
9 anybody in this room, unless you signed a non-disclosure
10 agreement. So any type of penalty that would be alleged,
11 whatever, that's all just hearsay. Without that contract
12 in evidence, you know, we're basically just flying by the
13 seat of our pants. And I've signed a non-disclosure
14 agreement, I've seen that contract; obviously I can't say
15 anything about it. So --

16 PRESIDING MEMBER BYRON: Or you'll have to shoot
17 us.

18 MR. SARVEY: Yeah. Right.

19 And so I don't think that, you know, we can look
20 at that real seriously and understand that, you know,
21 without seeing that contract, whether this is a true
22 statement or not.

23 The other issue is we're talking about a
24 contract. I participated with an organization, we
25 actually signed a settlement agreement on this contract.

1 And it was on October 15th that this contract was
2 approved. Well, unfortunately, PG&E has broken the terms
3 of the settlement agreement, so our organization intends
4 to file a petition for modification on this particular
5 contract because the agreement that we made with PG&E was
6 broken by PG&E. And that's actually in a decision that
7 was handed down by the PUC that the contract was broken.
8 So I don't see that there's going to be a big hurry here.
9 We're going to be talking about this contract for a while.

10 And I like staff's schedule, but I don't think
11 staff's given you enough time to make a decision. There's
12 a lot of complicated issues here that I've outlined, and I
13 would not say that this is going to be an uncontested
14 project. Water, number one, is going to be used; air
15 quality, of course, because the majority of the emissions
16 of from project impact San Joaquin County Mountain House
17 to Tracy, but your emission reduction credit is over, I
18 believe it's in Newark or something, somewhere over in
19 that area, Santa Clara, and that doesn't really help us
20 here. So we have some concerns about that.

21 I have some concerns about worker safety and fire
22 protection. We're the closest responders to this project,
23 the City of Tracy and Mountain House collectively, they
24 fund this fire department. We don't have the capabilities
25 to respond to this facility. In the last ten years, eight

1 to ten years, we've had three or four of these facilities
2 lined up, and, quite frankly, we have some issues about
3 being asked to provide more support for this facility
4 without some sort of reimbursement of mitigation. And
5 that was a big issue for us in East Altamont, and it's a
6 big issue for us now, and I intend to bring people from
7 the city to talk to you about that. Hopefully they can
8 explain it a little better than I can.

9 But as far as I see, I don't see a need to
10 expediate this schedule. You need time. There's going to
11 be a lot of complicated issues here. And staff's schedule
12 is acceptable, but I really do believe you need at least
13 six to eight weeks to make up your mind on this project.
14 It's going to be a lot of issues, a lot of testimony to go
15 over.

16 And land use, we have some disagreements with
17 Alameda County on their interpretation of land use. So
18 we'll be bringing experts that wrote Measure D. Measure D
19 is -- this is actually an agricultural and open states
20 area which your siting is planned, or they're proposing
21 this site to plan, and this was passed by the voters in
22 2002. And the voters have been quite at odds with the
23 interpretation that the board of supervisors have put on
24 the land use issues. And, you know, you could easily look
25 to East Altamont and Tessler and see where the arguments

1 are. And we'll probably have to hash those arguments all
2 over again, because we still do not believe that they have
3 the proper interpretation.

4 And we're hoping in this instance that the
5 Commission will actually not defer to Alameda County but
6 will actually look at the laws on the books and make it a
7 decision, an informed decision, unbiased decision, and
8 that's what we're looking for.

9 But I really appreciate your time today, and
10 thank you very much.

11 HEARING OFFICER CELLI: Thank you, Mr. Sarvey.
12 And any questions, Commissioner?

13 PRESIDING MEMBER BYRON: No, no questions,
14 Mr. Sarvey. But all during your comments -- and I think
15 the only thing I might correct you on is I appreciate your
16 interest in our having enough time to make a decision, but
17 I wrote in my notes, and I will say this again, later, I'm
18 much more concerned about making sure there's sufficient
19 time for public review and comment in this process. So
20 Mr. Weisenmiller and I are quick studies, we can make
21 decisions, but I want to make sure we follow our process
22 and have sufficient time for the input, intervenors, such
23 as yourself, and the public.

24 HEARING OFFICER CELLI: Thank you.

25 Mr. Dighe? If you'd like to make a statement,

1 please.

2 MR. DIGHE: Yes.

3 HEARING OFFICER CELLI: I have a note that asks
4 that everyone speak clearly into the microphone so that
5 you can be heard and it's recorded. Thank you.

6 MR. DIGHE: So I just wanted to mention that
7 Mountain House community has a lot of concerns around air
8 pollution. Mountain House has three sensory receptors,
9 three brand new schools. I, myself, am in the process of
10 reviewing dispersion model. I just got the data files, so
11 I will request to not accelerate this and give some time
12 probably for more public workshops, specifically from the
13 residents of Mountain House, they would like to
14 participate.

15 Thank you.

16 HEARING OFFICER CELLI: Thank you, Mr. Dighe.
17 Mr. Groover, do you wish to make a comment?

18 MR. GROOVER: Not at this time.

19 HEARING OFFICER CELLI: Okay. Well, thank you
20 very much.

21 Any questions, Commissioner Byron, of any -- on
22 any of these subjects?

23 PRESIDING MEMBER BYRON: No.

24 HEARING OFFICER CELLI: Commissioner
25 Weisenmiller?

1 COMMISSIONER WEISENMILLER: No.

2 HEARING OFFICER CELLI: I have a question, if I
3 may. I'm going to ask staff, what are the areas of --
4 that appear to be disputed at this time?

5 PRESIDING MEMBER BYRON: Good question.

6 MR. HOFFMAN: I think the question of what's
7 disputed, we haven't quite got there yet. And I guess
8 we'll understand that a little bit more as we work our way
9 through the public hearing process.

10 Staff identified that there are a number of
11 technical sections that still need additional review.
12 Although we are proposing to do a staff assessment based
13 upon the information we have to date, that will allow the
14 Committee to take a look at uncontested sections, but
15 there are a number of sections that still have outstanding
16 issues that staff is working on.

17 In air quality, we do have the PDOC, but we are
18 still waiting on the final determination of compliance.
19 And we understand there will be comments from the public
20 on that section.

21 On biological resources, staff is still working
22 with the various agencies to refine that analysis and any
23 mitigation that might take place there.

24 In land use, staff is still working on that with
25 various agencies. We continue to get comment letters that

1 are currently coming in, and we understand there will be
2 comments from the public on that.

3 Soil and water resources, we continue to work on
4 our analysis, and based upon comments from several
5 agencies we're working on, as well as public comments,
6 that may need additional review.

7 Traffic and transportation, there will be
8 comments provided by the Contra Costa County Airport Land
9 Use Commission, and we expect comments from the California
10 Pilots Association, and potentially the California
11 Transportation Agency Division of Aeronautics.

12 I would also add under transmission system
13 engineering, there continues to be refinements as far as
14 interconnection, and we understand that there's some
15 modifications going on with the Phase 2 documents for
16 that.

17 So although we are proposing to do a staff
18 assessment, we do acknowledge that there will be a
19 supplemental document that refines analysis within those
20 technical areas as well as we're obligated to respond to
21 comments from the public that we will receive through the
22 public hearing process.

23 HEARING OFFICER CELLI: So the -- do I understand
24 correctly that you embarked on the process under the old
25 convention of expecting to put out a preliminary staff

1 assessment followed by a staff assessment and that the --
2 what you're calling now a staff assessment started out as
3 a preliminary staff assessment; is that correct?

4 MS. WILLIS: I believe that's correct.

5 And then as we talked with the applicant about
6 schedule, figured if we could put out a staff assessment
7 that was as complete as we can put out -- obviously we
8 don't have the FDOC, so we know that there's going to be
9 areas that we do have to supplement. And then based on
10 public comment, then we can actually supplement as opposed
11 to redoing the whole entire document. But, you know, we
12 haven't had the public hearings and workshops on that yet
13 to really know how many topics that would include, but I
14 think the topics that Mr. Hoffman covered are definitely
15 on the list of what we've already heard from the public
16 on.

17 HEARING OFFICER CELLI: Okay. Thank you.

18 Oh, go ahead, Mr. Hoffman.

19 MR. HOFFMAN: Sorry.

20 And I would add that by preparing the staff
21 assessment, it does give the Committee a little bit more
22 flexibility; but to the members of the public here, we are
23 committed to making sure that all public comments are
24 incorporated in our document analysis completed as
25 necessary, and that's why we're identifying the need for

1 two documents. Staff is not prepared at this point in
2 time to prepare a single document.

3 HEARING OFFICER CELLI: Thank you.

4 Mr. Wheatland, I'm going to just give you a
5 chance to respond, but I just want to say that based
6 upon -- I guess staff can't even have a meaningful
7 workshop until they get at least a PSA out so people have
8 something to talk about. And at this point it sounds like
9 from their view, air quality, bio, land use, soil and
10 water, traffic and transportation I guess in the context
11 of aviation only, aviation then, and transmission systems
12 engineering, that's six areas that I suppose we could
13 consider to be in dispute.

14 MR. WHEATLAND: Well, I wouldn't call them in
15 dispute at this point. I think there's like -- if I heard
16 the staff correctly, these are six areas that the staff
17 believes that there need to be additional work involved.
18 From the applicant's point of view, we're not aware of any
19 subject area, including the six that were mentioned, where
20 we have a substantive disagreement with the staff
21 regarding the proposed mitigation or conditions of
22 certification.

