

EVIDENTIARY HEARING and SCHEDULING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
for the Morro Bay Power Plant) 00-AFC-12
Project)
_____)

1055 MORRO AVENUE
MORRO BAY, CALIFORNIA

THURSDAY, JANUARY 31, 2002

9:10 a.m.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Michal Moore, Commissioner, Presiding Member

William J. Keese, Chairman, Associate Member

HEARING OFFICER AND ADVISORS PRESENT

Gary Fay, Hearing Officer

Terry O'Brien, Adviser to Chairman Keese

STAFF AND CONSULTANTS PRESENT

Caryn Holmes, Staff Counsel

Kae C. Lewis, Project Manager

Amanda Stennick

Michael Fajans
Gabriel Roche, Inc.

APPLICANT

Jeffery D. Harris, Attorney
Christopher T. Ellison, Attorney
Ellison, Schneider and Harris

Andrew L. Trump, Director of Business Development
Western Region
Duke Energy North America

Peter Okurowski, Senior Associate
California Environmental Associates

Mark Schniepp, Director
California Economic Forecast Project

Robert C. Mason, Vice President
TRC Customer-Focused Solutions

INTERVENORS

Robert Schultz, City Attorney
City of Morro Bay
Steven J. Elie, Attorney
Musick, Peeler, Garrett, LLP
representing City of Morro Bay

Henriette Groot, President
Bonita L. Churney, Attorney
Gordon Hensley
Coastal Alliance on Plant Expansion

ALSO PRESENT

Pamela Soderbeck

Mandy Davis

Babak Naficy, Staff Attorney
Environmental Defense Center

Bill Woodson

David Pinkham

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P R O C E E D I N G S

9:10 a.m.

HEARING OFFICER FAY: Good morning.

This is another day of evidentiary hearings in the Morro Bay AFC proceeding. And today, as per the notice, we are scheduled to hear evidence on socioeconomics. And following that, we will have a scheduling conference.

I have a few preliminary matters, and if I leave anything out people can bring it to our attention.

Staff will be adding Robert Wood as a witness on cultural. The City of Morro Bay has substituted Mr. Schultz for Mr. Niehaus on socioeconomics. And staff has requested that next week air quality and public health be presented as a panel because the issues are so linked. They also wish to have Mike Ringer as a witness, although not adding additional testimony, just available for any cross that comes up.

And I remind people that when we asked who among the Air District people would be cross-examined only the name Gary Willie came up. And so only Mr. Willie will be brought by the staff so that he, on behalf of the staff, can sponsor the

1 FDOC, the final determination of compliance.

2 In addition, the staff in their filing
3 of January 24th, requested that official notice be
4 taken, and, Ms. Holmes, can you just review that
5 for us, that you want official notice taken?

6 MS. HOLMES: Thank you. There was
7 testimony that was filed by Intervenor Coastal
8 Alliance that involved discussion of the reference
9 exposure levels for airborne toxicants, and I
10 thought it would be have OWEA's document. That's
11 the state agency that prepares reference exposure
12 levels. I thought it would be a good idea to have
13 the Committee take judicial notice of the document
14 so that if the subject should come up we could
15 refer to it.

16 HEARING OFFICER FAY: Any objection?

17 MS. CHURNEY: Well, I would just raise,
18 we had requested that notice be taken of a
19 document during the course of the first hearings
20 and were informed that that is never done.

21 So, you know, I'm not objecting, per se,
22 but I think that there should be a consistent
23 stance taken. And if the Committee is so inclined
24 to take notice of that document, that they be open
25 minded to taking notice of documents that the

1 intervenor has requested notice be taken of.

2 HEARING OFFICER FAY: We would be glad
3 to entertain that request. I'm not familiar with
4 the situation that you're speaking of, so I can't
5 comment on it.

6 But I hear no objection so we will take
7 administrative notice of the OWEA document
8 referenced on page 2 of staff's January 24th
9 filing.

10 Is there any objection to combining the
11 presentations on air quality and public health? I
12 think it probably will help all the parties. No
13 objection there. Okay.

14 Any other preliminary matters?

15 MS. HOLMES: I just wanted to clarify
16 one statement that you made. Mr. Ringer will also
17 be available to offer rebuttal testimony, not just
18 to respond to questions.

19 HEARING OFFICER FAY: Okay. If there's
20 nothing further, then, Mr. Ellison, is your
21 witness ready on socioeconomics?

22 MR. ELLISON: Yes. The witnesses on
23 socioeconomics for the applicant are Mr. Mark
24 Schniepp and Mr. Robert Mason. Mr. Schniepp is
25 the lead witness, and I will address my questions

1 to him.

2 They need to be sworn in.

3 Whereupon,

4 MARK SCHNIEPP and ROBERT MASON
5 were called as witnesses herein, and after first
6 having been duly sworn, were examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. ELLISON:

10 Q Mr. Schniepp, do you have a copy of the
11 portion of exhibit 134 labeled socioeconomics,
12 commencing on page 74?

13 DR. SCHNIEPP: I do.

14 MR. ELLISON: And was this prepared by
15 you or at your direction?

16 DR. SCHNIEPP: Yes, it was.

17 MR. ELLISON: Does this testimony
18 include a description of your qualifications as
19 well as a copy of both your and Mr. Mason's
20 r,sum,s in the appendix?

21 DR. SCHNIEPP: Yes, it does.

22 MR. ELLISON: Let me ask you, Mr.
23 Schniepp, and then you, Mr. Mason, to each briefly
24 summarize your qualifications on socioeconomics.

25 DR. SCHNIEPP: My education is

1 University of California. I have a doctoral
2 degree in economics and a bachelors degree in
3 economics and mathematics.

4 I spent about 18 years at UCSB studying
5 the local economic environment of San Luis Obispo,
6 Santa Barbara and Ventura Counties. I led a
7 forecasting department within the University in
8 monitoring the economies of those three Counties
9 on an ongoing basis.

10 I currently continue to do economic
11 analysis and forecasting work in the three
12 Counties and in California in general.

13 MR. MASON: Yes, my name is Robert
14 Mason. I have a bachelors and a masters in urban
15 regional planning from USC.

16 I've had 25 years of experience in
17 developing various environmental documents
18 including environmental impact reports,
19 environmental impact statements and applications
20 for certification.

21 I oversee and direct the development of
22 these analyses, including socioeconomics. And
23 have been directly involved in the Morro Bay
24 project now going on about four years.

25 MR. ELLISON: Thank you. Mr. Schniepp,

1 do you have any additions, corrections or
2 clarifications that you'd like to make to your
3 prefiled testimony at this time?

4 DR. SCHNIEPP: We have two small ones,
5 and Bob Mason will indicate those.

6 MR. MASON: Actually, I found a third.
7 On page 74, under witness qualifications, in the
8 front of my name there's a "d". That "d" should
9 be eliminated.

10 On page 75 the third paragraph on the
11 page, the paragraph above evidence, the paragraph
12 begins: As documented in the FSA. The second
13 line of that, it reads: Project will be in
14 compliance with application, federal, state and
15 local LORS. Rather than application, that should
16 be applicable.

17 Then on page 82, the very last line on
18 that page, it reads: The modernized plant at MBPP
19 may equally be considered less of a. Rather than
20 equally it should be actually.

21 Those are the changes that we noted.

22 MR. ELLISON: On my copy of the exhibit,
23 on page 74 there is an "e" in front of summary.
24 Should that also be deleted?

25 MR. MASON: Yes, it should be.

1 MR. ELLISON: With those changes,
2 Mr. Schniepp, are the facts contained in this
3 testimony true to the best of your knowledge?

4 DR. SCHNIEPP: They are.

5 MR. ELLISON: And do the opinions
6 contained therein represent your best professional
7 judgment?

8 DR. SCHNIEPP: Yes, they do.

9 MR. ELLISON: Do you adopt this as your
10 testimony on socioeconomic in this proceeding?

11 DR. SCHNIEPP: Yes.

12 MR. ELLISON: Could you briefly
13 summarize how you went about analyzing the
14 socioeconomic impacts of the Morro Bay Power Plant
15 project?

16 DR. SCHNIEPP: Certainly. The effects
17 on the socioeconomic environment are mostly
18 brought about by changes in population to
19 particular jurisdictions, so a lot of the analysis
20 therefore focused on whether there were population
21 changes as a result of the modernization project,
22 either during the construction period, the
23 demolition period or the operational phase of the
24 project.

25 So our analysis basically and in summary

1 looked at population changes and how they would
2 impact, if they would occur at all, on the various
3 economic resources, including employment,
4 including the schools, housing, commercial
5 fishing, property values, tourism and the public
6 finance and fiscal resource area, as well.

7 That's pretty much a summary of how we
8 went about analyzing the various resources.

9 MR. ELLISON: Thank you. What was your
10 conclusion with respect to whether the proposed
11 project would have a significant adverse
12 environmental impact within the meaning of the
13 California Environmental Quality Act?

14 DR. SCHNIEPP: Well, our conclusion was
15 pretty simple. We found no significant adverse
16 impacts, either in the short run or in the long
17 run on any socioeconomic resources during
18 construction, demolition or operation of the
19 project.

20 MR. ELLISON: Did you also look at the
21 cumulative impacts of the project when combined
22 with other foreseeable projects?

23 DR. SCHNIEPP: We did.

24 MR. ELLISON: And what was your
25 conclusion with respect to that?

1 DR. SCHNIEPP: No short-term or long-
2 term impacts on any socioeconomic resources within
3 the socioeconomic environment.

