

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 00-AFC-2
MOUNTAINVIEW POWER COMPANY'S)
MOUNTAINVIEW POWER PLANT)
-----)

SAN BERNARDINO COUNTY MUSEUM
FISK ROOM
2024 ORANGETREE LANE
REDLANDS, CALIFORNIA

THURSDAY, NOVEMBER 16, 2000
10:00 A.M.

Reported by:
Valorie Phillips
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Michal C. Moore, Presiding Member

STAFF PRESENT

Garret Shean, Hearing Officer

David Abelson, Senior Staff Counsel

James Reede, Project Manager

Joseph Loyer

REPRESENTING THE APPLICANT

Emilio E. Varanini, Attorney

John McKinsey, Attorney

Kim Hellwig

Livingston & Mattesich

1201 K Street, Suite 1100

Sacramento, CA 95814-3938

Gary R. Chandler, Director of Project Development

George Hall, Plant Manager

Mountainview Power Company, LLC

Subsidiary of Thermo ECotek Corporation

25770 San Bernardino Avenue

San Bernardino, CA 92408-3154

ALSO PRESENT

Maureen Snelgrove, Project Analyst

San Bernardino County Regional Parks

Michael Clayton, Consultant

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1 P R O C E E D I N G S

2 10:00 a.m.

3 PRESIDING MEMBER MOORE: Good morning.

4 For the record, I'm Michal Moore; I'm a
5 Commissioner at the California Energy Commission,
6 and I am the Presiding Member of the Committee
7 that is overseeing the Mountainview Power
8 Company's Mountainview Project.

9 Also for the record let me say that
10 Mountainview Power Company, LLC, filed an
11 application in May of this year to construct and
12 operate a new 1056 megawatt power plant at the
13 former SCE San Bernardino site.

14 I think we're approximately two-thirds
15 through the review process and the hearing was
16 preceded by a public informational hearing here in
17 San Bernardino, plus numerous public workshops
18 sponsored by the Commission Staff, or more
19 recently by the Committee, itself, to discuss
20 project concerns.

21 We have two purposes for today's
22 meeting. First, to assemble information about the
23 project and its potential impacts and the
24 conditions to mitigate those impacts, and to form
25 the record on which the Committee can recommend a

1 decision to the full Commission. Part of that
2 record will be any comments from the public.

3 And finally, following today's hearing
4 the Committee will prepare a proposed decision and
5 distribute the decision to the interested parties
6 and public with a 30-day review period.

7 Without making any promises we hope that
8 we'll be having the proposed decision near the end
9 of December.

10 In terms of introductions up here,
11 again, I'm Michal Moore. And Garret Shean, my
12 very able Hearing Officer is with me. I don't
13 believe we're represented by anyone from the
14 Public Adviser's Office.

15 And from the applicant, if you'd like to
16 introduce for the record the applicant's
17 representatives.

18 MR. CHANDLER: My name is Gary Chandler.
19 I'm the Project Manager for Thermo ECOTek and
20 Mountainview Power on this project. We have Gene
21 Varanini and John McKinsey, our legal counsel.
22 George Hall, our Plant Manager, who has, of
23 course, been very involved in all the development,
24 as well, Kim Hellwig who's with Livingston and
25 Mattesich, also.

1 PRESIDING MEMBER MOORE: Thank you. And
2 for the staff, Mr. Reede.

3 MR. REEDE: James Reede, Energy Facility
4 Siting Project Manager for the Mountainview Power
5 Plant Project. And David Abelson, Senior Staff
6 Counsel for the Commission.

7 We additionally have Mr. Joe Loyer, Air
8 Quality Engineer, for the Energy Facility Siting
9 Division. And we have Mr. Michael Clayton, Visual
10 Resources, consultant for the Energy Facility
11 Siting Division.

12 PRESIDING MEMBER MOORE: And I
13 understand that we also have someone from Parks
14 and --

15 MR. REEDE: Yes.

16 PRESIDING MEMBER MOORE: Do you want to,
17 again for the record, just introduce yourself to
18 the microphone here.

19 MS. SNELGROVE: Maureen Snelgrove, San
20 Bernardino County Regional Parks.

21 PRESIDING MEMBER MOORE: With that, and
22 before we proceed, I want to offer my thanks to
23 everyone involved. This, as a dear friend of mine
24 said recently, is the poster child of the hearing
25 process, and this is probably about as good as it

1 gets -- and that's pretty good -- for the way a
2 project can be run.

3 So there are so many people to thank I
4 point to Mr. Reede and say what a nice job he's
5 done to coordinate this, and all the staff.

6 Also, my official thanks to the City of
7 Redlands and the County of San Bernardino, and I
8 include specifically in that the Santa Ana River
9 Trails Office of the Parks and Rec Department, and
10 the Water District and the Southern California Air
11 Quality Management District for their cooperation
12 and help in making all this happen.