23 And, of course, we haven't seen the preliminary
24 staff assessment in all its detail, but based on our
25 discussions, in the staff and previous workshops, we're

1 not aware of any contested issue as between the staff and
2 the applicant.

3 Now, once the preliminary staff assessment is
4 issued and the public has an opportunity to review, there
5 may be contested areas, but at this point we're not aware
6 of any. We see each of these areas that Mr. Hoffman just
7 mentioned as the normal review of any siting case.

8 HEARING OFFICER CELLI: Okay. I mean, obviously,
9 Mr. Sarvey here who's an air quality person, you've got an
10 air quality issue coming up that we're going to hear. You
11 also mentioned fire -- worker and fire safety, water,
12 land, transportation, aviation. Mountain House people
13 seem to be -- I'm not really sure, I guess that's air
14 quality mostly. But I mean these are the indicators that
15 we have so far of what the issues will be.

16 I guess I'm just pointing out that I'm a little
17 concerned how -- how undeveloped the procedure is at this
18 point in terms of having something that the parties can
19 meaningfully talk about in a workshop.

20 MR. WHEATLAND: Well, I'd submit to the Committee
21 that actually the procedure is more developed in this case
22 than many other cases at this stage because, as I
23 mentioned, we haven't just been waiting for the staff
24 assessment. You have from Alameda County their land use
25 determinations. You have with the San Joaquin Valley Air

1 District, one of the lessons we learned for a project that
2 is located in this part of the state, is it's not
3 sufficient just to satisfy the requirements of the Bay
4 Area District, you must also satisfy the requirements of
5 the San Joaquin Valley Air District. So we have an
6 executed agreement with the San Joaquin Valley Air
7 District as well.

8 So in many respects, many of the problems that
9 were identified in past cases, whether it's East Altamont
10 or Tesla, have already been addressed by the information
11 that the applicant has provided to the record, and we
12 think that information will be reflected in the staff's
13 assessment. So I don't -- I think it's premature to say
14 that this is a highly contested case or it's not. I think
15 we need to wait to see the staff assessment and then to
16 hear from the public.

17 HEARING OFFICER CELLI: That's fair enough.
18 That's reasonable.

19 Commissioner, did you have a question or comment?

20 PRESIDING MEMBER BYRON: No.

21 HEARING OFFICER CELLI: Commission Weisenmiller?

22 Well, I think I would be -- I'm inclined to leave
23 it at that and move on to public comment. I think what
24 we'll do is the Committee will deliberate and come out
25 with a -- we'll accomplish a schedule within the next week

1 or so and put it out -- notice it and put it out, but I
2 think, as you know, as I know you have a lot of
3 experience, Mr. Wheatland, in the Energy Commission,
4 there's a whole lot of moving parts and a lot of things
5 can happen or change, the FDOC for instance. So we're all
6 going to do our best. I want to assure everybody that,
7 you know, the Commission's gotten pretty good at moving
8 really fast lately.

9 MR. WHEATLAND: Right. May I make just one other
10 comment on the schedule?

11 What we have in the staff schedule, in our
12 revised schedule, we have agreement, and we have some
13 mechanisms in here that can help you to guide the schedule
14 and to make these kinds of assessments. If the staff
15 assessment is issued on 10/20, we're both proposing to you
16 that there be a public workshop on November 3rd. And
17 we're also proposing to you that there be a prehearing
18 conference, that the Committee reconvene on November 16th.
19 And at that point we will have a much better assessment of
20 the status of this proceeding.

21 And we're also proposing to you that to the
22 extent that there are issues that are uncontested, clearly
23 uncontested between the staff, the applicant and the
24 parties, that those might be set for an evidentiary
25 hearing as early as November 30th.

1 HEARING OFFICER CELLI: I saw that, but I'm not
2 sure that that's necessarily the way the Committee might
3 go. It depends on a lot of factors. I mean, seriously,
4 undisputed topics take a half an hour to 45 minutes.

5 MR. WHEATLAND: But the advantage of hearing
6 those, taking in the evidence and closing the record, is
7 it allows yourself and the Committee the time to write the
8 PMPD on those portions while you're awaiting the
9 resolution of the remaining issues.

10 HEARING OFFICER CELLI: Yeah, but so far my
11 experience has been that everything that I've ever closed
12 seems to need to be reopened at a subsequent hearing, and
13 that's just the nature of the beast. Things change,
14 there's overlap in topic areas, and I -- I'm just throwing
15 it out, I'm not saying anything's etched in stone; but I
16 do have a problem -- I've had problems in the past with
17 bifurcation of hearings because of this overlap, and then
18 you find that you're having to cover ground that you
19 thought you already covered. So the Committee will look
20 at that and make a determination.

21 But the point I wanted to make is that we're all
22 going to need the flexibility here because there are so
23 many things that are out of the control of the Committee;
24 for instance, getting -- when the staff assessment gets
25 off and so forth.

1 So we'll come out with a schedule within a week
2 or so. We all need to have the maturity to know that that
3 schedule may be subject to changes as things occur, but
4 we'll do our best.

5 I also just want to point out that in the past,
6 especially in the context of these solar projects that
7 came out recently, what would happen is that staff, for
8 whatever reason, may lack in getting work out on time, but
9 then the Committee does not get the benefit of any
10 additional time to get their work out; and so what happens
11 is if you have a date certain for the PMPD and yet the FSA
12 comes weeks later, then all you're doing is reducing the
13 time that the Committee can do a good job of deliberating
14 and writing a good decision. So all these factors have to
15 be taken into consideration, and the Committee will do
16 that.

17 But I want to thank you for your comments. And
18 we will take a serious look at this and do our best to
19 come up with an equitable schedule that's fair to
20 everybody.

21 So with that --

22 PRESIDING MEMBER BYRON: Can I make a few
23 comments?

24 HEARING OFFICER CELLI: Please, Commissioner, go
25 ahead.

1 PRESIDING MEMBER BYRON: If I could just comment
2 a little bit, I think this is mostly for the general
3 benefit of the public, not so much for the parties. I
4 think what you're seeing is the normal tug and pull that
5 exists around schedule and following our process.

6 I'm stepping back just because I think I'm the
7 cause of the feedback here.

8 And this may sound a little bit like complaining,
9 but I think it's fair enough for the public to understand,
10 we've gone through some extraordinary times here at the
11 Energy Commission in the last 18 months or so. I think
12 you probably all know that we -- our staff has had
13 furloughs, and that's definitely impacted our ability to
14 get things done in a timely way. Since February I believe
15 of last year we've had furloughs in one way or another;
16 and the irony, of course, of that is that we're not even a
17 general fund agency, so there was really no need to do
18 that.

19 We've figured out some work-arounds, we've pushed
20 our siting division staff extraordinarily hard, and our
21 caseload has been up to as high as, I believe -- and
22 Ms. Allen can correct me -- but I believe as high as
23 30 power plant siting cases at one time. That's about
24 five to six times our normal workload. And then, of
25 course, the governor has made the siting of the solar or

1 renewable power plant cases a priority. We've been
2 operating under an executive order, I believe since
3 December of '09.

4 Or does this go back to '08, Ms. Allen?

5 MS. ALLEN: '08.

6 PRESIDING MEMBER BYRON: So almost two years now.
7 And one of the aspects of that executive order is that we
8 would give priority to those renewable cases that could
9 bring additional American Recovery Reinvestment Act funds
10 into the state. And really the interest there is to try
11 and generate as much revenue -- I call it revenue, but
12 it's really -- it's really investment and tax credits
13 associated with these projects so that more jobs could be
14 had by the State of California.

15 So we've had to make some tough calls. And we've
16 been certainly giving the solar projects priority, as
17 Commissioner Weisenmiller indicated. We still have an
18 extraordinary workload despite the fact that we've
19 permitted in recent months six or seven of those projects.
20 We have a few more of them. We have a number of
21 compliance issues associated with those projects. They
22 are big land use projects. We also have a hiring freeze
23 we're dealing with, there's no budget in the state.
24 Travel and reimbursement for travel is curtailed.

25 So I don't mean to make it sound like

1 complaining, I can complain a lot better than that, but it
2 has impacted us, and our staff has been working very hard.
3 And we'll balance all of these issues, as Mr. Celli
4 indicated, in issuing a new scheduling order. The staff
5 workload has a significant impact on all of this. Just
6 because we decide to make it five months or twelve months
7 as our statute indicates, doesn't mean it's going to
8 happen that way. And we will work expeditiously, but I
9 want to assure the public we will take no shortcuts with
10 regard to process and the opportunity for your input and
11 public comment.

12 Commissioner, did you want to add anything?

13 COMMISSIONER WEISENMILLER: Well, I agree with
14 everything you've said on that.

15 The point I want to ensure the public is
16 certainly we're looking for a very thorough process.
17 Having said that, some issues are going to be very tough
18 and others are not as tough. And we certainly want to
19 focus on the tough issues, things like air quality; and we
20 certainly are going to look at those. Certainly this
21 agency is going to look at tough mitigation measures. And
22 trying to get to -- at the same time, I think we're going
23 to do our best to balance, making sure that your concerns
24 are considered.

25 But, you know, at some point we do have to get to

1 a decision, and that, you know, basically is money. And
2 we want to do this in a thorough way, but we do owe the
3 applicant a decision at some point. So certainly we're
4 not -- would not encourage any frivolity in terms of just
5 dragging this out. And, you know, we're basically going
6 to move along, but make sure that you have the opportunity
7 to participate.