4 MR. ELLISON: Did you reach a conclusion
5 with respect to the compliance of the project with
6 any applicable laws, ordinances, regulations and
7 standards?

8 DR. SCHNIEPP: We found that the
9 assessment in general was -- that all applicable
10 federal and state laws were adhered to.

11 MR. ELLISON: Did you make any
12 assumption with regard to the project lifetime
13 that was significant to your analysis?

14 DR. SCHNIEPP: No.

15 MR. ELLISON: If the project were to
16 have a different lifetime than what you expect to
17 have, would it change your analysis in any way?

18 DR. SCHNIEPP: No.

19 MR. ELLISON: Have you had an
20 opportunity to review the final staff assessment
21 on socioeconomics?

22 DR. SCHNIEPP: I have.

23 MR. ELLISON: And do you agree or
24 disagree with the staff's conclusions regarding
25 the environmental impacts and compliance with

1 applicable laws, ordinances, regulations and
2 standards?

3 DR. SCHNIEPP: We fully concur with
4 staff's assessment.

5 MR. ELLISON: Have you reviewed the
6 proposed conditions of certification proposed by
7 staff?

8 DR. SCHNIEPP: We have.

9 MR. ELLISON: What is your opinion of
10 those proposed conditions?

11 DR. SCHNIEPP: We support the condition
12 SOCIO-1.

13 MR. ELLISON: Have you had an
14 opportunity to review the testimony filed by the
15 City of Morro Bay, Mr. Schultz' testimony on
16 socioeconomics?

17 MR. ELIE: Again, maybe this is the time
18 to get a number for that. That's testimony of
19 Robert W. Schultz on behalf of the City of Morro
20 Bay regarding socioeconomics filed on the 15th of
21 January.

22 HEARING OFFICER FAY: That will be
23 exhibit 140.

24 MR. ELIE: Thank you.

25 MR. ELLISON: Have you had an

1 opportunity to review what has now been identified
2 as exhibit 140, the testimony of Robert W. Schultz
3 on behalf of the City of Morro Bay regarding
4 socioeconomics?

5 DR. SCHNIEPP: I have.

6 MR. ELLISON: What is your opinion
7 regarding the proposed condition recommended by
8 Mr. Schultz at the end of his testimony?

9 DR. SCHNIEPP: Well, I have no opinion
10 regarding that, but Bob Mason may have an
11 alternative opinion.

12 MR. ELLISON: Okay, well then let me ask
13 the question of Mr. Mason.

14 MR. MASON: We have reviewed the
15 suggested SOCIO-3 by the City, and we have no
16 objection with it. It's already included within
17 the draft agreement to lease. And it's consistent
18 with that.

19 One item that we would recommend should
20 the condition be included in the licensing
21 process, that a method be included for the CEC CPM
22 to be involved in the oversight of how that
23 condition is applied.

24 MR. ELLISON: Thank you. That's all we
25 have for direct testimony. I would move the

1 admission of the socioeconomics portion beginning
2 on page 74 of exhibit 134, including the exhibits
3 incorporated by reference on pages 75 and 76 in
4 that testimony.

5 HEARING OFFICER FAY: Any objection?

6 Hearing none, so moved.

7 MR. ELLISON: The witnesses are
8 available for examination.

9 HEARING OFFICER FAY: Staff?

10 MS. HOLMES: No cross.

11 HEARING OFFICER FAY: Does the City --

12 MR. ELIE: No questions.

13 HEARING OFFICER FAY: Does Coastal
14 Alliance have any questions?

15 MS. CHURNEY: Yes.

16 CROSS-EXAMINATION

17 BY MS. CHURNEY:

18 Q In terms of property values, you refer
19 on page 81 of your testimony to the FSA appendix
20 A, page 3.5-22, which indicates that actual loss
21 of property values can only be tested through data
22 on actual home sales.

23 In light of that would Duke consider a
24 possible mitigation fund to be set aside for those
25 homeowners who do sell their property during the

1 construction or demolition period, and can
2 demonstrate to the satisfaction of the CPM some
3 diminution in value as a result of the
4 construction or demolition activities?

5 MR. ELLISON: That's an extremely long
6 question. Can you synthesize it into something
7 shorter?

8 MS. CHURNEY: Sure. Would Duke consider
9 a mitigation fund for those homeowners in town who
10 might have to sell their home during the
11 construction activities or demolition activities,
12 and can establish that there has been a reduction
13 in the sales price as compared to what they might
14 have been able to sell their homes for prior to
15 the activities?

16 DR. SCHNIEPP: I think that's a question
17 that needs to be posed to Duke directly. I don't
18 believe that's within the confines of the
19 socioeconomic analysis that we did.

20 MS. CHURNEY: Can you think of any
21 reason why that would not be possible from your,
22 you know, perspective and based on your analyses?

23 DR. SCHNIEPP: Well, based on my
24 analyses, we found that property values in Morro
25 Bay have not been affected, from what we can tell,

1 by the existence of the plant. The property
2 values are very similar across all jurisdictions
3 in coastal communities in San Luis Obispo County.

4 Your proposition is probably best posed
5 as a commercial arrangement with Duke.

6 MS. CHURNEY: So I take it, based on
7 your answer, that you didn't analyze the impact of
8 the actual construction or demolition on property
9 values?

10 MR. ELLISON: That was not his
11 testimony.

12 MS. CHURNEY: Well, his testimony was
13 that in his analysis current plant activities have
14 not affected property values. But my concern is
15 with the construction and demolition with respect
16 to the new plant.

17 Did you analyze whether the construction
18 and demolition activities with respect to the new
19 plant would impact property values?

20 DR. SCHNIEPP: Yes, we did.

21 MS. CHURNEY: And what did your analysis
22 show?

23 DR. SCHNIEPP: Our analysis basically
24 looked at like projects in other areas in which
25 there were industrial facilities constructed in

1 communities with adjacent homes nearby.

2 We found no adverse impacts on property
3 values for those other industrial facilities
4 during the construction period or thereafter.

5 MS. CHURNEY: And were the cities that
6 were analyzed or the locales that were analyzed
7 similar to Morro Bay?

8 DR. SCHNIEPP: Well, they certainly
9 weren't exactly like Morro Bay. Whenever you're
10 doing analyses like this it's very hard to get
11 exact cities. But they were small communities in
12 basically rural to suburban areas, open space,
13 tourism oriented, coastal orientation, very close
14 similarities.

15 MS. CHURNEY: Were the cities that were
16 analyzed, was the construction occurring in the
17 middle of town as will occur here?

18 DR. SCHNIEPP: I don't recall. It
19 certainly was in view of -- an open view of the
20 coastline and there were many tourists that would
21 travel by there. That was one of the key
22 characteristics of those particular analogies.

23 MS. CHURNEY: The reference to the
24 coastline project, what project was that exactly?

25 DR. SCHNIEPP: That was the Kensington

1 Mine in British Columbia.

2 MS. CHURNEY: On page 83 of your
3 testimony regarding tourism impacts, you note that
4 during the construction phase of the modernization
5 at Moss Landing, you found that local visitor
6 serving establishments such as hotels and
7 restaurants were not adversely affected by
8 construction workers.

9 Are the two projects and the areas
10 surrounding them similar, in your view, in terms
11 of socioeconomic factors, that is Moss Landing and
12 Morro Bay?

13 DR. SCHNIEPP: Well, what do you mean by
14 similar socioeconomic --

15 MS. CHURNEY: Type of businesses; number
16 of businesses; number of restaurants; numbers of
17 motels or hotels or visitors serving; and numbers
18 of residents.

19 DR. SCHNIEPP: In my opinion there is a
20 significant number of similarities between the two
21 areas, yes.

22 MS. CHURNEY: Well, for example, how
23 many local visitor serving establishments are
24 there within a one- to three-mile radius at Moss
25 Landing?

1 DR. SCHNIEPP: There must be about 15 to
2 18 hotels and motels within a one- to three-mile
3 radius.

4 MS. CHURNEY: And how does that compare
5 to Morro Bay?

6 DR. SCHNIEPP: Morro Bay there's a
7 higher concentration of motels. There's probably
8 30.

9 MS. CHURNEY: And the populations, how
10 does that compare in the surrounding one- to
11 three-mile area of Moss Landing versus Morro Bay?

12 DR. SCHNIEPP: Well, one- to three-mile
13 area is probably limited, because there's a
14 paucity of population in the immediate vicinity.
15 But if you move out a little bit further to about
16 a ten-mile radius then you're probably talking
17 about a comparable population, if not greater
18 population.

19 MS. CHURNEY: So just so it's clear on
20 the record, the one- to three-mile population
21 ratio is lower considerably at Moss Landing as
22 compared to Morro Bay, is that a fair --

23 DR. SCHNIEPP: No. I wouldn't say
24 considerably.

25 MS. CHURNEY: Okay, but it is lower?

1 DR. SCHNIEPP: I believe it is.

2 MS. CHURNEY: On page 85 of your
3 testimony you discuss the franchise fees paid by
4 Duke to the City of Morro Bay, and note that the
5 2001 fees are anticipated to be higher than those
6 paid in 2000.

7 Is that figure for 2001 now available?

8 DR. SCHNIEPP: I think it's estimated.

9 MS. CHURNEY: What is the estimated
10 amount?

11 MR. ELLISON: If you know.

12 DR. SCHNIEPP: No, I don't have that
13 number.

14 MS. CHURNEY: Why did you anticipate
15 that larger fees if the production in 2001 was
16 reduced to 49.1 percent as compared to 59.7
17 percent in 2000? And those figures are taken from
18 Mr. Trump's testimony earlier in these
19 proceedings.