13 So, with that, I hope that gets passed
14 on to the appropriate parties.

15 I'm going to turn to my Hearing Officer
16 and we'll commence this hearing. Mr. Shean.

17 HEARING OFFICER SHEAN: Thank you,
18 Commissioner Moore. We have an agenda for this
19 morning's proceeding. I think what we want to do
20 is recap for the record the fact that on the
21 evening of November 6th at a continued Committee
22 workshop, I was present here in this building, as
23 well as Mr. McKinsey and Ms. Hellwig awaiting any
24 member of the public who wanted to attend the
25 expanded session at 6:00.

1 By 6:15 no one had appeared and we
2 adjourned that meeting. We just want this
3 reflected in the record.

4 At the conclusion of the meeting on the
5 6th, I think we concluded there were just a
6 handful of items that needed some further work.
7 And those are shown in item number three. And I
8 think we'll just go through these in order.

9 We have visual condition number 4, as
10 that affects the Santa Ana River Trail. I am
11 informed and I have seen through my email that
12 through the efforts of the staff, the applicant
13 and through San Bernardino County Parks and Rec,
14 we have an agreement among the parties on the
15 visual mitigation through planting visual
16 screening. And maybe we can just have a rendition
17 of that, how about from Mr. Reede?

18 MR. REEDE: Yes, thank you, Hearing
19 Officer Shean.

20 My name is James Reede, as I said, I'm
21 the Project Manager for the Mountainview Power
22 Plant Project from the California Energy
23 Commission.

24 Through discussions between Mr. Michael
25 Clayton of our staff, Ms. Maureen Snelgrove and

1 the applicant, we were able to come to a
2 resolution as far as mitigation for impacts on
3 visual resources.

4 Basically, and I'll just briefly read
5 it, the new proposed condition of certification is
6 that the project owner shall fund the cost for
7 landscaping along the Santa Ana River Trail
8 adjacent to the plant.

9 The costs are estimated to be \$56,073,
10 and the project owner shall fund up to 110 percent
11 of this estimated cost.

12 They also came to an agreement to
13 provide three acrefeet of potable water per year
14 for use in irrigating landscaping on the Santa Ana
15 River Trail adjacent to the plant at no cost to
16 the County of San Bernardino for ten years
17 following the first delivery, when so requested by
18 the County.

19 Basically, when Ms. Snelgrove's
20 department tells them to turn on the water, it
21 flows for the next ten years.

22 The County is anticipating that the
23 installation and planting of the materials along
24 the 1.5 mile stretch to be used in mitigation will
25 not likely occur until fiscal year 2003, 2004.

1 Her letter has been docketed and is part
2 of the record.

3 HEARING OFFICER SHEAN: Okay, two
4 questions. Is this in addition to the visual
5 screening that's to be placed on the applicant's
6 property, itself?

7 MR. REEDE: My understanding is that
8 along the northern boundary this replaces that.
9 Along the other boundaries that still is part of
10 the mitigation plan.

11 MR. MCKINSEY: It's our understanding
12 also that this replaces the specific tree
13 screening plan that was originally conceived of
14 along the northern boundary of the site. But we
15 still have an obligation to complete our
16 landscaping plan and have it approved by the City
17 of Redlands Planning Department.

18 HEARING OFFICER SHEAN: This fully
19 replaces the old visual-4 condition?

20 MR. MCKINSEY: Right.

21 HEARING OFFICER SHEAN: And --

22 MR. REEDE: This issue is no longer
23 considered contested.

24 HEARING OFFICER SHEAN: Okay. And do we
25 believe, from the letter, that this will address

1 some of the issues that might apply to views from
2 the golf course?

3 MR. REEDE: Yes, and I apologize for not
4 bringing that particular subject in.

5 Ms. Snelgrove was kind enough to
6 intervene on our behalf with Mr. Milford Harrison,
7 who is the Interim Executive Director of the San
8 Bernardino International Airport Authority, and he
9 agreed to allow Regional Parks to use this
10 mitigation as part of landscape plan for their
11 proposed five-acre nature area and staging area on
12 the north side of the Santa Ana River at the
13 abandoned railroad bridge.

14 And those discussions will be ongoing as
15 they're working in partnership to resolve the
16 issue.

17 HEARING OFFICER SHEAN: And I guess we
18 should just point out for the record that the
19 airport is the owner of the property on which the
20 golf course is, and the adjacent property up to
21 the flood control property on the Santa Ana River,
22 is that correct? Or essentially correct?

23 MR. REEDE: Yes.

24 MS. SNELGROVE: Essentially correct,
25 yes.

1 HEARING OFFICER SHEAN: Okay. All
2 right, next one.

3 MR. REEDE: If the applicant will
4 stipulate to the condition, we can move on to the
5 next subject.

6 HEARING OFFICER SHEAN: All right. And
7 I think they do.

8 MR. MCKINSEY: We do stipulate that
9 condition.

10 HEARING OFFICER SHEAN: All right. How
11 about the soils and water-13?

12 MR. REEDE: On soils and water-13, under
13 the advisement -- thank you very much, Ms.
14 Snelgrove --

15 HEARING OFFICER SHEAN: Let me just
16 state, too, Ms. Snelgrove, you got on a fast
17 moving merry-go-round in early November, and we
18 want to thank you because you had to play catch-
19 up, but I think you would agree that your efforts
20 on behalf of the River Trail are better off for
21 you having jumped on for these last couple of
22 weeks. And we're glad that they are.