8 HEARING OFFICER CELLI: Thank you, Commissioners.

9 So along the lines of that theme, now is the
10 opportunity for the public to make comment. I'm holding
11 up these blue cards. I have received several blue cards
12 from people who want to make -- want to speak.

13 Craig, I wonder if you wouldn't mind grabbing
14 that.

15 The record should reflect that people are coming
16 up with their blue cards, so I'm getting more blue cards
17 now, and I really encourage you to do that.

18 Mr. Lamb, come on over.

19 But if you wish to make a comment, this is your
20 chance to speak to the Committee who's going to decide
21 this power plant. Please fill out the blue cards in the
22 back of the room and then bring them up, and we will call
23 upon you.

24 So, Mr. Lamb, go ahead.

25 MR. LAMB: Thank you.

1 I have a question for Mr. Hoffman.

2 HEARING OFFICER CELLI: I need you to speak right
3 into that --

4 MR. LAMB: Sorry.

5 I have a question for Mr. Hoffman.

6 So I've already -- we've already submitted our
7 reservations about this project, and I've also attended a
8 few hearings and made comments, and most of my comments
9 would be duplicates. Has the staff report already
10 incorporated those concerns, or is it appropriate that I
11 say them again? It sounds to me that since we already
12 spoke at a public hearing, we may not need to reiterate.

13 MR. HOFFMAN: We've incorporated a number of
14 comments. I think there were comments provided at the
15 original site visit, informational workshop. We've
16 received letters. We've received comments at data
17 response workshops. That information has been
18 incorporated into staff -- the staff assessment we're
19 working on.

20 MR. LAMB: Okay.

21 MR. HOFFMAN: And one of the comments has been --
22 I've been asked a number of times, what about this comment
23 and what about this comment; and I think one of the points
24 I'd make is we're going to be putting out a document, it
25 will be an opportunity for the public and other agencies

1 to take a look. Maybe you agree with staff analysis,
2 maybe you don't, maybe you have an opportunity to provide
3 additional information, but we will be providing a
4 document that everyone can look at and provide timely
5 comments on.

6 MR. LAMB: Okay. Then I won't reiterate all
7 that.

8 But I do have a question. He said uncontested.
9 We prepared a resolution with our board that opposed the
10 project, and we received a response from the applicant.
11 And I don't know that I would qualify the response to say
12 that we accept the response.

13 So I'm wondering if -- and maybe for guidance
14 here, should we respond to our concerns still? I don't
15 want -- I don't want the last word necessarily to be their
16 response, and say, well, because we didn't respond, we
17 have no more concerns, because that's not the case, we
18 actually disagree.

19 PRESIDING MEMBER BYRON: Mr. Lamb, let me try
20 first. And Mr. Celli being the attorney can correct me if
21 I'm wrong.

22 But this is not a court of law. As you can tell
23 we're transcribing this, we're building an evidentiary
24 record. We have not begun the evidentiary hearing yet.
25 That's extremely important. So you don't have to respond

1 to anybody's comments. What we're interested in is
2 getting the input, at least in these workshops that you've
3 participated in in the past, the staff's very interested
4 in your input and your comments, and they will take them
5 seriously in consideration.

6 But I think what I'm trying to say is
7 Commissioner Weisenmiller and I are -- we're the ones that
8 will be making the proposed decision for our full
9 Commission. So we're interested in hearing your comments.
10 But if they're on the record, we've got them.

11 MR. LAMB: Perfect. Okay.

12 PRESIDING MEMBER BYRON: And there's no reason to
13 duplicate them again.

14 MR. LAMB: I'm not interested in duplicating them
15 again, so that's why I wanted to ask the question.

16 Perfect. I think that answers my question.
17 Thank you.

18 HEARING OFFICER CELLI: Thank you, Mr. Lamb.

19 I just would reiterate or amplify I guess what
20 Commissioner Byron said, which is we're obligated by law
21 to consider the comments of the public. And that makes
22 its way into the PMPD. However, if you filed -- at this
23 time if you filed comments, those comments will find their
24 way into the staff analysis; am I right?

25 The record should reflect that Mr. Hoffman's

1 nodding his head in the affirmative.

2 MR. LAMB: I guess in words to this discussion is
3 the applicant has said from a scheduling perspective that
4 there was not much that's uncontested, and I would
5 disagree. I would say that there's a considerable amount
6 that's un- -- that's contested. He has a difference of
7 opinion. He believes that he's answered the question
8 appropriately, and I don't think that our group is
9 satisfied with the answers that we've been given. So I do
10 believe that there's going to be conflict and contesting.
11 It's not like, oh, we answered it, and we're happy.

12 So that's all I have to say.

13 HEARING OFFICER CELLI: Thank you.

14 MR. LAMB: Thank you.

15 HEARING OFFICER CELLI: And when you say "he,"
16 you meant Mr. Wheatland or the applicant?

17 MR. LAMB: The applicant's lawyer.

18 HEARING OFFICER CELLI: Thank you.

19 MR. LAMB: Thank you very much.

20 HEARING OFFICER CELLI: So with that, I'm going
21 to move on.

22 The next person to speak is Andreas Clover. Come
23 on forward.

24 I'm sorry if I've mispronounced anybody's name.

25 MR. CLOVER: That's fine. The name is

1 Andreas Clover. I'm the secretary treasurer of the
2 Alameda County Building and Construction Trades Council.

3 And good afternoon, Commissioners. We are in
4 support of this project. It's not only a necessary
5 component of the power infrastructure grid that the
6 community and the region needs, but we also believe it's
7 really very good for the local economy.

8 In the trades we're still looking at about
9 30 percent unemployment with a lot of the crafts, and that
10 has a real negative effect I think on a lot of the
11 communities where those craft people live, including the
12 three counties that are kind of surrounding this project.
13 This project will benefit in terms of at its peak about
14 177 workers, but over the life of the construction we're
15 looking at hundreds more that will be part of that, and we
16 think it's really -- this kind of private investment I
17 think is really important to kind of restart, I think,
18 these type of projects, to restart, I think, the local
19 economy and kind of pull us out of this situation we're
20 in. So we're in big support of the project.

21 We also have a project labor agreement on the
22 project that will ensure a quality workforce to build it.
23 We're well-trained in our apprenticeship programs. So we
24 think -- we really recommend your approval of the
25 application.

1 Thank you very much.

2 HEARING OFFICER CELLI: Thank you for your
3 comments.

4 Next we have -- is Chris Rossi here?

5 MR. ROSSI: Yes.

6 HEARING OFFICER CELLI: For Aircraft Owners and
7 Pilots Association. Go ahead, Mr. Rossi. Please speak
8 directly into the mic.

9 MR. ROSSI: I'm probably the least one that need
10 this, so I'll move it up here.

11 Good afternoon, Commissioners. My name is
12 Chris Rossi. And I am a local pilot at Byron Airport,
13 been there about 12 years, and operating aircraft there
14 consistently for years. Also a tenant within Contra Costa
15 County of the same airport.

16 Today, however, I represent the Aircraft Owners
17 and Pilots Association, the AOPA, which is our national
18 organization for all pilots in the United States. I think
19 it's 600,000 members strong. I am the designated
20 representative for the Byron Airport.

21 Excuse me, I have a bit of a cold.

22 Why am I here and why am I representing the AOPA?
23 Because the AOPA is concerned and working with the FAA
24 about the significant incidents; and what NTS recorded was
25 recorded as a result of an aircraft flying through the

1 plumes of these power plants. So as a result of that
2 concern, a study was initiated by the FAA. Of course, the
3 AOPA, Aircraft Owners and Pilots Association, is very
4 interested in the results of that study. It's due out any
5 time now, probably before the end of the year, but it's
6 estimated within the fall time frame.

7 So there is hazard with these plumes. And
8 because of that hazard, because of the potential for an
9 accident to happen within proximity to the airport, we
10 feel -- correction, the AOPA feels, and myself as well,
11 that the commissioners should really take that into
12 consideration, having staff, and we do appreciate all the
13 implications. And I'm working a little with the
14 California Pilots Association and well to weigh in
15 shortly. So because of a lack of authoritative scientific
16 data about the effect of the -- effects of these plumes,
17 the AOPA feels it's prudent, given this hazard, and it
18 makes sense for the Commission to consider the results of
19 this official setting. But to a degree, what is safety
20 worth?

21 Thank you.

22 HEARING OFFICER CELLI: Thank you. Can I ask you
23 a question?

24 MR. ROSSI: Absolutely.

25 HEARING OFFICER CELLI: You said there was an

1 incident of a -- was it a crash due to a plume?

2 MR. ROSSI: I think one of the California Pilots
3 Association folks was bringing this up, so they're a
4 little bit more expert. It was a helicopter in
5 1980-something, I'm not sure, it's on the NTSB record.
6 Helicopter flew over the plume, I believe the official
7 NTSB report stated that the engine flamed out because of
8 the heat generated from the plume. There was an official
9 report. I know it's online, you can get access to that.
10 But the helicopter did crash, no one was injured. But
11 there are also lots of case studies where these planes
12 have flown through the plumes, went through significance
13 turbulence and/or caused damage to them. We can make
14 those available to you as well.