20 DR. SCHNIEPP: Could you repeat the
21 question, please?

22 MS. CHURNEY: Yes. Why did you
23 anticipate larger fees if production in 2001 was
24 reduced to 49.1 percent as compared to 59.7
25 percent in the year 2000?

1 DR. SCHNIEPP: Why do I anticipate
2 larger fees coming from the modernized plant?

3 MS. CHURNEY: No. Larger fees -- the
4 comparison is years 2000 and 2001, with the
5 current plant.

6 DR. SCHNIEPP: At the time that we wrote
7 this we did not know what the plant utilization
8 was. Given the costs of natural gas and the
9 utilization of the existing plant, we thought it
10 would be comparable to 2000 and a little bit
11 higher. But the 2000 number came in as a higher
12 number than we had anticipated.

13 We believe the 2001 franchise fees were
14 quite high, and probably comparable to 2000. But
15 we don't know what that exact figure is quite yet.

16 MS. CHURNEY: Are you familiar with
17 exhibit 34 which is Duke's response to the Coastal
18 Alliance's March 9, 2001 data requests on
19 socioeconomic issues?

20 DR. SCHNIEPP: Not right off hand, no.
21 (Pause.)

22 PRESIDING MEMBER MOORE: Counsel, what
23 are you handing out?

24 MS. CHURNEY: It's Duke's response to
25 data request 244.

1 PRESIDING MEMBER MOORE: And you're
2 asking Dr. Schniepp to take a look at that?

3 MS. CHURNEY: Yes.

4 First of all, did you assist in the
5 preparation of Duke's responses for the
6 socioeconomic data requests?

7 DR. SCHNIEPP: I did.

8 MS. CHURNEY: And did you draft this
9 response or participate in its preparation?

10 DR. SCHNIEPP: Yes, I did.

11 MS. CHURNEY: Now looking at that
12 response to request 244, which asks Duke to state
13 the factors that account for Morro Bay's home
14 values being less than those in Cayucas and
15 Cambria, Duke's response was in terms of factors
16 that can account for certain differences and
17 identifies four possible factors.

18 Did you or anyone else at Duke, to your
19 knowledge, perform any analysis as to whether any
20 of these theoretical factors were, in fact,
21 involved in the differences in home values?

22 DR. SCHNIEPP: Whether the homes were
23 existing or new was a factor that we did look at,
24 yes.

25 MS. CHURNEY: Was that the only factor

1 of the four identified that you looked at?

2 DR. SCHNIEPP: Well, you indicate that
3 there are four factors. Simple timing, I guess,
4 was one of the factors. And I think we eliminated
5 that simply by extending the database to show that
6 the home values in Morro Bay were not
7 significantly different from those in Cayucas and
8 Cambria over time when a full population was
9 looked at.

10 But we also know that given the low
11 frequency of new housing which is constructed in
12 Morro Bay, that tends to bring down -- or can have
13 an effect on bringing down the average or median
14 price in a community. Because new housing is just
15 simply valued at higher than existing, relative to
16 the other areas.

17 So we did look at those two particular
18 factors.

19 MS. CHURNEY: Do you know whether
20 there's a lower or a higher frequency of building
21 or construction of new housing in Cayucas, for
22 example?

23 DR. SCHNIEPP: I don't.

24 MS. CHURNEY: Turning to Duke's response
25 to the Coastal Alliance's data request number 250

1 in that same exhibit, and I think we'll have to
2 provide that to you, as well.

3 MR. MASON: We do have it.

4 MS. CHURNEY: Okay. Duke recites its
5 statement from the AFC, appendix 6.10-4 on impacts
6 on tourism that was prepared, I believe, by you.
7 That some visitors would be curious or intrigued
8 by the industrial development; others might be
9 turned away. The net effect was probably zero.

10 Overall the potential attraction of the
11 referenced power plants and mines, to some
12 persons, and objections by others would balance.

13 So it appears your conclusion was that
14 with industrial development in the study looked
15 at, it would be an overall neutral or no effect.
16 Is that a correct understanding of that testimony?

17 DR. SCHNIEPP: That's correct.

18 MS. CHURNEY: Is there any evidentiary
19 basis, as opposed to sheer speculation, for the
20 conclusion that these effects would balance or be
21 neutral?

22 DR. SCHNIEPP: This assessment was taken
23 from a review of the literature on industrial
24 facilities and construction, and how they would
25 have any impact on the adjacent community,

1 particularly with respect to tourism activities.

2 And all of the studies that we looked at
3 we could not find an adverse impact on tourism
4 from an industrial constructed project. In fact,
5 the explanations that were given in most cases
6 were that in some cases visitors were turned away,
7 in other cases it was considered a curiosity.

8 And therefore their assessments in
9 general were that on balance there would be no
10 effect. That was how they explained the fact that
11 there was no adverse effect on tourism.

12 MS. CHURNEY: I notice one of the study
13 subjects was Diablo Canyon. Do you know whether
14 Diablo Canyon is, for example, as accessible as
15 the Morro Bay, in general?

16 DR. SCHNIEPP: No, it is not.

17 MS. CHURNEY: And do you know whether
18 there are restaurants and motels in the Diablo
19 Canyon area?

20 DR. SCHNIEPP: Well, Diablo Canyon was
21 one of the identified industrial facilities, but
22 we didn't really use it much in the overall
23 assessment of tourism. There were seven other
24 nuclear power plants, there were mines and a
25 variety of other industrial facilities. Diablo

1 Canyon we didn't put much emphasis on at all in
2 our estimation here.

3 MS. CHURNEY: Okay, thank you.

4 PRESIDING MEMBER MOORE: Is that all you
5 have, counsellor?

6 MS. CHURNEY: That's it, thank you.

7 PRESIDING MEMBER MOORE: All right.

8 HEARING OFFICER FAY: Mr. Ellison, any
9 redirect?

10 MR. ELLISON: Just a couple of
11 questions.

12 REDIRECT EXAMINATION

13 BY MR. ELLISON:

14 Q Mr. Schniepp, counsel for CAPE asked you
15 a couple of questions about the possibility of a
16 mitigation fund for impacts on housing prices
17 during construction. Do you recall those
18 questions?

19 DR. SCHNIEPP: I do.

20 MR. ELLISON: Did you identify any
21 impact from the project that would justify such a
22 condition?

23 DR. SCHNIEPP: We did not identify any
24 component that would justify that condition.

25 MR. ELLISON: You were also asked a

1 question about franchise fees for the existing
2 project and your estimation that the franchise fee
3 from the existing project in 2001 is anticipated
4 to be higher than the year 2000. Do you recall
5 that?

6 DR. SCHNIEPP: I do.

7 MR. ELLISON: And the specific question
8 made reference to Mr. Trump's testimony that the
9 capacity factor of the existing plant in 2001 was
10 estimated to be lower than the capacity factor in
11 2000. Do you recall that?

12 DR. SCHNIEPP: Yes.

13 MR. ELLISON: So as I understood the
14 question the essence of it was how could the
15 franchise fee increase when the capacity factor
16 was decreasing. Did you understand that to be the
17 essence of the question, as well?

18 DR. SCHNIEPP: I did.

19 MR. ELLISON: Is it possible that the
20 price of natural gas could increase such that the
21 overall fees for natural gas would increase, even
22 though the use of natural gas might decrease?

23 DR. SCHNIEPP: Yes, it is possible.

24 MR. ELLISON: Those are my only
25 questions, thank you.

1 HEARING OFFICER FAY: Any recross within
2 the scope of the redirect?

3 MS. CHURNEY: Yes, just one question
4 just to clarify.

5 RECROSS-EXAMINATION

6 BY MS. CHURNEY:

7 Q With respect to your testimony on home
8 values and loss in property values, isn't it also
9 your testimony in the written testimony that
10 whether there will be any loss cannot be tested
11 until the time of any actual home sale?

12 MR. ELLISON: Counsel, can you refer the
13 witness to the portion of the testimony that
14 you're referring to?

15 MS. CHURNEY: Right. It's actually in
16 the FSA appendix A, page 3.5-22.

17 MR. ELLISON: Okay, well, the FSA is not
18 his testimony; it's staff's testimony.

19 MS. CHURNEY: But you referred to it on
20 page 81 of your testimony.

21 DR. SCHNIEPP: It does indicate on page
22 81 a quote from that section, that the loss of
23 value, property value and potential effects can
24 only be tested through data from home sales.

25 MS. CHURNEY: And is it listed in your

1 testimony as, in essence, agreeing with that
2 statement?

3 DR. SCHNIEPP: Yes, that's correct.

4 MS. CHURNEY: No further questions.

5 HEARING OFFICER FAY: Any follow up, Mr.
6 Ellison?

7 MR. ELLISON: Yes, let me ask just one
8 more question.

9 FURTHER REDIRECT EXAMINATION

10 BY MR. ELLISON:

11 Q Mr. Schniepp, based upon your analysis,
12 in your professional judgment, comparing the
13 modern -- the impact on property values of the
14 modernized facility to the existing facility, is
15 it your judgment that if there were an effect on
16 housing prices, would it be positive or negative?

17 DR. SCHNIEPP: I don't believe that the
18 modernization of that plant is going to affect
19 property values in a negative fashion. Perhaps
20 there may even be a positive effect because of the
21 dismantling of the towers, of the stacks. But we
22 have no evidence of that, either.