23 MS. SNELGROVE: Thank you, and I would
24 like to thank -- and James for their assistance.

25 HEARING OFFICER SHEAN: Thank you very

1 much.

2 MR. CHANDLER: Could I just add to that,
3 we appreciate that, as well. I think we've
4 reached what we consider to be a reasonable and a
5 satisfactory solution for us, as well. So, thank
6 you.

7 MS. SNELGROVE: Thank you.

8 HEARING OFFICER SHEAN: Thanks, again.
9 All right.

10 MR. REEDE: Okay, soils and water-13,
11 staff has worked very closely with the applicant
12 to revise the language for soil and water 13.
13 Based upon the input by the San Bernardino Valley
14 Water District, and working very closely with the
15 applicant, they have resolved the issue.

16 Applicant has agreed to new language.
17 I'll just read it very quickly: Project owner
18 shall recalculate the well interference impacts
19 from the operation of the new Mountainview Power
20 Plant wells for active local middle aquifer wells
21 as identified in table 12.

22 The project owner shall monitor the
23 representative wells. Upon approval by the CPM in
24 the middle aquifer during the aquifer testing
25 required under soil and water condition number 12.

1 The project owner shall submit the
2 results of this impact assessment to the Energy
3 Commission. Verification is that the project
4 owner shall submit a report to the CPM 30 days
5 prior to the start of project operations that
6 describe the calculation of well interference,
7 including a listing of all the parameters used.

8 The calculation method and the location
9 distance of impact of wells relative to the
10 project wells, and the reports on the status of
11 the middle aquifer well usage.

12 Project impacts would be based on the
13 difference between the estimated annual project
14 pumping rates and the average annual water supply
15 rates for a 40-acre parcel of irrigated turf.

16 The report shall recommend any
17 additional investigation or action by the project
18 owner needed to completely assess potential
19 impacts to other middle aquifer wells.

20 Should a significant impact occur, the
21 project owner shall work with local middle aquifer
22 well owners to solve the problems to the
23 satisfaction of both parties, which would include
24 such actions as reduced project bumping, lowering
25 or modification of impacted pumps, and replacement

1 of impacted owners' equipment.

2 The project owner shall submit with the
3 annual compliance report the information on the
4 monitored middle aquifer wells, and an assessment
5 of the current condition of the middle aquifer.

6 HEARING OFFICER SHEAN: And all that was
7 stuck in the verification?

8 MR. REEDE: Yeah. I mean, yes, sir.

9 HEARING OFFICER SHEAN: Okay. Just so I
10 have -- how does this address, because my
11 recollection when the water district was here,
12 they basically recommended that the soils and
13 water condition 13 be deleted.

14 They had concerns about --

15 MR. REEDE: That they would be treated
16 differently than other customers.

17 HEARING OFFICER SHEAN: Correct.

18 MR. REEDE: That concern was removed
19 once the language was modified.

20 HEARING OFFICER SHEAN: Okay, and have
21 they been consulted on the --

22 MR. REEDE: Yes, Mr. Rob Reiter was a
23 participant in the marathon discussions yesterday.

24 HEARING OFFICER SHEAN: And the district
25 is buying off on this current version?

1 MR. REEDE: Yeah, that's Rob Reiter.
2 He's the Watermaster for San Bernardino Valley
3 Municipal Water District.

4 HEARING OFFICER SHEAN: Right. Okay.
5 So long as he's in the loop.

6 MR. REEDE: He's the water man. And he
7 agreed with it.

8 HEARING OFFICER SHEAN: Okay. And this
9 is satisfactory to the applicant?

10 MR. MCKINSEY: Yes.

11 MR. REEDE: To bring this to closure
12 this item, soil and water 13, is no longer
13 contested. And the applicant has so stipulated to
14 the new language.

15 MR. MCKINSEY: We did.

16 HEARING OFFICER SHEAN: Okay, let's move
17 to biology condition 9 then, which was the
18 Payson's Jewelflower Survey.

19 And I know we had discussed some
20 language on the 6th. It wasn't clear whether we
21 had fully resolved that matter.

22 MR. REEDE: The matter did get resolved
23 yesterday. The new language for BIO-9 states: A
24 qualified biologist shall survey for Payson's
25 Jewelflower at the Twin Creek streambed crossing

1 if construction is to occur from March to July.

2 If any flowering or fruiting Payson's
3 Jewelflower plants are found they will be marked
4 with stakes and avoided by all construction
5 equipment.

6 This is from a letter by staff's
7 biologist, Natasha Nelson. And she is requesting
8 that this be entered by declaration, or to amend
9 her testimony by declaration with this letter.