15 HEARING OFFICER CELLI: Thank you.

16 MR. ROSSI: You're very welcome.

17 HEARING OFFICER CELLI: Thank you, Mr. Rossi.

18 Richard Clark from CC County Planning Commission.
19 Mr. Clark?

20 I think we've already heard from Mr. Clark.

21 Are you still here? Richard Clark?

22 Okay. I believe Richard Clark already spoke.

23 Let's hear from Bill Sanders.

24 MR. SANDERS: Commissioners, my name is

25 Bill Sanders. I'm a local area pilot. Don't live in

1 Byron, I live in the bay area. The aviation community is
2 very much concerned about the power plant plumes. The
3 proponent believes he's addressed those. The aviation
4 community across the board from the bottom up, the local
5 pilots, the California Pilots Association, which I'm a
6 member and I'm representing here, I'm a board of directors
7 member, the Aircraft Owners -- excuse me, the Aircraft
8 Owners and Pilots Association, who you've heard from
9 already.

10 The California Division of Transportation
11 Aeronautics Department has a major concern also about the
12 plumes and the incidences that happen in the plumes, as
13 well as the federal aviation agency who is working on a
14 study also as well.

15 I have brought -- the topic that I want to speak
16 to, try to limit to is the issues having to do with the
17 Airport Land Use Commission for this airport, which is
18 Contra Costa County, because the airport is in that area.
19 The California state law, just for the public's -- I'll
20 try to keep it short here -- understand what's going on
21 here, has a law that requires an airport land use
22 commission to be concerned about the area around the
23 airports up to about two miles from the airports, requires
24 every county in this state to have an airport land use
25 commission which sets up procedures to review applications

1 for anything within the airport influence area that may
2 have an impact on the airport, either for flying, the
3 future economic development of the airport, or whatever.

4 Our major concern is not with the power plant
5 itself, it's where it's located. There's also been some
6 misrepresentations of the Airport Land Use Commission
7 having jurisdiction over this airport in this county. The
8 airport's in this county, so this jurisdiction is within
9 this county for the Airport Land Use Commission, even
10 though the power plant is in another county, but it has an
11 impact on the airport in this county.

12 There was some discussion about what transpired
13 at the August 11th meeting of the Airport Land Use
14 Commission. I have four copies of the documents, and I
15 will cite various paragraphs in them to clarify what we
16 believe we heard, which is different from what the
17 proponents believe they heard.

18 HEARING OFFICER CELLI: While Mr. Sanders is
19 approaching, I'm just going to make a point for the rest
20 of you.

21 We have not received any evidence, and this is
22 not evidence in this case. Evidence doesn't begin until
23 we start what are called the evidentiary hearings. Right
24 now this is just public comment, what we're receiving is
25 just comments which are considered and addressed in the

1 FSA, or will be, or the SA, I guess, if we go that route.
2 And I just want to make that distinction clear so that
3 everybody understands that what we're hearing today and
4 what we're receiving is not evidence. And the PMPD can
5 only be decided based on the evidence in the record that
6 is introduced into the record at the evidentiary hearing.

7 Go ahead, Mr. Sanders.

8 MR. SANDERS: Yes, and I totally understand that.
9 The reason that I'm doing that is because already today
10 comments have been made --

11 HEARING OFFICER CELLI: Go ahead.

12 MR. SANDERS: Already today comments have been
13 made what was in these --

14 HEARING OFFICER CELLI: Speak directly into your
15 mic.

16 MR. SANDERS: You can't hear this?

17 HEARING OFFICER CELLI: We're receiving on the
18 WebEx, we also have the telephone people calling in and
19 listening, that they're having a hard time hearing the
20 audio.

21 MR. SANDERS: I totally understand the submission
22 process. The reason I'm bringing this here today is
23 because today during the discussion and testimony which
24 has already occurred, it was reported that the Airport
25 Land Use Commission for Contra Costa County has no issue

1 with this power plant. That is not true.

2 If you look on the first document, which is the
3 August 11th minutes of the Airport Land Use Commission, if
4 you look on page 3, I will read the adopted motion.

5 The Commission voted to adopt the motion by a
6 vote of four to one to send a letter to the California
7 Energy Commission, CEC, that finds that the Mariposa
8 Energy Project is not compatible with the Airport Land Use
9 Compatibility Plan. Prior to sending a letter to the CEC,
10 a draft letter will be circulated to the commissioners and
11 interested parties for discussion at the August 25th
12 Airport Land Use Committee meeting. It is the intent of
13 this Commission to reopen the hearing for discussion of
14 the letter by all.

15 The discussion that was supposed to happen on the
16 25th, and I'll get to that in a second, was not whether it
17 was or was not compatible, but was explaining the reasons
18 why it is not compatible. So all remaining agencies like
19 yourself will understand why they found it to be not
20 compatible. So determination was made on August 11th that
21 it was not compatible.

22 The continuation, which we have addressed next,
23 was to address the reasons and give the letter to you and
24 the state and everyone else.

25 The second document is the minutes from the ABLC

1 of August 25th. Second page, page 2 it shows that one of
2 the people speaking at the meeting reiterated that the
3 decision had been made at the previous meeting. And then
4 at the third paragraph from the bottom, it shows where the
5 applicant submitted a letter from the attorney -- from the
6 proponent here, submitted a letter challenging the
7 authority of the Airport Land Use Commission to rule on
8 this issue. And there was some discussion by county staff
9 that the August -- excuse me, that the August 25th meeting
10 should be postponed, delay not caused by the Airport Land
11 Use Commission but by the proponent himself, and would be
12 deferred until the 22nd.

13 On the 22nd, we finally got to look at -- we were
14 supposed to look on the 22nd of September, which was the
15 meeting to discuss why it was not consistent. Two of the
16 board members, or two of the Commission, were not present
17 due to illness, they did not have a quorum. But this
18 evidence, again, for the fact that there was already a
19 determination.

20 My third document is the draft letter from the
21 chairman of the Airport Land Use Commission that shows on
22 page 6 -- this is a draft form, so they struck out some
23 stuff in it, but the strike-outs don't involve whether a
24 determination has been made, it's just smoothing out the
25 language and adding why it was incompatible. At the top

1 of page 5 it says clearly that the Land Use -- was
2 found -- the project was found to be incompatible.

3 So from the aviation perspective, we believe that
4 there is an issue, we believe that there is an issue with
5 the plumes. Every organization from the grassroots all
6 the way to the top, both organizations for users and
7 agencies representing aviation, think having these plumes
8 are not good.

9 The proponent has produced arguments that show
10 the plumes are fine, it's not a problem. This -- I'm not
11 going to go over all of the discussion that happened at
12 the land use commission, but they reviewed discussion with
13 pilots. It turns out that the department head for the
14 aeronautics -- Caltrans aeronautics has personally been in
15 one of these plumes and almost lost an aircraft.

16 In my military service overseas, I personally was
17 experienced to a plume near mishap. It's not documented
18 anywhere that we can show, which is an issue; I don't want
19 to talk about it too much because it's not in some or
20 supporting deal. But our situation was some turbulence.
21 But primarily the heat from the exhaust of the turbine
22 engine, which are likely to be used here, gave some false
23 inputs on how much heat was coming in the engines of the
24 aircraft I was in, which fooled the fuel management system
25 into thinking it was hot enough in the engine, scheduled a

1 fuel vac because it thought it was hot enough. And we
2 were using the engine, we tried to add power, and it
3 wouldn't put any more in there because it thought there
4 was flooding.

5 So there's another incident, which was in their
6 report about Colgan aircraft, a Colgan air commuter jet
7 who did a missed approach at an airport. And the
8 proponent states it was just for some small turbulence.
9 And, in fact, if you look in their report, besides the
10 turbulence, they also talk about the engine management
11 stuff going on.

12 So aviation has a real concern over the plume
13 stuff. There's an FAA study on the plumes that's about to
14 come out. And accelerating this is not a good idea. We
15 really need to get these issues squared away. And I think
16 the aviation community will be happy for that location of
17 the power plant to be moved farther away from the airport.

18 HEARING OFFICER CELLI: May I -- first of all,
19 thank you for your comments. I wanted to ask you, are you
20 a friend of Charles Wilson? Is his organization the same
21 as yours? I'm sorry, Andy Wilson.

22 MR. SANDERS: Andy Wilson, yes.

23 HEARING OFFICER CELLI: Okay. So I just want to
24 make sure that you were the same organization.

25 MR. SANDERS: We are in the same organization,

1 that's correct.

2 HEARING OFFICER CELLI: Okay. Thank you very
3 much for your comments.

4 MR. SANDERS: And did I fail to mention that I'm
5 a pilot, aircraft owner, flight instructor, and I come to
6 Byron periodically from the bay area using the airport.
7 It was built here as a reliever airport to support
8 aviation. And economically we believe the power plant's
9 location will have an impact on the future development of
10 this real good economic center as well, Byron Airport.

11 HEARING OFFICER CELLI: Thank you again for your
12 comments, Mr. Sanders.

13 We have U.L. Applin, Jr. Mr. Applin, please,
14 come forward. Representing yourself.

15 MR. APPLIN: Good afternoon, Commissioners. My
16 name is -- I'm representing myself as citizen of the
17 community, and I'm here as a proponent of the power plant.
18 We are definitely needing jobs to power the economy, and
19 my understanding that this unit, a minimal operational
20 time would be 25 days approximately, and the most it would
21 operate would be 167, somewhere in that neighborhood. I
22 know we have opponents here as well, but we all need jobs
23 as well here in the community and in the surrounding
24 areas.

25 And I just heard a gentleman speak on the plumes

1 from the stacks. My understanding that the mean sea level
2 of the -- it's going to be about 205 foot, and unless it's
3 in a direct flight path for landing or take off, I don't
4 see how it's going to possibly affect the aircraft being
5 in that area because heat goes up.