23 I would say that there's simply not
24 going to be any effect on property values due to
25 modernization of the plant.

1 When I talk about this can only be
2 tested through home sales, we have been looking at
3 home sales. That's how we've come up with our
4 assessment. We've looked at home sales in other
5 particular areas where we're seeing industrial
6 facilities. We're looking at home sales currently
7 here where there is an industrial facility.

8 We have looked high and low and very
9 hard to find effects on property values from
10 industrial facilities or construction of
11 industrial facilities. And we can't find any
12 impact.

13 MR. ELLISON: That's all I have, thank
14 you.

15 MS. CHURNEY: Not to belabor this, but I
16 just want to make clear for the record.

17 FURTHER RECROSS-EXAMINATION

18 BY MS. CHURNEY:

19 Q The distinction you're making is with
20 industrial facilities in place. However, my
21 original question was with respect to the period
22 of time when there is construction and demolition,
23 and that impact on property values at that time.

24 And if I am to understand your testimony
25 correctly you would have to wait until that time

1 during the construction and demolition period to
2 look at actual home sales to see the impact on the
3 prices of homes sold at that time, is that
4 correct?

5 DR. SCHNIEPP: It's speculative to think
6 otherwise, but I would believe that because the
7 construction period is short lived and temporary,
8 that home sales that occurred during a particular
9 period like that, no, probably would not have any
10 effect.

11 I guess you would have to wait and test
12 it to see if there would be any impact. But in my
13 professional opinion, because we're not changing
14 the environment in any permanent fashion, that
15 there would not be any impact.

16 MS. CHURNEY: But you agree you'd have
17 to wait until that time period to test it?

18 DR. SCHNIEPP: I mean as an acid test,
19 perhaps.

20 HEARING OFFICER FAY: IF there's nothing
21 further then, the Committee has a few questions.

22 Dr. Schniepp, you list on page 78 of
23 your testimony a number of benefits of the
24 project. One being long-term revenue guarantee.
25 And I note the agreement between Duke and the City

1 includes some minimum guarantees. And it also
2 includes some other revenue streams.

3 Does the guarantee and/or these
4 additional revenue streams have any impact on the
5 City's ability to finance, to enter municipal
6 financing?

7 DR. SCHNIEPP: I don't understand the
8 question.

9 HEARING OFFICER FAY: If the City
10 desires to go into the market to borrow money,
11 does the agreement affect its ability, having that
12 agreement in place, does it have any affect on its
13 ability to borrow money?

14 DR. SCHNIEPP: Oh, I would certainly say
15 yes.

16 HEARING OFFICER FAY: And what is the
17 effect?

18 DR. SCHNIEPP: Well, this is a revenue
19 stream that is going to occur in perpetuity
20 essentially. And so it makes for a much more
21 solid fiscal environment for the City of Morro
22 Bay.

23 HEARING OFFICER FAY: And can you point
24 me to anyplace in your testimony or in the
25 supporting exhibits that gives a reasonable case,

1 not a best case or worst case, but a reasonable
2 estimate, in your professional judgment, of the
3 financial impacts on the City of all the various
4 benefits that you've identified from the project?

5 DR. SCHNIEPP: Are you asking me for a
6 number?

7 HEARING OFFICER FAY: Yes, or some
8 guideline on where one could create a tally.

9 DR. SCHNIEPP: Oh, sure. Well, the
10 various components of the fiscal benefits are as
11 follows. Increased property tax revenues;
12 increased sales tax revenues; the outfall lease
13 payment; the franchise fees; the payment for
14 police and fire; the public services direct
15 project liaison; and the Highway 41 road
16 improvements.

17 If you look at just the first five years
18 during the construction period when most of those
19 will occur, and you sum them up, we get a value of
20 \$23.7 million.

21 The existing operation would have
22 yielded about \$13.7 million. So the net effect
23 due to plant modernization during the first five
24 years, that's the construction period, is \$10.0
25 million.

1 HEARING OFFICER FAY: And does that
2 figure take into account any additional spending
3 for the construction and deconstruction?

4 DR. SCHNIEPP: It does not include any
5 of the multiplier or second round effects. It
6 does not include any of the expenditures by
7 construction workers on lodging or food or
8 incidentals. Is that what you're asking?

9 HEARING OFFICER FAY: Yes. What the
10 bound --

11 DR. SCHNIEPP: Yeah, these are just the
12 principal direct fiscal impacts, not the indirect
13 effects which would add significantly more, of
14 course, to this total.

15 HEARING OFFICER FAY: Thank you.

16 PRESIDING MEMBER MOORE: I have a couple
17 questions, Dr. Schniepp. Your last statement,
18 you're talking about fiscal effects as opposed to
19 economic effects, you're discriminating against
20 the fisc for the City and the other broader
21 multiplied effects of the economic impacts on the
22 local community, correct?

23 DR. SCHNIEPP: That's correct.

24 PRESIDING MEMBER MOORE: Take you back
25 and ask you to clarify the relative benefits of

1 the property tax versus sales tax and franchise
2 fees.

3 In fact, given the split that the state
4 allows for local government, whether it's county
5 or city, the P tax represents a relatively slim
6 contribution relative to the others, is that not
7 correct?

8 DR. SCHNIEPP: It's smaller.

9 PRESIDING MEMBER MOORE: So a city such
10 as Morro Bay is going to benefit to a greater
11 degree from sales tax revenues and franchise fees
12 than they are from the property tax?

13 DR. SCHNIEPP: Yes, that's a fair
14 statement.

15 PRESIDING MEMBER MOORE: I want to take
16 you out to ask you about the broader impacts. Did
17 you look at what might happen were the plant to
18 not receive a certificate from us, or were to shut
19 down, in fact? Do you allow yourself to comment
20 on that and can you expound on that a little bit?
21 What would happen if the plant were to cease
22 operations, what's the net fiscal impact that
23 could be expected from something like that?

24 DR. SCHNIEPP: Well, as I indicated
25 earlier, currently the plant, the existing plant

1 right now in terms of how it is generating
2 property taxes and franchise fees, it is currently
3 providing the City with direct fiscal benefits of
4 an estimated \$2.7 million just from those two
5 effects alone per year.

6 Then it's also employing about 75
7 people. It has a variety of local contracts with
8 vendors in town. It brings in people, visitors,
9 and they stay in the local hotels and motels.
10 There's a significant amount of economic activity
11 that's generated by this particular operation.

12 Its property tax represents 8 percent of
13 the total property tax take of the City of Morro
14 Bay.

15 We could easily do an economic analysis.
16 Normally how you ascertain the effects of a
17 particular operation on a community is by noting
18 what the community loses if you take it away.

19 So, that analysis could be run. I would
20 say there'd be a significant diminution in
21 economic activity if this plant shut down in Morro
22 Bay.

23 PRESIDING MEMBER MOORE: In a community
24 just south of here at Avila, there was a good deal
25 of construction that took place when the tanks

1 were taken out and a lot of the soil was moved.
2 There was disruption for a fair period of time.
3 And then reconstruction of the businesses and, in
4 fact, some of the homes.

5 Can you comment at all on a community
6 like that and what's happened to the fisc, one,
7 and two, to the local economy after they've come
8 back? Has there been any overall loss in the
9 productivity, or what's the strength relative to
10 what it was before when it's come back? Can you
11 comment on that?

12 DR. SCHNIEPP: Yes. Normally we can
13 comment on this because we look at these kinds of
14 things in economic environments in order to assess
15 how future impacts may occur.

16 We've looked at this with respect to the
17 Northridge earthquake, the Santa Barbara fire,
18 other kinds of catastrophic events, not
19 necessarily so planned like Avila Beach.

20 But normally the communities are a lot
21 more vibrant because property values have been
22 enhanced significantly with new structures, new
23 infrastructure. There's a lot greater vibrancy.
24 It's very hard to monitor Avila because that's in
25 the unincorporated area of San Luis Obispo County,

1 so its effect is diluted a lot more. You really
2 can't pick it up as well.

3 But the property values in Avila, in
4 fact even during the construction period, we did
5 not notice any dilution whatsoever. And right now
6 we're actually seeing a lot more vibrancy in
7 Avila.

8 PRESIDING MEMBER MOORE: Thank you.
9 Other questions from the Committee? No. Staff,
10 your witness. Thank you.

11 MS. HOLMES: Staff's witnesses on
12 socioeconomics are Amanda Stennick and Michael
13 Fajans. They both need to be sworn in.

14 HEARING OFFICER FAY: Please swear the
15 witnesses.

16 Whereupon,

17 AMANDA STENNICK and MICHAEL FAJANS
18 were called as witnesses herein, and after first
19 having been duly sworn, were examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HOLMES:

23 Q Good morning. Did the two of you
24 prepare the socioeconomics sections of exhibit 115
25 and the errata that's been identified as exhibit

1 116?

2 MR. FAJANES: Yes, we did.

3 MS. STENNICK: Yes.

4 MS. HOLMES: And did exhibit 115 include
5 statements of your qualifications?

6 MR. FAJANES: Yes.

7 PRESIDING MEMBER MOORE: I don't know
8 that your microphone is on.

9 (Pause.)

10 MS. STENNICK: Yes, it did.

11 MS. HOLMES: Are the facts contained in
12 your testimony true and correct to the best of
13 your knowledge?

14 MR. FAJANES: Yes, they are.

15 MS. STENNICK: Yes.

16 MS. HOLMES: And do the opinions
17 contained in your testimony represent your best
18 professional judgment?

19 MS. STENNICK: Yes.

20 MR. FAJANES: Yes.

21 MS. HOLMES: You heard a discussion
22 earlier this morning about project life, and I'd
23 like to ask you a similar question. Duke has
24 stated that the design life of the facility is 30
25 years.