10 HEARING OFFICER SHEAN: Right. Is that
11 satisfactory to the applicant?

12 MR. MCKINSEY: Yes.

13 HEARING OFFICER SHEAN: All right, that
14 takes care of BIO-9.

15 MR. REEDE: While we're on -- oh, excuse
16 me.

17 (Cellular phone ringing.)

18 MR. REEDE: That's staff in Sacramento
19 calling me.

20 HEARING OFFICER SHEAN: Okay.

21 MR. REEDE: I apologize. I had to have
22 the phone on for that.

23 HEARING OFFICER SHEAN: We're about to
24 get --

25 MR. REEDE: Okay. On biology I have an

1 additional item to add in the testimony from the
2 California Department of Fish and Game. They are
3 requesting that they be copied on all reports or
4 plans.

5 They have no opposition to the project.
6 But they are requesting that in the conditions
7 that they be copied.

8 HEARING OFFICER SHEAN: All right.
9 After we were through with this portion what I was
10 going to do was suggest the following with respect
11 to the conditions.

12 Since we have a number of modifications
13 and I think the applicant has done a good job on
14 the form that was at the back table here, I think
15 what we need to do is to take all of these
16 together and get all the language assembled.

17 Perhaps if you initiate that and send it
18 to the staff, they review it. You make sure that
19 the CDF request would be accommodated in the
20 biology conditions, as you would understand them.

21 And then ultimately it comes to the
22 Committee. Otherwise I'm going to spend decision-
23 writing time doing that kind of housekeeping work.
24 And that probably, in your view, would
25 unnecessarily delay getting this done.

1 So, if it's agreeable to the applicant,
2 why don't we start that process that way. Get the
3 finalized language circulating from the applicant
4 to the staff discussed, essentially finalized
5 between the two of you. And then back to the
6 Committee in an electronic format.

7 MR. REEDE: In the spirit of cooperation
8 we've already begun that process. They had sent
9 me electronic drafts of all the conditions
10 yesterday which I forwarded on to you. Some had
11 not been completed. But they've assured me that
12 they are forthcoming within the next couple days.

13 HEARING OFFICER SHEAN: Okay. Whatever
14 seems to be reasonable in terms of time.

15 MR. MCKINSEY: Yeah, we -- that's
16 exactly what we were trying to do. And the
17 attachment to the table there lays out nearly all
18 the changes; in fact, it lays out every single
19 change to the staff assessment and its current
20 status.

21 And all that's left to do now is, other
22 than where we've resolved a few things, is simply
23 to take those changes and insert them into those
24 conditions, and we're going to be able to do that
25 shortly. And we'll have this final what we think

1 is what we're on, to the staff tomorrow.

2 HEARING OFFICER SHEAN: Okay, I don't
3 think there's a huge, huge rush, but in the
4 reasonable course of business will be just great.

5 Okay. Now we have air quality condition
6 C2 applying to construction equipment soot
7 filters.

8 MR. REEDE: And we have staff, Mr. Joe
9 Loyer here. He and the applicant have had
10 discussions related to this air quality condition.
11 And I'll let one of those two go ahead.

12 HEARING OFFICER SHEAN: Okay.

13 MR. MCKINSEY: We've agreed in part in
14 principle, and in part specifics, to some
15 improvements or changes to make the soot filter
16 condition workable and that allows it to
17 accomplish the goal that it's intended to, which
18 is to demonstrate the feasibility of this
19 technology in reducing construction emissions.

20 And to do that within what is feasible
21 and what is workable with the power plant
22 construction process.

23 And specifically in the condition as it
24 currently read in the first sentence, we inserted
25 off road as an attempt to make sure that the

1 condition wasn't trying to require soot filters on
2 state highway licensed vehicles and other delivery
3 type trucks so that it would read: The project
4 owner shall install oxidizing soot filters on all
5 suitable off-road construction equipment. And
6 then the remainder of the sentence.

7 And then in addition we agreed to insert
8 a sentence that allows it to clarify when we're
9 doing a suitability analysis some of the factors
10 that might not be intuitively obvious to an
11 engineer when they're doing a suitability analysis
12 on a piece of equipment. That would clear the way
13 for them to consider not just the technical
14 feasibility of the equipment, but the planned use
15 of the equipment.

16 And so what we inserted was that
17 equipment size and operating time on location --
18 excuse me, actually I've approved the language, so
19 let me read the way I -- "suitability is to be
20 determined by an independent California-licensed
21 mechanical engineer. The factors relevant to the
22 suitability analysis shall include, but not be
23 limited to equipment size and operating time on
24 location."

25 That allows the engineer to look at a

1 piece of equipment and say, well, this is a piece
2 of equipment that is not only technically
3 suitable, but its use in terms of its time of
4 operation and -- in other words, it will actually
5 warm up and run long enough to make either the
6 oxidizing catalyst or the soot filter do its
7 function.

8 And then finally, we agreed in
9 principle, but we haven't crafted the complete
10 language, to have us provide an initial
11 suitability analysis 60 days prior -- 15 days
12 prior, that says this is where we anticipate the
13 equipment that will be suitable.