6 So I would just like to reiterate that I'm here
7 on behalf of jobs for citizens of the community. And
8 thank you very much for your time.

9 HEARING OFFICER CELLI: Thank you very much,
10 Mr. Applin.

11 Iris Obregon, are you still here?

12 Did you want to make another comment?

13 MS. OBREGON: No, sir.

14 HEARING OFFICER CELLI: Okay. But I have your
15 blue card, so I just wanted you to know that we're not
16 neglecting you or ignoring you.

17 Let's see, Robert Anderson, are you still here?

18 Mr. Anderson, go ahead and introduce yourself on
19 the record.

20 MR. ANDERSON: Sure. My name is Bob Anderson,
21 and I'm a resident of Mountain House community, which is
22 right over here, along with Rajesh and our people
23 representing the community services district.

24 You may not be familiar with Mountain House, but
25 we are in a very unfortunate situation over there in that

1 we were recently declared the most underwater community in
2 the entire United States of America. It's a big country.
3 Right there, the most distressed community economically in
4 the entire country. I know a lot of people are suffering,
5 but it's pretty severe where we are.

6 And so, you know, some people are talking about
7 jobs and other economic impacts. I'd like to speak about
8 economic impacts as well.

9 You know, you can drive to a job, but you can't
10 move your house. And I have some very strong evidence
11 here, May 2010, a comprehensive study which shows the
12 serious detrimental impact of power plant development on
13 local property values, home values. And I think if you do
14 the numbers here, you'll see that this is going to be a
15 serious detrimental impact on the economy, in fact,
16 instead of positive impact as some people seem to have
17 convinced themselves. So that's my main comment.

18 You know, so it's my belief, to sum it up, that
19 permitting this next to the most distressed community in
20 America, I think it's just -- it's not just, and it's not
21 right. It is not the only site that you could put a power
22 plant.

23 I also noticed on the question of air quality, in
24 the most recent report that I read that there was no
25 cumulative impacts analysis. I know that the

1 East Altamont Energy Center, which was another huge power
2 plant project in the area, I believe it still has a valid
3 permit to construct. My understanding was that for any
4 project that had a valid permit to construct, there needed
5 to be a cumulative impacts analysis for all, but I did not
6 see that. So I just want to bring that up again and make
7 sure that will be addressed in the final analysis here.

8 So those are my comments. Thank you.

9 PRESIDING MEMBER BYRON: Mr. Anderson, before you
10 go, let's see if we can get an answer to the second part
11 from staff.

12 I believe -- and you may not know this, but I
13 believe the East Altamont permit to construct has expired;
14 is that correct?

15 MR. HOFFMAN: It was actually extended. The
16 current license goes through August of 2011. The original
17 approval was in 2003 for five years. It was extended for
18 three years.

19 PRESIDING MEMBER BYRON: So it was in '08 that we
20 extended that?

21 MR. HOFFMAN: Yes.

22 PRESIDING MEMBER BYRON: With regard to the
23 study, a report that you refer to, could you give us more
24 information about that?

25 MR. ANDERSON: Sure. I'll give you a copy so you

1 can give a copy to the rest of the --

2 PRESIDING MEMBER BYRON: I'm just curious. You
3 can give us a copy, but -- and, of course, we'll take it
4 on the record at some time in the future --

5 MR. ANDERSON: Sure. I'll sum it up.
6 Basically --

7 PRESIDING MEMBER BYRON: No, what I'm interested
8 in is who did the study.

9 MR. ANDERSON: Who did the study. The study's
10 done by a professor at the Haas School of Business,
11 University of California Berkeley.

12 PRESIDING MEMBER BYRON: Okay.

13 MR. ANDERSON: And it's -- I'll read you the
14 abstract. It's pretty short.

15 "This paper uses restricted census microdata to
16 examine housing values and rents for neighborhoods in the
17 United States where power plants are opened during the
18 1990s. Compared the method --" well, he goes into a bunch
19 of numbers here, but basically this is the first, to my
20 knowledge, the first comprehensive study of the impact of
21 natural gas power plants. You know, this is highly
22 relevant to exactly this type of plant that's ever been
23 done nationwide. And so it's quite extensive, and the
24 impacts are significant. So, you know, when it gets to
25 the point of actually producing evidence, I would like to

1 revisit this, but I'd just like to bring it up as a
2 comment for now.

3 PRESIDING MEMBER BYRON: Absolutely. Please, go
4 right ahead.

5 MR. HOFFMAN: Actually, I wanted to go through a
6 couple items.

7 The first, would you like to see this information
8 docketed?

9 HEARING OFFICER CELLI: Certainly.

10 MR. HOFFMAN: Okay. All right. If we could get
11 that, we'll docket that information. We'll also docket
12 the information provided by the California Pilots
13 Association. This is information that came from the
14 Contra Costa County ALUC. They have not officially
15 submitted a final motion or letter to the --

16 HEARING OFFICER CELLI: Actually, they have
17 petitioned to intervene, that petition is pending, but at
18 this point they're members of the public. And I think it
19 would be great and would greatly appreciate it if you
20 would docket those documents in the administrative record.

21 PRESIDING MEMBER BYRON: The draft letter may be
22 problematic though, wouldn't it, Mr. Celli?

23 MR. ANDERSON: Well, I'm just going to offer -- I
24 will docket it, but I will docket it that it's coming from
25 the California Pilots Association, not coming from

1 Contra Costa County ALUC, they haven't officially
2 submitted any type of correspondence, and it is draft.

3 HEARING OFFICER CELLI: Mr. Anderson, I just
4 wanted to also let you know that in this case, what we
5 were talking about earlier about the scheduling was the
6 fact that we haven't received staff's analysis yet. The
7 only analysis in the record so far is the applicant's --
8 the AFC, the application for certification itself, and
9 staff's response to the AFC, intervenors I believe are
10 putting it in evidence. But the point is we haven't --
11 there's always a cumulative analysis. So to say you
12 haven't seen the cumulative analysis, you haven't seen any
13 analysis.

14 MR. ANDERSON: Well, yes, I have. There was some
15 BAAQMD document. And I should have brought it with me for
16 reference, but --

17 HEARING OFFICER CELLI: Okay. From the Energy
18 Commission you've not received any, nobody has. So we're
19 on the same boat there.

20 MR. ANDERSON: Okay. Thank you.

21 HEARING OFFICER CELLI: Thank you.

22 PRESIDING MEMBER BYRON: Mr. Anderson, thank you.
23 And I'm very sorry to hear about the financial situation
24 at Mountain House. But thank you for bringing it to our
25 attention.

1 MR. ANDERSON: Thank you.

2 HEARING OFFICER CELLI: Next we have
3 Karyn Cornell. Is Karyn Cornell still here?

4 MS. CORNELL: I already spoke.

5 HEARING OFFICER CELLI: Oh, okay. I'm just -- I
6 go through these in the order that I receive them. I'm
7 sorry if I already got you.

8 Marianne Griffith, are you still here? Marianne
9 Griffith, please come forward.

10 Speak directly -- you can take that microphone
11 down to the -- a lower level, if you wish. Speak directly
12 in it and state your name.

13 MS. GRIFFITH: We'll try.

14 Good afternoon. My name is Marianne Griffith.
15 I'm a member of the original Mountain House community on
16 Mountain House Road. I am president of the Mountain House
17 School board of trustees.

18 My brothers and I attended Mountain House School
19 as did my children and presently my grandchildren. My
20 father was on the school board for 20 years. I have been
21 around a long time. My mother drove a bus, but it was our
22 private car at the time. We are also members and leaders
23 of the Mountain House 4H Club.

24 I am very concerned with the close proximity of
25 the Mariposa plant to the school; a short mile. The wind

1 predominantly blows from the west-northwest, right in the
2 direction of our school. We have been assured by Paula
3 and Chris, who represent the Mariposa plant, that there
4 will be no harm either by air quality or by noise to the
5 school, residents -- excuse me, I'm very nervous -- or
6 community with the building of this site. I can only hope
7 that it will be true to their words.

8 We welcome the new jobs and the advantages to our
9 community for long-term employment to our local residents
10 and the financial windfall to our school. Our school has
11 been in existence since the late 1800s. We have been
12 overlooked by the state and the county for years. The
13 financial outlook and budget cuts are getting tighter and
14 tighter. I hope that their future goal will be to
15 continue to keep our -- their contributions in our local
16 school and community. We are skeptical because in the
17 past other entities have overlooked us.

18 In trusting you will have our best and foremost
19 interest, we look forward to working with you or the
20 betterment of our community. We know that the education
21 of our students are number one for our school and our
22 staff. Our staff is doing a great job in achieving this
23 goal. I hope that the two, the Mariposa plant and the
24 Mountain House school, will work in harmony toward the
25 future, the school in educating our students, and the

1 Mariposa plant in keeping our community safe with being a
2 green plant and environmentally safe for our community and
3 posing no detrimental aspects in our small rural area.

4 Thank you.

5 HEARING OFFICER CELLI: Thank you very much for
6 your comments.

7 I just have a --

8 COMMISSIONER WEISENMILLER: I was going to say
9 thank you very much for your participation.

10 HEARING OFFICER CELLI: Mr. Groover, I wonder if
11 I can ask you to come to the podium. I just need your
12 response to be on the record.