1 If the facility were to operate in
2 excess of 30 years, would that change your
3 conclusions about significance of impacts or
4 sufficiency of mitigation?

5 MR. FAJANES: No, it would not change
6 our conclusions.

7 MS. HOLMES: Thank you. I think there's
8 only been one suggested change. It came from the
9 City of Morro Bay, so I'd like to go through that
10 right now.

11 In what has been identified as exhibit
12 140, the City of Morro Bay has recommended that
13 the Commission includes paragraphs 1.7 through --
14 excuse me, paragraph 7.1 through 7.4 of the
15 agreement to lease in the Commission's decision.
16 Does staff support this recommendation?

17 MR. FAJANES: Yes.

18 MS. STENNICK: Staff's analysis
19 indicates that we are providing just one condition
20 on this project, and that's the condition that's
21 stated in our analysis.

22 MS. HOLMES: So in other words, you
23 don't support the addition --

24 MS. STENNICK: We do not --

25 MS. HOLMES: -- of another --

1 MS. STENNICK: -- we do not support --
2 (Laughter.)

3 MS. HOLMES: Thank you. With that I'd
4 like to move the socioeconomic portions of
5 exhibit 115 and 116 into evidence, and make the
6 witnesses available.

7 PRESIDING MEMBER MOORE: Any objection?
8 So ordered. And the witnesses are available. For
9 the applicant?

10 MR. ELLISON: No questions.

11 PRESIDING MEMBER MOORE: For the City?

12 MR. ELIE: No questions.

13 PRESIDING MEMBER MOORE: For the
14 intervenors CAPE?

15 MS. CHURNEY: Yes, thank you.

16 CROSS-EXAMINATION

17 BY MS. CHURNEY:

18 Q In staff's environmental justice
19 screening analysis table 8, and it's on page 3.5-
20 14 regarding low income populations it indicates
21 that the poverty level analysis was based on the
22 1990 U.S. census data definition.

23 Is there anything under CEQA or staff
24 policy that limits the determination to that
25 definition of poverty?

1 MS. STENNICK: We base our environmental
2 justice analysis on the USEPA guidelines. At this
3 point we don't have current U.S. census data for
4 2000 at the census tract level for low income and
5 poverty.

6 MS. CHURNEY: Did staff consider the
7 Morro Bay general plan housing element, section 7-
8 5, which indicates that fully 50 percent of the
9 residents are categorized as either low or very
10 low income here in Morro Bay?

11 MS. STENNICK: One has to consider that
12 there are many different definitions of poverty.
13 And according to the USEPA guidelines we use the
14 poverty thresholds which are set by the federal
15 government.

16 MS. CHURNEY: So these are thresholds
17 that are set -- it's a national standard, is that
18 correct?

19 MS. STENNICK: That's correct.

20 MS. CHURNEY: So it doesn't take into
21 account higher living expenses, for example, that
22 might be here in California versus a lower
23 standard of living or lower expenses to live in
24 another area of the country, is that correct?

25 MS. STENNICK: I believe the census 2000

1 data has adjusted figures for poverty thresholds
2 for the State of California. When those become
3 available at the tract level, in other words if we
4 can get information for a more discrete -- when we
5 can get information for a more discrete level we
6 will be using those. But at this time we are
7 simply relying on what the USEPA guidelines
8 indicate for a poverty threshold.

9 MS. CHURNEY: And has staff considered
10 or investigated whether the local elementary
11 schools in Morro Bay are Title 1 schools serving
12 low income populations?

13 MS. STENNICK: Staff did not look at the
14 school populations. When we consider an
15 environmental justice population we don't focus on
16 students, we focus on every individual within a
17 six-mile radius.

18 MS. CHURNEY: On page 3.5-14 staff notes
19 that there may be a small negative impact during
20 the construction of the new plant as the existing
21 large plant will still be in operations while the
22 construction cranes and other equipment are
23 utilized in constructing the adjacent replacement
24 plant.

25 First, I'm sure Morro Bay residents

1 would like to know if you can quantify this in any
2 way?

3 MR. FAJANES: No. It is not possible to
4 quantify.

5 MS. CHURNEY: And are these impacts
6 limited just to the construction period or can
7 they be expected to occur over the entire 72-month
8 demolition/construction period?

9 MR. FAJANES: In my professional
10 judgment, you know, I would doubt that there will
11 be significant impacts during any part of the
12 process. But, I suppose if there were, it would
13 be during the construction, and I suppose aspects
14 of demolition that might include large cranes and
15 equipment.

16 MS. CHURNEY: And in your professional
17 opinion is it reasonable to expect that a market
18 depressed by a construction/demolition period, if
19 it is depressed, and whether that period is for
20 two and a half years or six years, to immediately
21 rebound to where it would have been absent the
22 construction or demolition period?

23 MS. HOLMES: Could we break that down
24 into a couple of discrete questions, please?

25 MS. CHURNEY: Sure.

1 MR. ELLISON: Counsel, if I could just
2 say one quick thing just to clarify the record.
3 You made reference a moment ago to a 72-month
4 construction and demolition period. And I know
5 that early on in the case there was that number.
6 But the current estimate is 60 months based upon
7 requests from the City to shorten that period.
8 So, just so you know.

9 MS. CHURNEY: Just taking an example of
10 a construction site, and let's assume that there
11 has been some impact on the market, that it has
12 depressed the market, is it, in your professional
13 opinion, will that market immediately rebound as
14 soon as the construction ceases?

15 MS. STENNICK: I believe you're making
16 an assumption that there will be a depression on
17 the market during construction. And we have no
18 information based on the literature that we've
19 looked at to indicate that there will be.

20 MS. CHURNEY: But I'm giving you a
21 hypothetical. Just -- if you're saying it's
22 possible, and I think that is your testimony,
23 let's just take it as a hypothetical. And if
24 there is an effect on the market, it does depress
25 the market, in your experience does that market

1 immediately rebound once the construction ceases?

2 MR. FAJANES: Under that hypothetical
3 example I think yes, it would.

4 MS. CHURNEY: In appendix A to section
5 3.5 of the FSA part one, staff notes a study by
6 Kinnerd Dickey regarding impacts on property
7 values of properties near high voltage
8 transmission lines. When was this study
9 performed?

10 MS. STENNICK: I believe this study was
11 performed in 1992, '93.

12 MS. CHURNEY: And did it address impacts
13 other than visual concerns?

14 MS. STENNICK: Well, the study addressed
15 overall issues of property values of projects
16 being located near locally unwanted land uses,
17 such as powerlines and landfills, and the impacts
18 such as increased noise and hazards to human
19 health and safety, such as air quality impacts or
20 groundwater impacts.

21 MS. CHURNEY: Has staff considered, or
22 would staff consider an additional condition
23 requiring that Duke set aside a mitigation fund
24 for compensation of those homeowners who sell
25 their residences during the construction or

1 demolition period and can demonstrate to the
2 satisfaction of the CPM that there has been a
3 diminution in property values?

4 MR. FAJANES: No, we have not.

5 MS. CHURNEY: No further questions.

6 PRESIDING MEMBER MOORE: Thank you.

7 Redirect?

8 MS. HOLMES: I have one question to
9 either witness.

10 REDIRECT EXAMINATION

11 BY MS. HOLMES:

12 Q Is it staff's position that the
13 Commission should adopt conditions of
14 certification when the evidence indicates that
15 impacts that that mitigation is designed to
16 address are not likely to occur?

17 MS. STENNICK: No. Staff does not
18 support a condition which the analysis indicates
19 that there is no impact.

20 MS. HOLMES: Thank you. That's my only
21 question.

22 PRESIDING MEMBER MOORE: Recross?

23 HEARING OFFICER FAY: Anything further?

24 MS. CHURNEY: No.

25 HEARING OFFICER FAY: Thank you. And

1 now we'll move to the City's witnesses. You're
2 both excused, thank you very much.

3 MR. ELIE: Call Mr. Schultz, again.

4 HEARING OFFICER FAY: Mr. Schultz is
5 previously sworn, and he remains under oath.

6 MR. ELIE: I always wanted to say that,
7 I remind you you're still under oath.

8 (Laughter.)

9 DIRECT EXAMINATION

10 BY MR. ELIE:

11 Q Mr. Schultz, exhibit 140, since we've
12 already gone through your qualifications several
13 times, is your testimony on the socioeconomics
14 issues. Is it true and accurate to the best of
15 your knowledge?

16 A Yes, it is.

17 Q Are the opinions contained therein your
18 own?

19 A Yes.

20 Q Why don't you summarize the key points
21 of the four paragraphs of the agreement to lease
22 that the City's requesting be incorporated in the
23 conditions of certification?

24 A Yes. During workshops and negotiations
25 with our experts, they determined that there could

1 be unforeseen impacts to the City's fiscal budget.
2 And as paragraph 7.1 says, the parties dispute
3 whether there may be unforeseen fiscal impacts to
4 the City.

5 And in a way to reach an agreement the
6 City and Duke entered into the agreement to lease.
7 And 7.1 through 7.4 deal with these unforeseen
8 impacts that could occur. We agree that they
9 could be very speculative and they may not occur,
10 but there is that, even if it's very small, chance
11 that various City departments could be impacted or
12 our TOT could be impacted.