14 And then we've added a report after
15 we've installed, which we called an installation
16 report. And so we need to lay out the
17 requirements for that installation report.

18 So the idea being that after we've
19 installed the equipment, now we report where we've
20 installed it and where we haven't. And the
21 combination of those essentially really make the
22 soot filter condition workable.

23 And then finally staff agreed that it
24 was acceptable to make this condition apply to
25 each major component of our project so that we

1 need to do this for the wastewater connector line
2 for the project site construction, and then for
3 the gas pipeline construction.

4 So those two changes, the insertion of
5 this new report and the other changes, we need to
6 finish; and can be included in the revised staff
7 assessment by the staff.

8 We will include, I think, the language
9 for those shortly. So we'll already have it on
10 the record as stipulated.

11 HEARING OFFICER SHEAN: All right.
12 Let's just make it clear for the record what the
13 legal framework for this requirement. Am I not
14 correct that this off-road construction equipment
15 is otherwise either unregulated, or to the extent
16 that it's regulated, it's regulated by others.
17 And the soot filter or -- requirement that we have
18 here, or the oxidizing catalyst requirement are
19 creations of the Energy Commission and the ARB to
20 further reduce emissions from this kind of
21 equipment, but for now this is only happening in
22 CEC licensing proceedings.

23 Is it happening anywhere else?

24 MR. LOYER: That's correct. It has
25 happened in other proceedings, what was it, Avalon

1 Beach, I believe it is, in San Luis Obispo. The
2 County required the oxidizing soot filters and the
3 oxidizing catalyst where the soot filters were not
4 applicable.

5 So, it is essentially only the Energy
6 Commission that is primarily moving through most
7 of the statewide construction jobs. But there
8 have been other locations where these catalysts
9 and soot filters have been used.

10 HEARING OFFICER SHEAN: Okay. Does the
11 ARB have a program to establish this statewide
12 that you're aware of?

13 MR. LOYER: We've had discussions with
14 ARB along these lines. They were initially
15 concerned because of the '96 nontampering regs to
16 their diesel engines.

17 We talked to them and we have since
18 found out that Engleheart, one of the
19 manufacturers of oxidizing catalysts, and the soot
20 filter, have gotten waivers to install their
21 devices on their '96 engines.

22 Additionally, ARB has been talking to
23 other manufacturers other than Engleheart, and one
24 can only suppose at this point that they will
25 eventually be standard equipment.

1 HEARING OFFICER SHEAN: And the legal
2 nexus for this is through CEQA, and the finding
3 that the NOx emissions --

4 MR. LOYER: PM10 emissions.

5 HEARING OFFICER SHEAN: -- would be
6 about 166 percent of standards, is that correct?

7 MR. LOYER: We're talking about PM10
8 emissions, not NOx.

9 HEARING OFFICER SHEAN: Not NOx?

10 MR. LOYER: Not NOx.

11 MR. REEDE: It's on PM10's.

12 HEARING OFFICER SHEAN: And this is for,
13 all right, PM10, 420 percent of standard, is
14 that the -- again, that's the legal nexus through
15 CEQA for the condition, is that right?

16 MR. LOYER: Correct.

17 HEARING OFFICER SHEAN: All right. And
18 this is understood and agreed to by the applicant?

19 MR. MCKINSEY: Yes.

20 MR. LOYER: We agree to the specific
21 language that we have already put on record here,
22 and to the agreement in principle that was also
23 described.

24 HEARING OFFICER SHEAN: Okay. Because
25 that was one of my questions is for example, in

1 terms of equipment sizes, this could reach all the
2 way down to pumps for pumping water, or generators
3 and things like that.

4 Or it could be on equipment that let's
5 say you have a breakdown and somebody has to come
6 up with a piece of equipment like right now, and
7 yet it isn't the one that's got the filter on it.
8 But it's only going to be there for a day or two
9 until the other piece of machinery is fixed.

10 Or you might have a special crane that
11 you would -- mobile crane that you'd bring on
12 board for a day or two, and then it goes away.

13 And if I understand, it's not intended
14 to reach either little bitty equipment, nor the
15 sort of quick-fix while another piece of equipment
16 is down, nor equipment that's there for short
17 term, correct?

18 MR. LOYER: Those are all correct
19 scenarios.

20 HEARING OFFICER SHEAN: Okay. Good
21 enough.

22 MR. REEDE: Okay, anything further?

23 HEARING OFFICER SHEAN: Thank you, Mr.
24 Loyer, appreciate it.

25 MR. REEDE: All right, on the next

1 issue, Hearing Officer Shean, is the staff's
2 cumulative impact analysis.

3 We initially requested in May of this
4 year from South Coast Air Quality Management
5 District a listing of the combustion sources in a
6 six-mile radius of the plant.

7 We received the list of approximately
8 700 -- well, of exactly 712 sources yesterday
9 morning. So staff was unable to produce a
10 cumulative impact study for the staff assessment.