13 I had called you, I can't remember when, because
14 I was interested in finding out about the use of the
15 Mountain House Community Center as a place where we could
16 have hearings, and I never heard back. And I was
17 wondering, do you have -- you have a community center that
18 would -- could serve --

19 MR. GROOVER: We don't have a community center in
20 Mountain House. We do have a board room, and we could
21 accommodate this many people in our board room. We could
22 not accommodate many more people than this in our board
23 room.

24 And I apologize if I didn't get back to you.
25 That's uncharacteristic of me.

1 HEARING OFFICER CELLI: You know, I -- somebody
2 raised that at the informational hearing. I know it was a
3 year ago, but somebody did say that they would like to see
4 us have the hearings in Mountain House, and I -- somewhere
5 I got the idea that there was a Mountain House Community
6 Center.

7 MR. GROOVER: Well, we had an informational --
8 your board or your Commission put on an informational
9 process. And Mountain House recently said that, Mr. Glee
10 put together with your staff. We're able to accommodate;
11 as a matter of fact, I'd be the person that you'd talk to
12 to schedule that, so I'd be more than happy to work with
13 Craig. We seem to work pretty well together.

14 HEARING OFFICER CELLI: And it's set up with
15 microphones and --

16 MR. GROOVER: We have microphones, we have a
17 connection to the Internet. I'm not sure if we can do a
18 webinar or WebEx, I'd have to look at that, but we do have
19 a feed to the Internet.

20 HEARING OFFICER CELLI: Well, I appreciate that,
21 I just wanted to -- I just thought of that, and I
22 remembered that that was something I needed to get the
23 answers to. Thank you.

24 MR. GROOVER: All right, sir. Thank you.

25 HEARING OFFICER CELLI: Go ahead, Mr. Hoffman.

1 MR. HOFFMAN: If I could follow up on that
2 hearing with staff. Mr. Dighe had asked Jennifer Jennings
3 to go down to the Mountain House community and provide a
4 little bit more of an understanding of the public process,
5 how to intervene. So she did go down on a Saturday, I
6 believe, and put on a presentation, but that was the
7 Energy Commission staff that went down to that.

8 HEARING OFFICER CELLI: Okay. Thank you.
9 Excellent. Thank you for that clarification.

10 If there's anyone who's just come in newly and
11 wants to comment and speak to the commissioners, please
12 fill out a blue card, they're in the back of the room.

13 We are -- I have Dennis Lopez. Are you still
14 here, Dennis? Did you want to make a further comment?
15 Dennis Lopez?

16 Okay. He seems to have left.

17 Kishor Bhatt?

18 MR. BHATT: Yeah, my name is Kishor Bhatt, I'm a
19 resident of Mountain House. And Mountain House is a small
20 community right now, couple of few thousand people, but
21 it's supposed to -- there is a plan to grow it to about
22 40 or 50,000 in the next ten years. So there are going to
23 be a lot of new houses.

24 And my primary concern and concern of other
25 people in Mountain House is about air pollution and risk

1 of fire and supporting the fire from the Mountain House or
2 Tracy area. Also, Tracy, also a lot of areas of Tracy --
3 actually, Mountain House is within like 2 or 2.5 miles
4 from this plant, so I -- I don't understand the wisdom of
5 putting the plant so close to a big planned community and
6 the city of Tracy.

7 Thank you.

8 HEARING OFFICER CELLI: Thank you, Mr. Bhatt.

9 We have more blue cards coming.

10 Andy Wilson, did you wish to make further
11 comment? Thank you.

12 MR. WILSON: Thank you, Mr. Hearing Officer.

13 Mr. Hearing Officer, Commissioners, and staff, my
14 name is Andy Wilson. I'm a director at large, California
15 Pilots Association, also known as Cal Pilots.

16 When we saw the schedule, as you know, as was
17 made reference to earlier, I'm the individual that applied
18 to be an intervenor. We normally don't do this until
19 later in the cycle. But when we saw the schedule that was
20 posted, we felt it necessary to do so. And we tried to
21 commit late because we're a finite issue, aviation.
22 Mr. Sanders and I and other pilots have been attending the
23 Contra Costa Airport Land Use Commission, we also have
24 differing opinions as to what the Alameda County -- excuse
25 me, Contra Costa County Airport Land Use Commission

1 decision was.

2 So with the schedule, with these problems that
3 we're seeing already, we don't want to see -- or we
4 respectfully request that we make sure we follow the
5 schedule of a standard siting.

6 I would also like to bring to your attention the
7 Russell City Energy Center. We participated in that, we
8 weren't allowed to intervene because of some dates; it was
9 perfectly legal. However, we found other ways to tie this
10 project up. So we don't like to do those kind of things,
11 we like to go through the full cycle. We're aware of how
12 to intervene; we're in the process of doing that.

13 I want to remind you also this power plant was
14 sited, but first applied for before the California Energy
15 Commission in 2001. It is now 2010. And we're still
16 before the environmental appeals board in Washington D.C.
17 And even if there's a decision that comes up, that could
18 go even longer.

19 So I would urge you to take your time, follow the
20 process. We don't want to do that. We don't want to tie
21 your time up, we don't want to tie your staff up. Please
22 follow the process.

23 In addition, you've heard about some controversy
24 on the plume. The FAA, to my understanding, is getting
25 close to an analysis. We don't know if that will be made

1 public, but we do know that it's -- it's causing great
2 concern within the FAA. We feel that there will be
3 information coming up on this shortly.

4 I would also say that we participated in the
5 workshop that the California Energy Commission sponsored
6 in Sacramento on aviation. I would also point out that
7 Mr. Garrett Cathay was there, Caltrans aeronautics. He
8 posed his opinion and stated he did not like to see this
9 power plant where it's located.

10 I would also like to point out that there was a
11 Mr. Alan Jones from the FAA who is involved in this study,
12 and he called in by phone and also said, based on what
13 their analysis was so far, he did not like where this
14 power plant was located.

15 So in addition, we also are aware, other people
16 saw this, your schedule, and triggered concern that they
17 become intervenors. So you could have, as with the
18 Eastshore Power Plant siting, a full table of array of
19 intervenors. So please, slow it down, let's get it right,
20 we don't want a ten-year siting.

21 Thank you very much.

22 PRESIDING MEMBER BYRON: Mr. Wilson, if you
23 would, my guess is you probably -- a number of folks with
24 regard to the airport have indicated they don't like where
25 this power plant is located, and I'm sure there will be

1 plenty of opportunity for discussion around that.

2 Can you tell us where it is located with respect
3 to the airport?

4 MR. WILSON: It's approximately -- the concern --
5 let me point out the location. There's a location that's
6 described from the runway, but it's also very close to the
7 ILS and approach zone to the runway. So you have a
8 distance, say, from you and I, which is approximately
9 2.5 miles, but on the approach, it's much closer to the
10 aircraft.

11 The other -- what came out with the Contra Costa
12 Airport Land Use Commission, we had approximately 33
13 pilots that gave their opinion. The problem with the
14 location is the type of aircraft. They're motorized
15 hang gliders. The proponent continuously talks about a
16 thousand feet. If you look at the airport guide for
17 pilots, it's 500 feet for motorized gliders.

18 There are gliders that are towed into the air.
19 What happens -- and then you have general aviation and
20 jets. So you have those three types of aircraft. And
21 what happens is with the glider, the motorized have to
22 give way to the glider coming into the runway. So they
23 need the space where the power plant is located to give
24 way to the pilot -- to the gliders. And this came out
25 very clear in -- before the Contra Costa Airport Land Use

1 Commission.

2 PRESIDING MEMBER BYRON: Mr. Wilson, all I really
3 wanted to know is how far away the airport was. You've
4 answered a lot of other questions, so I'm not going to ask
5 you any more questions. But I would like to comment on
6 just a couple of things that you've said that I think are
7 just a little bit misleading for the public here.

8 First of all, we don't really care how many
9 intervenors there are. Okay? That's not a negative to
10 this process at all. If people want to be intervenors or
11 participate as public members, their communities, we
12 welcome their participation. Okay. That's the first
13 thing.

14 The second thing is you referred to the Russell
15 City Energy Center and how it's been -- how it's been
16 delayed due to us rushing the process. And that's a
17 complete mischaracterization of the truth.

18 The fact is that did come before this Commission,
19 I believe you're correct, back in about 2002. During that
20 time there were many other issues that took place on
21 behalf -- on the part of the applicant and their power
22 purchase agreement. I believe they lost site control of
23 the land over a period of time.

24 By the time that came back to this Commission,
25 they had worked out their agreements or whatever with the

1 utility, their five years had also expired. So we
2 re-permitted that power plant, and we went through that
3 process again, and it was permitted a second time.

4 So these additional delays that you're talking
5 about, as I understand it, are taking place at the federal
6 level, the ESB, the Environmental Siting Board, I believe
7 of the Environmental Protection Agency -- Environmental
8 Appeals Board.

9 So I think it's just a little bit of a
10 mischaracterization that by rushing the process we ended
11 up delaying it in the long run. That's not -- that's not
12 really a true characterization of that case and that's not
13 going to be the characterization I believe that will apply
14 to this case either.

15 As I've said more than once already, we are going
16 to make sure that we follow -- we will not shortchange the
17 process. So that's not a question, you don't have to
18 respond to it.

19 MR. WILSON: I would like to respond to the fact
20 that it was the environmental appeals judge in
21 Washington D.C. on an appeal for the PSE permit, it was
22 never -- the reason for that was that there was never any
23 public notice for that review. And the hearing judge sent
24 it back to the Bay Area Air Quality Management District
25 based on that fact, the one fact, it was never noticed to

1 the general public. These are just the issues that you're
2 talking about today. You want the general public to
3 participate, you want to make sure they're noticed, and
4 we're here to make comment.