13 And if that occurs, this was a way to
14 have a mechanism when you're not asking for a
15 mitigation fund. But that the City would have the
16 burden to present the evidence to a neutral third
17 party arbitrator who would make the decision if,
18 in fact, the City does have evidence that there's
19 been a financial impact to either any of the City
20 departments or the TOT.

21 Although it's not in our agreement we
22 would certainly also agree that the CPM could
23 serve as that neutral third party.

24 So it was a way of, instead of
25 presenting evidence at these hearings, the

1 different speculative reasons why TOT could
2 increase or decrease, or whether the City could be
3 impacted, this was a way of handling it through a
4 neutral third-party arbitration.

5 The only other point I would point out
6 is we do have many other clauses in the agreement
7 to lease that deal with revenue guarantee that we
8 found were commercial in nature, and should not be
9 included. The revenue guarantees dealing with the
10 franchise tax, dealing with the sales tax, which
11 we consider not impacts from the project, but more
12 of a commercial agreement with Duke.

13 But as to these four clauses we feel
14 that they are related, if there is an impact, then
15 it would be related to the project, and again, the
16 burden would be on the City to present that
17 evidence and have to carry the burden.

18 Q Anything further.

19 A Nothing further.

20 MR. ELIE: I would move the admission of
21 exhibit 140 into evidence.

22 HEARING OFFICER FAY: Any objection?

23 All right, so moved.

24 MR. ELIE: The witness is available.

25 HEARING OFFICER FAY: Mr. Ellison.

1 MR. ELLISON: No questions.

2 HEARING OFFICER FAY: Staff?

3 MS. HOLMES: No questions.

4 HEARING OFFICER FAY: And does the
5 Coastal Alliance have any questions?

6 MS. CHURNEY: One question.

7 CROSS-EXAMINATION

8 BY MS. CHURNEY:

9 Q Mr. Schultz, of the net approximately
10 \$10 million that's been identified by Duke as a
11 direct benefit to the City as a result of this
12 project, do you know whether any part of that is
13 considered by the City to be mitigation as opposed
14 to a net benefit to the City? Or in lieu of
15 mitigation?

16 A There are certain elements of the
17 agreement to lease that deal directly with
18 mitigation. For example, the property dedications
19 that are listed in the agreement to lease directly
20 relate to coastal access and mitigation.

21 So I believe that was part of this \$10
22 million, was the property dedications. And if
23 that's included, it's the City's position that is
24 mitigation.

25 Q And would there also be mitigation in

1 the amounts or the additional amounts given to the
2 City Fire Department and Police Department?

3 A Correct. That would be another element.

4 Q Thank you.

5 HEARING OFFICER FAY: Any redirect?

6 MR. ELIE: No.

7 MR. ELLISON: Just to clarify the record
8 I believe Mr. Schniepp's testimony did not include
9 the property dedication.

10 HEARING OFFICER FAY: Did not include
11 the?

12 MR. ELLISON: His \$10 million figure did
13 not include the property dedication.

14 HEARING OFFICER FAY: Is that correct,
15 Mr. Schultz?

16 (Parties speaking simultaneously.)

17 HEARING OFFICER FAY: Mr. Ellison,
18 clarify --

19 PRESIDING MEMBER MOORE: What Mr.
20 Ellison is saying is his testimony did not include
21 that figure. As to whether or not you agree to
22 that, that's a different question. But his
23 testimony did not include that number. That's
24 true by observation.

25 DR. SCHNIEPP: That's true.

1 PRESIDING MEMBER MOORE: We're simply
2 recognizing that fact.

3 (Laughter.)

4 PRESIDING MEMBER MOORE: Thank you.

5 HEARING OFFICER FAY: All right, that
6 concludes the parties' presentation of evidence on
7 socioeconomics. Does any member of the public
8 wish to make a comment on this topic?

9 Yes, please come forward and just like
10 yesterday, either at the witness stand or take the
11 mobile mike here. Please state your name.

12 (Pause.)

13 MS. DAVIS: My name is Mandy Davis. And
14 I'm hoping that you will allow me to speak on what
15 I'm speaking on today.

16 I had to choose a particular time during
17 these hearings to present this information. I
18 thought socioeconomics was probably the most
19 appropriate, even though it's a very broad-based
20 area of information that I'm about to present to
21 you.

22 The reason why I chose socioeconomics is
23 because the City's interests in this project are
24 clearly economically based. The applicant's
25 interest in furthering this project is clearly

1 economically based.

2 So, that's why I decided to present this
3 then. Because I would like for you to understand
4 that -- well, number one, what I'm about to
5 present to you is a historical review of what has
6 gone on in this community from a marketing and
7 advertising standpoint.

8 The reason why I've chosen to do this is
9 this does happen to be my area of expertise. I am
10 a marketing and advertising consultant. I have
11 done a lot of work in market analysis. And I'm
12 putting together marketing and advertising
13 programs. I've done a lot of technical writing
14 and review of technical projects, and trying to
15 make them a little bit more palatable for the
16 general population.

17 So, I've looked at this whole process as
18 an incredible marketing job. And one that has
19 really been disturbing to me, to say the least.

20 What the City and Duke has presented to
21 you is the fact that the City of Morro Bay, the
22 general population is really in support of this
23 project. Yeah. They even had an initiative that
24 they voted on. And that was during the last
25 elections.

1 And the City has told you that the
2 overwhelming majority of the population here is in
3 support of the modernization of the power plant.

4 Well, what I would like you to
5 understand, and the chances are is that you guys
6 already know some of the shenanigans that go on in
7 some of the cities that you guys are reviewing
8 power plants.

9 But I wanted you to be sure that you
10 knew what was going on. So I presented a
11 historical presentation for you of the kinds of
12 newspaper articles that were going into the news
13 that the public was subjected to.

14 The kinds of ads that Duke and their
15 marketing materials have put out to the public on
16 a very regular basis, and spent a lot of money on
17 in the local media. And the lack of unbiased
18 reporting that happened before people were allowed
19 to vote on this.

20 And I think that it has a lot of impact
21 on what you guys think. I understand that you try
22 to base your decisions on facts. But, also,
23 public acceptance of this project is something
24 that you look at. And I wanted you to be aware of
25 what was going on here.

1 So what I would like to do is present to
2 you some examples of -- before the initiative was
3 voted on a variety of things happened. The MOU,
4 or the memorandum of understanding, had been
5 drafted, and had been purported to be something
6 that was very good for the community; that it
7 would serve the community's interest; and that it
8 would protect us from a variety of things.

9 And, you know, and that was -- let me
10 read you something. This is something that came
11 out right before the elections. And I have a
12 whole variety of ads and marketing pieces that
13 Duke put into the local newspapers. They spent a
14 hell of a lot of money. And understandably, I
15 mean this is an important project for them, et
16 cetera.

17 But the majority of this information was
18 incredibly misleading. As a marketing expert I
19 take a look at this and go, my gosh, if I
20 attempted to do this with one of my clients I'd
21 probably get sued for false advertising, really
22 honestly. But, you know, you can take a look at
23 all this. I'll provide it for you.

24 But I would like to read this to you.
25 This is just one of them. It happened right

1 before. And it was written by Bill Hall. And at
2 the very bottom of it, it says: Let's continue to
3 work together for a better future. You know, we
4 have all these wonderful little slogans. That's
5 what marketing people do.

6 Some people want to frighten you with
7 unfounded accusations about the modernization plan
8 of the Morro Bay Power Plant. They'd like you to
9 think that Duke Energy is a big faceless
10 corporation without concern for our community.
11 Here's the truth.

12 The very top of this it says: You
13 deserve the truth. Okay, well, what are we
14 talking about what is the truth?

15 It says if you haven't met people from
16 Duke Energy you'll discover that we're folks like
17 you who want to do what's right, respect others,
18 and enjoy a healthy community. Hmmm.

19 Ask the citizens of Morro Bay to judge
20 Duke Energy by its actions in the community, as
21 opposed to the mis-truths spoken by some.

22 And then there's a question. Says: Is
23 Duke Energy committed to the memorandum of
24 understanding, MOU, with the City of Morro Bay for
25 a cleaner, more compact plant. And the answer is:

1 Duke Energy is abiding fully with the MOU.

2 Well, I would like to remind you what
3 some of the sections of the MOU say. And by this
4 time, sorry, guys, they knew what some of the
5 impacts were going to be.

6 That the MOU is to assure that any
7 facility, and I would like the City of Morro Bay
8 to listen to this, because I tell you what, guys,
9 if this is your memorandum of understanding that
10 you've drawn up with Duke, and that it, you know,
11 and all of these issues were to be addressed, you
12 guys aren't doing your jobs.

13 But it says that it assure that the
14 facility is physically smaller, and uses state-of-
15 the-art technology. That the Morro Bay Power
16 Plant will conform to all applicable laws,
17 ordinances, regulations and standards.

18 This was already out; this is the
19 wording that was out when he says Duke Energy is
20 abiding fully with the MOU.

21 It says any potentially significant
22 adverse environmental impacts will be fully
23 addressed. Any significant adverse environmental
24 impacts on marine sources, resources will be fully
25 addressed.

1 Does not pose any significant risk to
2 the citizens of Morro Bay. And that the project
3 is expected to result in an overall improvement in
4 air quality over existing conditions.

5 There are all kinds of things in here
6 that bottomline is, they are not in accordance
7 with, and the City and Duke ought to pay attention
8 to that one.