11 And because they couldn't they had to
12 leave the door open, which is why we're asking
13 that the record remain open for air quality and
14 for further revised air quality, and for the PDOC
15 and FDOC.

16 Staff is going to be working very
17 diligently now they got the information. And they
18 realize that out of the 712, somewhere between 30
19 and 50 of them will actually be true sources that
20 are required to be entered into a cumulative
21 impacts analysis.

22 And we've established a timeframe
23 through internal staff discussions as to when we
24 can complete it. And right now it's estimated at
25 approximately December 7th, I believe.

1 MR. VARANINI: That's not a particularly
2 good day from the Navy's perspective.

3 MR. REEDE: Go Army.

4 (Laughter.)

5 MR. REEDE: We'll see about that come
6 Thanksgiving weekend.

7 But anyhow, --

8 HEARING OFFICER SHEAN: The Army is
9 outnumbered.

10 MR. MCKINSEY: We would like to add that
11 we've done an initial analysis of the data, and
12 we've begun our own cumulative impacts analysis
13 using this data.

14 We've identified two issues. First of
15 all, the data includes a significant amount of
16 sources that are not new. And a great example of
17 this is I'm looking at three entries for a power
18 plant located on Mountainview Avenue.

19 In fact, that power plant is the very
20 existing units 1 and 2 that are on site, and they
21 not appear once, but twice in the report.

22 In addition, another power plant that
23 the applicant owns in the City of Grand Terrace,
24 is also on here twice.

25 It appears that the report includes

1 every instance in the last two years where
2 something affected the air permit. An ownership
3 change, some type of technical change, and it
4 doesn't include a listing --

5 MR. REEDE: Which is why we have to
6 glean it, you know, out of 712 --

7 MR. McKINSEY: Yeah, and --

8 MR. REEDE: -- we know there's going to
9 be somewhere between 30 and 50, but to clean it is
10 an effort, itself.

11 MR. McKINSEY: So, in other words, the
12 data we got from the South Coast has given us the
13 means to begin that process, but where we see
14 really significant sources, such as our existing
15 plants, and we know they're not new sources, what
16 we're doing is we're trying to identify where
17 those are at, and remove them.

18 And what we would like to do is to
19 provide that information to the staff, as well,
20 because it involves a certain amount of
21 groundwork.

22 PRESIDING MEMBER MOORE: How soon can
23 you do that?

24 MR. McKINSEY: Well, we've already
25 eliminated our plants, --

1 (Laughter.)

2 MR. MCKINSEY: -- and there's one other
3 significant source which is a cement kiln, which I
4 also believe is not a new source. And we're
5 trying to get in contact with them and figure out
6 why they're on this list and verify that.

7 Those are the only really large sources
8 on the list.

9 And then the other idea we have is to
10 eliminate the real small sources. Modeling a one-
11 pound-per-day source and various little pinpoints
12 could greatly aggravate the model. And we would
13 like to be able to find a threshold where the
14 source ought to be included in the modeling, and
15 where it shouldn't.

16 But there are included also in this list
17 one-pound-per-day sources.

18 HEARING OFFICER SHEAN: Okay, I think we
19 ought to explain it for the benefit of the
20 Committee here.

21 The data that was requested and the
22 cumulative impact analysis that is contemplated
23 here is a new feature for the staff. And the
24 other proceeding you're proposing to do this in is
25 the Nueva proceeding, right? And that the data

1 that has been requested here goes down into source
2 sizes that are significantly smaller than what we
3 have done in past analyses?

4 Either Mr. Loyer or Mr. Reede or Mr.
5 Abelson, if you want to expand on what you're
6 doing and what you expect to get from this sort of
7 analysis?

8 MR. LOYER: Well, Joe Loyer. I can talk
9 about some of the other cumulative analyses --

10 HEARING OFFICER SHEAN: Sure.

11 MR. LOYER: -- if I may for a moment.
12 The San Joaquin Valley cumulative analyses where
13 we had a plethora of projects going in in a
14 very -- close together, we determined that it was
15 best to only include those particular sources,
16 those power plant sources that we were actually
17 siting in that case. Because they were the only
18 new sources in the area. And they were major
19 sources.

20 And in some cases, those particular
21 sources were actually greater than six miles
22 apart, which is our rule of thumb. Anything
23 beyond six miles we really are not all that
24 concerned about.

25 But in this particular case we have kind

1 of several things going on. First of all, the
2 applicant initially gave us a cumulative analysis
3 that stopped at 15 tons per year for looking at a
4 source as a potential to model in the cumulative
5 analysis.

6 And staff, myself, when I read over the
7 protocols I did not catch that they were going to
8 stop at 15 tons, or I would have told them at that
9 time that that's not acceptable.

10 Unfortunately, it went through and they
11 did not find any sources above 15 tons a year. So
12 they did not model any sources.

13 When that result happened we got the
14 analysis and we discovered our error in this. We
15 decided that we needed to help the applicant as
16 much as possible.