5 Thank you very much.

6 HEARING OFFICER CELLI: Thank you for --

7 MR. WHEATLAND: Hearing Officer Celli --

8 HEARING OFFICER CELLI: Yes, Mr. Wheatland.

9 MR. WHEATLAND: While Mr. Wilson is still here,
10 you had requested from the parties whether or not they
11 would oppose or support his petition to intervene, and I
12 thought while Mr. Wilson was here, if you would indulge me
13 for a minute, I would address it from the applicant's
14 point of view.

15 HEARING OFFICER CELLI: Please.

16 MR. WHEATLAND: We were confused by Mr. Wilson's
17 petition. It was not clear to us whether he was
18 petitioning as an individual or petitioning on behalf of
19 an organization. And perhaps we could ask him here today.
20 Because he indicated earlier when he spoke to you, he said
21 he was the individual who applied to be an intervenor, so
22 I wasn't clear.

23 HEARING OFFICER CELLI: Please, if you could
24 clarify your role as an intervenor.

25 MR. WILSON: I would certainly welcome that. And

1 the hearing officer said the person or the individual,
2 whereby it's California -- he didn't use a name. So the
3 petition is for -- the petitioner would be California
4 Pilots Association or also known as Cal Pilots.

5 HEARING OFFICER CELLI: That's the organization.

6 MR. WHEATLAND: Then if that's the case, we would
7 not oppose the petition if it meets the requirements for
8 the petitioning as an organization. First, they're
9 required to provide the address and phone number of the
10 organization. On the petition that was presented, I
11 believe there is a post office box and Mr. Wilson's cell
12 phone.

13 HEARING OFFICER CELLI: I just happen to have it
14 right here.

15 MR. WHEATLAND: So we would request if they're
16 petitioning on behalf of an organization that they would
17 provide the actual address and phone number of the
18 organization.

19 HEARING OFFICER CELLI: That's correct. We have
20 Andy Wilson, Cal Pilots, director at large, telephone
21 number and your e-mail address. We would need an address.
22 It would be an organizational address.

23 MR. WILSON: We'll supply the address, and
24 we'll -- Cal Pilots does have a phone number.

25 MR. WHEATLAND: And the other thing I would

1 request is that they would provide a description of the
2 organization. It wasn't clear whether it's an advocacy
3 group -- he doesn't have to do so today, but whether it's
4 an advocacy group or a nonprofit. And we would also
5 request that he provide some evidence that he has, in
6 fact, been authorized by the board of directors of the
7 organization to intervene in this proceeding.

8 MR. WILSON: And I can supply that as well.

9 HEARING OFFICER CELLI: I would appreciate that.

10 And my question is by when do you think we could
11 get a new petition so that we don't -- rather than have
12 this petition be ruled on, we would just essentially treat
13 it as an addendum to this petition.

14 MR. WILSON: I'd say within two to three days.

15 HEARING OFFICER CELLI: That would be great. And
16 you can send it to my attention.

17 MR. WILSON: I will. And then, is this a restart
18 of the ten days, or is this just a clarification of the
19 ten days?

20 HEARING OFFICER CELLI: Well, let me make -- so,
21 Mr. Wheatland, you're saying with this -- armed with this
22 information there would be an objection to the
23 intervention?

24 MR. WHEATLAND: Armed with this information,
25 there would be no objection to the petition, but we feel

1 it's important that it be defined.

2 HEARING OFFICER CELLI: So I think the date would
3 relate back to the original petition.

4 MR. WILSON: And thank you very much.

5 PRESIDING MEMBER BYRON: Mr. Wilson, attorneys,
6 of course, love these technicalities, but you add a
7 tremendous value to this process; so we're very inclined,
8 as I mentioned to you privately earlier, to include you.
9 We're certainly interested in hearing these objections,
10 but, in my mind, not as significant as the value of the
11 information you bring to the case.

12 That being said, the deadlines are very
13 important, and I would encourage anyone here who wishes to
14 participate -- and there are certain responsibilities of
15 intervenors who wish to participate to please pay
16 attention to the deadlines that we have so we can maintain
17 our schedule. And I'm sure Mr. Celli will either review
18 those deadlines with us or we will make sure they're
19 included in the revised scheduling order that we put out.

20 HEARING OFFICER CELLI: That's correct. But at
21 this time anyone who wishes or thinks they're inclined to
22 become an intervenor should do so, not wait, not hang
23 back, but go ahead and do it, because the later you wait,
24 you are precluded from going back and getting certain
25 information that has already occurred, so you want to get

1 in early and participate. And this way your
2 participation's made more meaningful, and it's more
3 influential.

4 So with that, Mr. Wilson, I'll look forward to
5 receiving your addenda to your petition.

6 And thank you for the clarification,
7 Mr. Wheatland.

8 Right now, just to be clear, the deadline under
9 our regulations is before the prehearing conference. We
10 haven't scheduled a prehearing conference yet, so right
11 now it's open season if you're interested in being an
12 intervenor, go ahead, and you are not precluded from
13 petitioning to be an intervenor.

14 With that, do a little housekeeping here, folks.

15 Kathy Leighton, are you still here?

16 Come on up.

17 MS. LEIGHTON: Hi. I'm Kathy Leighton, resident
18 of Byron. My roots run deep. My great great-grandfather
19 homesteaded what is now the Byron Airport in the 1870s.
20 My grandchildren are seven generations of Byron. I served
21 on the ALUC for over ten years during the period that the
22 general plan that we were talking about earlier was
23 conceived and worked on that. I'm presently an alternate
24 on the ALUC.

25 And I'm here today just to say that I support

1 this project. I see Mariposa as being good neighbors for
2 a lot of reasons, employee, and from everything that I've
3 read and seen on this project, it's one of the cleanest
4 power plants in the State of California that could be
5 permitted. I think there's a need for it throughout our
6 region, throughout northern California, and I can't see
7 any reason why it should not be pushed forward as quickly
8 as possible and would appreciate anything you could do to
9 make that process happen.

10 Thank you.

11 HEARING OFFICER CELLI: Thank you, Ms. Leighton.

12 Gary Costa? Gay Costa. I'm sorry, G-a-y?

13 Gay Costa?

14 Sorry for that.

15 MS. COSTA: I get called Gary all the time.

16 My name is Gay Costa. I get called Gary a lot.
17 That's my dad's name. I am the secretary of Mountain
18 House Elementary School, also grew up out here. And I'd
19 just like to clarify. We are hearing a lot from Mountain
20 House, and you asked if Mountain House had a community
21 center. And, you know, you hear a lot of Mountain House;
22 but I'd like to know, and I'm not trying to be rude, but
23 do you know difference between the town of Mountain House
24 and Mountain House that is right here less than a mile
25 away?

1 HEARING OFFICER CELLI: No.

2 MS. COSTA: When we are talking about local
3 economy, I often -- I wonder the same thing because we are
4 the right here, we're looking at 11 residential homes and
5 a school. I would love to accommodate you at our school,
6 the problem is that I'd have to have a speaker and we'd
7 have to go sit out on the grass because there wouldn't be
8 enough room in our school house. So I just -- I want to
9 make sure that you know the difference between -- and
10 nothing against people from the town of Mountain House,
11 but realize we're the right here, the school, we are the
12 closest proximity or in the closest proximity to your
13 facility.

14 And I'm not opposing or, you know, anything to
15 the project, I just want you to be aware that there are 11
16 residential homes that house several people; and that is
17 what's truly local, along with our school.

18 MR. LAMB: There's two towns.

19 MS. COSTA: We're not a town.

20 MR. LAMB: There's two communities. There's
21 Mountain House in San --

22 HEARING OFFICER CELLI: If you're going to speak,
23 Mr. Lamb, then you should be on the microphone.

24 MS. COSTA: Yeah, there's the town of Mountain
25 House, and then we're Mountain House, Mountain House Road

1 and Mountain House Elementary School. We're the original
2 Mountain House.

3 MR. LAMB: They've been around for like a hundred
4 years or --

5 MS. COSTA: 117 years.

6 MR. LAMB: Yeah, and we've been around for six.
7 The developers of Mountain House in San Joaquin
8 decided to use the name Mountain House, much to the
9 chagrin of the old community of Mountain House.

10 MS. COSTA: Yeah. I would say 75 percent of my
11 phone calls at the school are for the town of
12 Mountain House.

13 MR. LAMB: So the young lady that talked about
14 the school, they were actually talking about the community
15 in Alameda, that's the very small school and the 11
16 residences. And I represent the future planned
17 development of Mountain House in San Joaquin County that
18 will be 45,000 people, and it currently has 10,000 people
19 residing. So that's a little confusing when they said
20 earlier, they probably didn't get the distinction.

21 MS. COSTA: We just don't want to be overlooked.

22 HEARING OFFICER CELLI: Okay. God it.

23 MS. COSTA: Right? Thank you very much.

24 HEARING OFFICER CELLI: Thank you very much.

25 Thank you for your comment.

1 Is Ron Wagner still here?

2 Mr. Wagner, please.

3 MR. WAGNER: Good evening. Name is Ron Wagner.
4 I frequent -- or I have an airplane, and I'm a pilot, I'm
5 an instrument-rated pilot, I run out of Byron quite often,
6 a business owner in Contra Costa County.