9 But what's real interesting is, you
10 know, I have all of this stuff and hopefully I'm
11 not being too disorganized, but these are the
12 kinds of things that came out in the newspaper.
13 And this is by, written by a local newsman. I
14 have a variety of different things. I could have
15 provided you literally with volumes of biased news
16 articles; volumes of these kinds of ads that went
17 out, full-page ads, quite expensive, that were
18 bought by the Sun Bulletin and the Tribune, or
19 that they -- that were provided by the Sun
20 Bulletin and Tribune. They spent a lot of money
21 on these ad campaigns.

22 Let me just tell you what -- it's one of
23 the very first ones, says protection of marine
24 resources. They say no more sea water will be
25 used than necessary. The calculations show

1 improved conditions for a healthy estuary. Ooh.

2 And they also go on to say there's a
3 no -- there is -- there is not a no-plan
4 alternative. Just ask the CEC. Then they go on
5 to say, this one is if together we can get this
6 project moving while market conditions favor it,
7 let's not lose this opportunity. This is all
8 stuff that's going out to the public. This is the
9 only stuff that the public saw before they voted
10 on those initiatives. They were not getting
11 anything but a bunch of, yeah, great, Duke had all
12 these chats.

13 I'll read to you some of the stuff that
14 Duke did before they voted on this. We are
15 committed to working with the community for a
16 better future. These are great tag lines. Great
17 slogans. But, I'm sorry.

18 Improved air quality and public health.
19 And then one of their quotes is, it's clear that
20 the people who really care about air quality will
21 favor the modernization plan.

22 And then they go on to say that the
23 emissions, you know, from this plant will be
24 similar in makeup to the emissions from household
25 gas furnaces, water heaters and cooking ranges.

1 The new plant will be cleaner, even under maximum
2 output, than the existing plant.

3 I'm sorry, you have a public that is
4 being barraged with all this misleading marketing.
5 It's incredible. How do you expect a public to
6 vote, have an informed vote, and they truly
7 thought they were informed. I mean they're
8 getting all this stuff, and they do not expect,
9 being a marketing analyst and putting together a
10 lot of marketing and advertising programs, myself,
11 is -- marketing and information is really based
12 on people are really quite naive.

13 And I know, you know, these guys know
14 anybody that's in marketing or advertising knows,
15 that people or anybody that basically works with
16 the media knows that people generally believe what
17 they see. They want to believe it. They don't
18 expect to be lied to. They don't expect to be
19 misled. I don't. But, unfortunately, I know that
20 it happens. And this is the kind of stuff that
21 went out.

22 We have another one here, and this is
23 dated right before the election. This was in the
24 Sun Bulletin. Power plant modernization, facts
25 are in. They're calling these facts, guys.

1 Improved air quality. Reduced sea water usage;
2 quieter plant; more compact facilities set back
3 from the waterfront. They're calling these facts.

4 HEARING OFFICER FAY: Ms. Davis --

5 MS. DAVIS: Wait a second, you know,
6 this is really --

7 HEARING OFFICER FAY: I just want to
8 interject something.

9 MS. DAVIS: Yes.

10 HEARING OFFICER FAY: First of all, the
11 Public Adviser can help you file any of that that
12 you like --

13 MS. DAVIS: Right.

14 HEARING OFFICER FAY: -- with the
15 administrative record. And I do want to make one
16 thing clear, --

17 MS. DAVIS: Right.

18 HEARING OFFICER FAY: -- and that is
19 that under the Warren Alquist Act what the Energy
20 Commission has to review is a project's
21 significant impacts or lack thereof in a number of
22 areas under the California Environmental Quality
23 Act.

24 And also whether or not the project
25 complies with the laws, ordinances, et cetera.

1 MS. DAVIS: Right.

2 HEARING OFFICER FAY: The popularity or
3 lack thereof in a community is not one of the
4 factors listed in the statute. And, in fact, the
5 Commission has sited projects under both
6 circumstances. Some of which were alleged to be
7 very unpopular, and others that were alleged to be
8 popular. And they've been sited or not sited in
9 each of those cases because the factors that the
10 Commission looks at are different than head-count.

11 So, it's not a --

12 MS. DAVIS: Yeah.

13 HEARING OFFICER FAY: -- referendum
14 on --

15 MS. DAVIS: Well, and I --

16 HEARING OFFICER FAY: -- the project.

17 MS. DAVIS: -- do understand that, but
18 also, you know, there has been some reference in
19 several of these, and actually in a couple of
20 these, that the CEC does have a tendency to look
21 at that. And I wanted to make sure that, you
22 know, since we are dealing with socioeconomics
23 right now, which is the way that the public is
24 responding to it, the facts that are getting to
25 them, they are looking at a possible, you know,

1 real economic landfall for the City Council, and
2 for this company.

3 And --

4 UNIDENTIFIED SPEAKER: So?

5 HEARING OFFICER FAY: Well, --

6 MS. DAVIS: Well, of course, you guys
7 are in business, but, hey, --

8 HEARING OFFICER FAY: -- it's not a --

9 MS. DAVIS: -- I understand.

10 HEARING OFFICER FAY: This isn't a give-
11 and-take.

12 MS. DAVIS: All right, if there is a
13 give-and-take, and I understand what's going on
14 here.

15 HEARING OFFICER FAY: I mean this is not
16 an opportunity for people to react to your
17 comments. It's just a chance --

18 MS. DAVIS: Okay.

19 HEARING OFFICER FAY: -- for you to make
20 your comment. If you could --

21 MS. DAVIS: And -- and I'm almost --

22 HEARING OFFICER FAY: -- kind of wrap it
23 up --

24 MS. DAVIS: -- done, guys, but what I
25 wanted to do is I think I have made my point.

1 But, you know, this is another illustration. This
2 is in a local newspaper. I hate that a small
3 group of people are given -- have taken it upon
4 themselves to fight against the project. They
5 claim to be a watchdog group, and yet have tried
6 every trick in the book to slip a noose around
7 Duke's neck.

8 This isn't a local newspaper written by
9 a local reporter. I have all kinds of examples of
10 that.

11 What I want you to understand is this,
12 very clearly, that when people voted on this they
13 were misinformed. It was incredibly one-sided.
14 And I don't blame the public. They had the MOU
15 that they thought was protecting them with very
16 specific wording.

17 I want you to know that if the facts
18 were made present to the majority of the
19 population that if they were probably to re-do
20 this, and we had ample opportunity, and now that a
21 lot of the facts are out, that this would be
22 completely different situation if it were voted on
23 right now.

24 And I wanted you to know some of the
25 shenanigans that went on around here. Okay?

1 HEARING OFFICER FAY: Thank you for your
2 comment. Any other comments from members of the
3 public? Yes? And this is regarding socioeconomic
4 impacts, because we're trying to focus on that
5 today?

6 MR. WOODSON: Yes.

7 HEARING OFFICER FAY: Please give your
8 name.

9 MR. WOODSON: My name is Bill Woodson;
10 I'm a resident of Morro Bay. I'm a retiree of the
11 Los Angeles Department of Water and Power. I was
12 an Engineering Manager there. I have a couple
13 engineering degrees; registered professional
14 engineer in the State of California; and I was an
15 Assistant Project Manager for a 1600 megawatt
16 coal-fired project in Delta, Utah.

17 In that capacity I was involved in
18 community relationships and setting up the
19 socioeconomic aspects of the plant with the
20 community and the county.

21 And one of the things that I haven't
22 heard here today, or in the past, is the
23 possibility of what we did is that first of all
24 where the plant and where the contractors would
25 require local labor.

1 That we required the contractors to hire
2 local where those skills were available. And then
3 where there would be permanent employees, we sat
4 up, we organized a program where we would train
5 personnel to run the plant, operate it after it
6 was commissioned.

7 So, my question, either to the CEC or to
8 Duke, or even the City, where I reviewed their
9 draft MOU, I haven't seen anything in there that
10 would favor, first of all, residents of Morro Bay
11 in consideration for a hiring for tasks during
12 construction, or even operation, if the staff was
13 increased, which I doubt it will be. But at least
14 during construction.

15 And second of all, I would think that
16 there would be something in the agreement that
17 would favor local contractors, whether it be Morro
18 Bay or the County, in consideration for contracts
19 for the construction of the plant.

20 HEARING OFFICER FAY: Ms. Holmes, can
21 you just briefly tell Mr. Woodson and the rest of
22 us, does SOCIO-1 conditions of certification
23 address that?

24 MS. HOLMES: I believe it does. I think
25 you have it in front of you. And I'm trying to

1 get there, myself.

2 HEARING OFFICER FAY: My impression is
3 it covers much of his concerns.

4 MS. HOLMES: Right. I believe that
5 SOCIO-1 covers not just materials, but employees,
6 as well.

7 HEARING OFFICER FAY: It says shall
8 recruit employees and procure materials within the
9 central California area. So, --

10 MR. WOODSON: No, not central
11 California, I'm talking about Morro Bay and San
12 Luis Obispo County.

13 HEARING OFFICER FAY: So you'd like to
14 see it more narrowly focused?

15 MR. WOODSON: Absolutely.

16 HEARING OFFICER FAY: Okay, thank you.
17 Any other members of the public like to comment?
18 Yes, sir.

19 MR. PINKHAM: My name is David Pinkham
20 and I am not a resident of Morro Bay, but I have
21 been coming to Morro Bay since the 1940s, which
22 perhaps makes me an elder in this room. And that
23 was before the current plant was built.