17 So, with the applicant's -- well, the
18 Sierra Corporation folks, we tried to get, kind of
19 climb on the back of the District and get them to
20 give us a list of combustion sources only within
21 the six-mile radius.

22 And this is what we got. Not only is
23 this not just combustion, it includes things like
24 the cement kiln, which we are not interested in,
25 because we are only interested in combustion

1 sources that we can model here.

2 We recognize that there is not going to
3 be any very large sources. We don't want very
4 small sources that are going to be in the six-mile
5 range away from the power plant, because those
6 will skew the cumulative analysis.

7 What we need, if we're going to look at
8 smaller sources, we need those smaller sources to
9 be closer to the plant than six miles.

10 So, as you can guess from what I've told
11 you just now, this is a very subjective process
12 that we're going through right now. We have to
13 rely on the expertise of the modelers at Sierra
14 and the modelers in the Commission to determine
15 what sources are appropriate.

16 And while I almost virtually have never
17 disagreed with James, I don't think it's going to
18 be 30 sources. I think we're talking probably
19 ten. If we're up at 30, then we got a much bigger
20 project on our hands.

21 HEARING OFFICER SHEAN: Okay, and the
22 goal of this analysis in your mind is what?

23 MR. LOYER: Compliance with CEQA.

24 MR. ABELSON: To rule out direct impacts
25 that are cumulative.

1 HEARING OFFICER SHEAN: I'm sorry?

2 PRESIDING MEMBER MOORE: To rule out
3 direct cumulative impacts?

4 MR. ABELSON: These are to rule out
5 direct impacts, direct cumulative impacts.

6 HEARING OFFICER SHEAN: From existing
7 sources, plant sources?

8 MR. LOYER: New sources.

9 MR. ABELSON: Foreseeable future
10 sources.

11 MR. LOYER: These are foreseeable new,
12 yeah, foreseeable new sources, yes.

13 HEARING OFFICER SHEAN: Okay, and the
14 data that we got from the District was -- are they
15 all existing sources?

16 MR. LOYER: Well, it's hard to say what
17 they are.

18 MR. MCKINSEY: It looks like it's all --

19 MR. REEDE: They included gas stations;
20 they included Burger King. They included Jim's
21 Burger. They included Taco Bell. That aren't
22 really appropriate for an analysis that we need.

23 And I might add, the applicant was very
24 specific in their Public Records Act request as to
25 what was required.

1 We've had to virtually battle --

2 HEARING OFFICER SHEAN: Well, can you
3 describe the nature of what you hoped to get? If
4 it wasn't Burger King, what is it?

5 MR. LOYER: We were hoping for IC
6 engines. We were hoping for small generators.
7 And --

8 HEARING OFFICER SHEAN: That would be
9 used by what kind of --

10 MR. LOYER: These could be backup
11 generators; these could be stand-alone generators,
12 used for any industrial process.

13 MR. REEDE: Emergency generators in
14 hospitals, --

15 PRESIDING MEMBER MOORE: So when you say
16 an IC engine, you mean something of some
17 magnitude, not automobiles? You're talking about
18 fixed source --

19 MR. LOYER: Yeah, we're talking
20 something -- yes, stationary source.

21 PRESIDING MEMBER MOORE: -- stationary
22 source IC engines. And you've obviously got a
23 threshold that you have in mind?

24 MR. LOYER: We're thinking roughly in
25 the 300 horsepower and on up.

1 PRESIDING MEMBER MOORE: And did you
2 specify that to the Air District?

3 MR. LOYER: No. All I wanted from them
4 was any kind of combustion source.

5 PRESIDING MEMBER MOORE: Is there enough
6 data in the data source to allow you to clean it
7 on that level?

8 MR. LOYER: To be honest I haven't got a
9 chance to see it, yet.

10 PRESIDING MEMBER MOORE: I'm directing
11 that to the applicant.

12 MR. MCKINSEY: It requires a certain
13 amount of groundwork --

14 PRESIDING MEMBER MOORE: No, that's not
15 the question I asked. I asked is there enough
16 data present, are there enough fields in the
17 database to allow you to clean the data?

18 MR. MCKINSEY: Yes. Primarily it has an
19 address of where it is so you can contact the
20 source.

21 PRESIDING MEMBER MOORE: You're telling
22 me that there's no other -- you've got two fields?
23 A description of the --

24 MR. MCKINSEY: No. It has a quick
25 description category, but it's not necessarily

1 consistent. Sometimes it gives you information
2 and other times it just says like the name of the
3 business again.

4 PRESIDING MEMBER MOORE: So the answer
5 to my question is that there is not enough data in
6 those fields to be able to clean it. That, in
7 fact, there's only an indicator that will allow
8 you to pick up the phone, call them, and get the
9 data that will allow you to clean it?

10 MR. McKINSEY: Correct. Now, --

11 HEARING OFFICER SHEAN: This will all be
12 existing units, right?

13 MR. McKINSEY: The other problem is that
14 a lot of the data it's reporting emissions, but
15 it's not necessarily new emissions. For instance,
16 it included our existing units 1 and 2 simply
17 because there was a transaction that occurred.