7 My concern and my input is that, you know, many
8 of our business transactions, we have to fly to different
9 places in the country, and many times when we come back,
10 we don't know what the weather's going to look like, we
11 have to use the instrument approach to get into Byron.
12 It's a GPS 30.

13 At the GPS 30, when you come over the area where
14 they're proposing the power plants, and the stack, you
15 also have the crosswinds which are coming across the hills
16 from the west, over towards Livermore, which cross in, so
17 you get a cross-current between the winds coming over the
18 hills, and you get -- and if you put in a power plant
19 there, you've got convection currents which are going to
20 upset that.

21 And on the final approach it's really important
22 that you have a stabilized aircraft to land, to get a
23 successful landing, if you will, at the 330, or the
24 three-zero approach. The FAA TERPS people -- I don't know
25 if I've ever looked at this site situation, and I'm not

1 too familiar with the project that they're proposing, I
2 just know from my experience, I was a project person and
3 contract administrator for Chevron Corporation for many
4 years, retired about 15 years ago, and we put in a cogen
5 plant in there, and the cogen plant in there, we had a lot
6 of concerns about the emissions and the currents that were
7 being generated by that additional stack and when we got
8 that permitted.

9 So that basically is my concern is will that
10 approach be changed or eliminated, which would preclude us
11 from using the Byron Airport under certain weather
12 conditions.

13 If anyone would like to also take a flight, I'd
14 be willing to have you along and show you what the area
15 looks like from the air so that you can actually see what
16 the area looks like 2.6 miles out from the airport.

17 Is anybody a pilot or has anybody looked at it
18 from the air?

19 HEARING OFFICER CELLI: Commissioner?

20 PRESIDING MEMBER BYRON: Google Earth is about
21 the extent of my --

22 MR. WAGNER: Pardon?

23 PRESIDING MEMBER BYRON: Google Earth is the
24 extent of my --

25 MR. WAGNER: Try it in an airplane.

1 Any questions? I'd be happy to answer any
2 questions on the approach or where you are, but basically
3 you're about five- to six hundred feet off the ground when
4 you're coming through that area, about 2.6 miles out.

5 PRESIDING MEMBER BYRON: Do you know, sir, how
6 much off centerline the approach, the power plant would
7 be?

8 MR. WAGNER: Well, my understanding, only looking
9 at the pictures, I don't know the specifics, but if my
10 finger was the runway, the way I understand it, they're
11 positioning them one on each side.

12 PRESIDING MEMBER BYRON: When you say one on each
13 side, what do you mean?

14 MR. WAGNER: One -- the two power plants, one on
15 each side of the runway. So you'd have to fly really
16 between the two, between the two power plants. That's the
17 way I looked at it from the picture. You guys can correct
18 me if I'm wrong.

19 HEARING OFFICER CELLI: Go ahead, applicant, did
20 you have a comment?

21 MR. WHEATLAND: Well, I'm not sure this is the
22 right place to get into a debate of aviation issues. A
23 lot of what's been said we believe is misstatements of
24 fact, but I think there's a better time to address it than
25 this evening.

1 HEARING OFFICER CELLI: Fair enough.

2 I had a question. I guess it wasn't you, it was
3 someone before, they talked to general aviation at Byron
4 Airport. That includes helicopters?

5 MR. WAGNER: They do come in there, they do a lot
6 of practice approaches. I see the FAA comes in there, and
7 I think the traffic people, state troopers, they come in
8 there; they run planes and helicopters. And then traffic
9 people also have general aviation planes that they're up
10 there monitoring the Livermore corridor, down through
11 there.

12 HEARING OFFICER CELLI: Okay. But --

13 MR. WAGNER: I see them all there.

14 HEARING OFFICER CELLI: I wanted to also ask,
15 because you were talking about this, the weather in
16 particular, if you know, is this an area of high winds?

17 MR. WAGNER: It gets pretty windy.

18 HEARING OFFICER CELLI: How does that affect
19 plumes, if you know?

20 MR. WAGNER: I don't know how it affects plumes,
21 I'm not an expert in that area. I'll tell you how it
22 affects airplanes. It pushes them around pretty good.

23 HEARING OFFICER CELLI: The question I have is
24 would winds, heavy winds abate plumes coming out of the
25 stack such that it wouldn't affect or might mitigate the

1 effect on aircraft?

2 MR. WAGNER: I couldn't tell you. I'm not -- I'm
3 not that knowledgeable on plumes.

4 HEARING OFFICER CELLI: I'm not either. Just
5 curious.

6 MR. WAGNER: But I know -- I know on windy
7 days -- there's calm days, there's windy days, but there
8 is some wind that comes across. That's why they have two
9 perpendicular runways, so that you can get into the
10 airport two ways. If you can come in on the GPS 30, you
11 have the ability, as long as you have the ceiling to work
12 with, you have the ability to maneuver in that same area
13 to get into five and two-three, which is the perpendicular
14 runway, so that gives you a little bit of judgment you're
15 allowed in getting in there. So if you can get in on a
16 GPS 130, you can continue your approach on 30 or you can
17 go around. If the winds aren't, you know, satisfactory to
18 hold the aircraft on the runway, you can go around and you
19 can use the other runway and try and get it into a
20 headwind so that you're going into a headwind into the
21 runway.

22 HEARING OFFICER CELLI: And may I ask also if --
23 I'm not a pilot, I know very little about this. But
24 because you have perpendicular runways, does the pilot
25 have a choice, or is that all done by air traffic control?

1 MR. WAGNER: The pilot has a choice. This is
2 non-monitored. So you'll come in through approach,
3 approach will turn you over, about 12 miles out approach
4 will tell you, you know, at that time they want you to
5 monitor the local frequencies and they want you to start
6 identifying, seeing and avoid, basically you got the
7 responsibility to see and avoid at that point any other
8 aircraft or any other activities in the area.

9 So once the controllers turn you loose, at 10 to
10 12 miles out, you're on your own to select the runway, get
11 the winds, et cetera, to make an appropriate safe landing.

12 HEARING OFFICER CELLI: Well, thank you for that
13 information.

14 PRESIDING MEMBER BYRON: Well, Mr. Wagner, sounds
15 like you have a candidate here for your offer to go
16 flying.

17 MR. WAGNER: More than happy to do it.

18 HEARING OFFICER CELLI: The Committee has the
19 power to order a fly around, if you want, a fly by.

20 Thank you, Mr. Wagner.

21 MR. WAGNER: Thank you.

22 HEARING OFFICER CELLI: And the video, the use of
23 video is always a great thing to see in evidence.

24 Finally, I only have one last blue card. If
25 there's anyone who wants to make a comment, please fill

1 out a blue card, and we'll call you up here, but the only
2 person I have left is Mike Heckathorn. I'm sorry for
3 mispronouncing your name.

4 MR. HECKATHORN: It's Mike Heckathorn. I'm a
5 local east county resident. My wife and I also have a
6 local business here, an engineering and construction
7 company, and we support the project.

8 This area of east county, et cetera, has been
9 hard hit economically, and you're also well aware of all
10 the people losing their houses, foreclosed houses,
11 et cetera. And I think this project would pump a
12 substantial amount of money into the area with the new
13 construction, et cetera. And there's very -- economically
14 speaking, very little going on out here and few new
15 projects being built. Municipalities have cut way back
16 due to the problems they have in their tax base erosion.
17 So basically this project would provide much-needed jobs
18 for the area, the economy, the housing market here. And I
19 think it's a fairly well sited plant, which would cause
20 minimal disruption to anything here. And, you know, we
21 heartily support this.

22 HEARING OFFICER CELLI: Well, thank you very much
23 for your comments.

24 Any further comments from anyone who hasn't had a
25 chance to speak?

1 And with that, Commissioner Byron, I'll turn it
2 over to you for adjournment.

3 PRESIDING MEMBER BYRON: Thank you, Mr. Celli.

4 This really concludes the scheduling hearing that
5 we had for this evening. And the real purpose of this,
6 from the applicant's point of view, is to have an
7 opportunity to communicate with this Commission, get
8 information to us so that we get a new schedule issued.

9 It is a cleansing time at the Commission, and
10 we're pushing out the door a number of decisions. And I'm
11 very confident that we will be able to develop a schedule
12 here in short order. And I won't make a commitment on
13 behalf of Mr. Celli, but I want to get you a scheduling
14 order within the next couple of days so that we all
15 understand how we're going to proceed forward.

16 That having been said, it is very valuable for
17 Commissioner Weisenmiller and myself to be here, to hear
18 from the public. I'd like to thank all the participation
19 on behalf of the communities, the members of the
20 community.

21 I also appreciate the fact that PG&E was here
22 represented by Mr. Wiseman, and I would certainly ask,
23 Mr. Wiseman, that PG&E have a representative at all of the
24 hearings going forward. That's extremely helpful as we
25 get into the evidentiary aspect of this.

1 The schedule's very important. I'd ask members
2 of the community that are interested in this case to track
3 it on the web. There's plenty of information available.
4 You do not have to be an intervenor to get access to
5 information. And there are obligations associated with
6 being an intervenor. I don't want to discourage you in
7 any way, I hope my comments are clear in that regard. But
8 you can certainly participate at any time as a member of
9 the public. We will always make sure that there's public
10 comment period.

11 That having been said, thank you again for
12 hosting us at this nice facility, and we'll be adjourned.

13 (Thereupon the California Energy Commission,
14 Mariposa Energy Project Mandatory Status
15 Conference adjourned at 6:18 p.m.)
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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of October 2010.

JOHN COTA