24 And since that time Morro Bay has turned
25 into a cesspool. Any project, this is

1 socioeconomics, the economics are Duke is going to
2 get a million dollars a day from a power plant in
3 Morro Bay. The socio is they're going to live in
4 a sewer. Everybody here is going to live in a
5 sewer. It reminds me of a dairy where everything
6 is designed so that you can get rid of the poop.
7 And you flush the poop out with the water that
8 they've already pooped in. That's what you're
9 doing to this bay, the only estuary on this part
10 of the coast.

11 I've just driven down from the Monterey
12 Peninsula through Big Sur. My business is
13 sustainable agriculture. Everything that I do is
14 something that is sustainable.

15 If you're going to have a sustainable
16 community you have to be economically sustainable,
17 you have to be socially sustainable, and you have
18 to be environmentally sustainable. You're not
19 meeting it here.

20 You're forgetting that this is a
21 community. All that I've heard of this whole
22 scenario of Duke modernizing the power plant is
23 money. Money for the City and money for Duke.
24 Nobody cares about society, or about the
25 environment.

1 And we're trying to destroy one of the
2 few remaining estuaries on the coast of California
3 so a company that isn't even based in California
4 can make money. We got plenty of power. You guys
5 know that. We have more power plants on stream
6 than we've had for decades.

7 We have already gone through our
8 deregulation and re-regulation. There are plenty
9 of ways to get power. We've conserved more power
10 than will ever be generated by these people, just
11 in the last year alone.

12 Why are you folks destroying your
13 community? Is it just for a little bit of money?
14 I think that it's extraordinarily short-sighted.
15 And I hope that you can rebuild this part of
16 California into the part of the coastline of the
17 Pacific Ocean that provides most of the genetic
18 diversity and the food source for all of that life
19 that is teeming in the ocean. And that we can
20 rebuild this estuary so that it's something that's
21 vibrant and alive.

22 And if you do that you're going to have
23 tourists flocking in here that will give you so
24 much more money than a filthy power plant on the
25 coast in a scenic and very important ecologically

1 central location.

2 I'm very passionate about it. I just
3 think that it would be a disaster socially and
4 economically if this thing ever went through.

5 HEARING OFFICER FAY: Thank you for your
6 comment. If your time allows you may want to stay
7 for our discussion of scheduling, because the
8 topic of biological resources will be discussed,
9 not in detail, but we will address when various
10 products, reports, analyses will be coming into
11 the record. So --

12 MR. PINKHAM: Discuss when you're going
13 to kill the species, is that what --

14 HEARING OFFICER FAY: Well, we haven't
15 scheduled that.

16 (Laughter.)

17 HEARING OFFICER FAY: Any other comments
18 from members of the public?

19 Okay, we're going to take a ten-minute
20 break and then we will come back and have an off-
21 the-record discussion about scheduling matters.
22 And then go back on the record and give a summary
23 of what the parties, various people have explained
24 to us.

25 (Brief recess.)

1 HEARING OFFICER FAY: While we were off
2 the record we had a discussion of scheduling
3 matters. And the Committee indicated that there
4 are really sort of three categories.

5 The first category is that of the briefs
6 that are due on the group two topics, some of
7 which we've heard this week and the rest we will
8 hear next week. The briefing schedule was set
9 forth in the December 24th hearing order. And we
10 are modifying that briefing schedule as follows:

11 The opening briefs for the group two
12 topics will be due on March 8th; and the response
13 briefs will be due on March 29th. And all parties
14 are directed to not only file, as they normally do
15 per Commission regs, but to also file
16 electronically to the proof of service. So all
17 parties will get the briefs as soon as possible.

18 I'll just mention a reminder that the
19 staff is expecting or anticipating to host a
20 workshop on March 20th and 21st. And they will be
21 issuing a notice on that depending on the
22 timeliness of the biological assessment that is
23 expected from the applicant.

24 Okay, that closes the first part of the
25 topics we dealt with. And that is an order from

1 the bench.

2 The next matter concerns the group two
3 topics. This is not an order. I'm merely
4 summarizing some of the points of our discussion.

5 That staff -- group three topics, I'm
6 sorry. Group three topics will involve, at least
7 tentatively and subject to the order that is the
8 hearing order expected in the next week or so, the
9 topics would probably be land use, visual and soil
10 and water.

11 And the hearing dates are likely to be
12 March 12, 13 and 14. And we understand it will
13 probably be in this room.

14 Staff wants to also include its response
15 regarding the carbonylhydrazine question, modeling,
16 that applicant raised. They will be filing any
17 such response March 1. They will also be filing,
18 just a reminder, they've committed to filing their
19 supplemental visual testimony on February 14th.

20 We note the City and CAPE's continuing
21 objection regarding the division of the case. And
22 CAPE also voiced concerns about soil and water
23 coming up separate from biology.

24 We reviewed the definition of the
25 traditional alternatives analysis done under CEQA,

1 as opposed to the cooling options analysis that
2 was initially requested by the Water Board, and
3 staff has responded to that request.

4 We also anticipate a future hearing
5 order that will call for -- I'm sorry, the next
6 hearing order to come out will address the group
7 three topic filing dates, and the staff has
8 already filed its FSA portions on those topics.
9 Everybody else will likely be called to file on
10 February 26th.

11 And that briefs on those topics will --
12 applicant's suggestion is they be due April 4th
13 opening briefs; April 18th reply briefs. Staff
14 and the other parties suggested April 12th for
15 opening briefs and April 26th for reply briefs.

16 And then the third part of our
17 discussion had to do with what we'll now call
18 group four topics, biological resources,
19 traditional alternatives analysis under CEQA, and
20 the various cooling options.

21 The parties filed motions regarding
22 these topics, and the fact that it looks like
23 there's going to be a delay in the filing of
24 analysis. And, in fact, staff is already beyond
25 the previous due dates for filing that analysis.

1 Applicant relied on its motion regarding
2 that. Staff recommended concurrent rebuttal
3 testimony on these topics to avoid surprise and
4 confusion. And so we discussed the
5 recommendations of the parties for the sequence,
6 or rather the amount of time between the staff FSA
7 portions, the filing of direct testimony by all
8 the other parties, and the simultaneous filing of
9 all parties for rebuttal testimony. And we heard
10 the concern of the parties on that.

11 We also heard from CAPE on a
12 modification for next week's witnesses on air
13 quality.

14 Is there anything further that anybody
15 would like to put on the record?

16 MS. HOLMES: Just to be very picky or
17 explicit, depending on how you characterize it,
18 with respect to the hazardous materials testimony
19 that staff will be filing and will ask to be heard
20 at the next set of hearings, it consists of two
21 topics.

22 One is staff's response to the hydrazine
23 release modeling that the applicant referred to in
24 their testimony, the files of which they provided
25 to us I think it was late last week.

1 The second topic has to do with staff's
2 response to information that was provided on the
3 stand by the applicant about problems associated
4 with the use of carbohydrazide as an alternative
5 to the hydrazine. The applicant is going to be
6 providing us additional information on that, and
7 we'll be filing a response to that on March 1st.

8 So, both of those topics, from staff's
9 perspective, are on the table and would be heard
10 at the next set of hearings.

11 HEARING OFFICER FAY: Okay, you're
12 voicing that distinction so that we understand
13 that you were not limiting yourself to the late
14 written filings, but you will also be commenting
15 on the statements made on the stand by the
16 applicant's witness?

17 MS. HOLMES: Right. And it's my
18 understanding that they're going to be filing us
19 the information that the staff witness indicated
20 would be necessary to evaluate it within the next
21 couple of weeks. So, we'll get that information
22 and be able to respond to that at the same time
23 that we're able to respond to the late-filed input
24 and output files for the hydrazine release
25 modeling.

1 HEARING OFFICER FAY: Okay. And will
2 the applicant be serving that information on all
3 the parties? Do you anticipate that?

4 MR. ELLISON: Sure, anything that we
5 provide will be docketed and served.

6 HEARING OFFICER FAY: And I think just
7 to be abundantly fair, we'll give the other
8 parties an opportunity to comment, as well. They
9 need not file on this question, but if they do we
10 have to receive it by March 1st.

11 Okay. Any other comments or questions?

12 MR. ELLISON: Mr. Fay, I apologize if I
13 missed this in your discussion, but in an
14 abundance of caution I believe off the record we
15 also discussed slipping by one day the parties'
16 testimony on the group three issues from February
17 25th to the 26th.

18 HEARING OFFICER FAY: Yes, we did. And
19 I apologize if I didn't mention that filing date.
20 But the group three topics were, for all the
21 parties, would be filed on February 26th.

22 MR. ELLISON: I'm sorry, group two.

23 HEARING OFFICER FAY: This is the --
24 we're talking about the testimony?

25 MR. ELLISON: That's right.

1 HEARING OFFICER FAY: Group three
2 testimony.

3 PRESIDING MEMBER MOORE: Right.

4 HEARING OFFICER FAY: Filed February
5 26th.

6 PRESIDING MEMBER MOORE: Right.

7 HEARING OFFICER FAY: Right, 14 days
8 before we begin --

9 PRESIDING MEMBER MOORE: And we agreed,
10 yes.

11 HEARING OFFICER FAY: Right. Okay.
12 Anything else, then, before we adjourn?

13 All right, thank you, all. We are
14 adjourned until next week.

15 (Whereupon, at 11:56 a.m., the hearing
16 was adjourned, to reconvene at 1:30
17 p.m., Tuesday, February 5, 2002, at this
18 same location.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of February, 2002.

JAMES RAMOS

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