18 PRESIDING MEMBER MOORE: Okay, so to
19 take this to its end point, then, what you're
20 going to have to do is you're going to have to
21 make an attempt to clean that data.

22 Can you give me an estimate of how long
23 it will take to do that?

24 MR. McKINSEY: I think we may have the
25 data cleaned up to a level where it's going to be

1 a worst case analysis. We could clean it up
2 further, but I think we'll have that today.

3 PRESIDING MEMBER MOORE: By the end of
4 today. Mr. Loyer, will a worst case analysis of
5 data, since I'm assuming you have not been in a
6 discussion that allowed you to set the parametrics
7 for this, is that going to meet your needs?

8 MR. LOYER: I'd truly be surprised if we
9 had this all done by the end of today, but --

10 PRESIDING MEMBER MOORE: Well, whether
11 you get it done by the end of today or not, will
12 the description of the data in that form, whether
13 it comes to you today or next week, will that data
14 set allow you to do your calculations?

15 MR. LOYER: What we were primarily
16 planning on doing was working with Sierra to pare
17 this down so that we would work together. So
18 that, you know, we didn't waste a lot of time with
19 you giving us reports and us saying yea or nay.

20 Now, once, if we were to do it this way,
21 you give us a report and we then culled it down
22 from there, my thinking is that's going to take
23 more time --

24 PRESIDING MEMBER MOORE: You answered my
25 question. It sounds to me like, well, we've got

1 to defer to the Hearing Officer here, but it
2 sounds to me like what we've got is you have a
3 very hot potato that you're going to have to
4 solve.

5 And I don't know how much time it's
6 going to take you to do it. I don't know how big
7 your data set is. I don't know what the universe
8 of observations is in that.

9 But at that point you're going to have
10 to come back to our staff and get them to agree
11 that, a) your metrics are right, your procedure
12 was right, and the data set gets results.

13 And then at that point, if we leave this
14 item open, we'll have to take it back up again and
15 determine whether it meets. I don't know that we
16 can go any farther today. But clearly the
17 burden's on you to make that work.

18 MR. VARANINI: Commissioner Moore, I
19 think that what Mr. Loyer is really suggesting is
20 that this is, I think you have to take a step back
21 and kind of look at this in a more policy-driven
22 context.

23 For many many cases you have a complete,
24 really a difference between kind of the air rule
25 analysis and what goes on on the ground. And

1 there's been tension between the air rules and
2 CEQA in that matter.

3 And I think what we've had here is the
4 staff is trying to move forward and to develop a
5 tool that will give the public and you more
6 information, probably more realistic information,
7 about what's going on on the ground, and what can
8 be done about it.

9 And we agree with that. We think that
10 that's a good thing. What we'd like to do, and I
11 think what the staff has suggested is really work
12 together on this. This is not really an
13 adversarial process; it's a mutual process to
14 develop a tool, to test that tool -- or to test
15 it, and then to be able to present it to the
16 record.

17 I would think that because of that it
18 might be possible to leave the record open for
19 this work to be done, and then if there's a no-
20 impact result by the staff, to simply submit it to
21 the record.

22 PRESIDING MEMBER MOORE: I agree with
23 that. I'm happy to accept that. And I believe
24 we're all on the same page here. All I was trying
25 to illustrate is doesn't look to me as, if at the

1 close of this meeting today we would have that
2 kind of data.

3 But my end point is I think the same as
4 yours, leave it open, get that to come back in.
5 If it's satisfactory, then we'll use it in writing
6 up our report.

7 MR. LOYER: If I may also say, it is my
8 professional guess, not even an opinion really,
9 but a professional guess on my part that we will
10 probably find no impact here.

11 But this is necessary to do, in my view,
12 in order to --

13 PRESIDING MEMBER MOORE: Absolutely.
14 And this is not a step I would want to miss.

15 Really, in part what you were hearing,
16 was commiseration with having to clean up a data
17 set. And frankly, a little chagrin that South
18 Coast isn't a little more organized to produce --

19 MR. REEDE: Well, let me make you a
20 little bit more chagrined --

21 (Laughter.)

22 MR. REEDE: We had originally requested
23 the South Coast, and this is in keeping with the
24 item that we're addressing, we had originally come
25 to an agreement with South Coast Air Quality

1 Management District that they were to supply the
2 PDOC, preliminary determination of compliance, on
3 August 14th. And this will be very quick --

4 HEARING OFFICER SHEAN: Okay, Mr. Reede,
5 let me just -- if we're going to recite the --

6 MR. REEDE: No, I'm just going to very
7 briefly, to make sure that you're aware that --

8 PRESIDING MEMBER MOORE: Well, actually
9 I think if part of where you wanted to go was to
10 make me aware that there's been a delayed response
11 on the part of --

12 MR. REEDE: They were two and a half
13 months late.

14 PRESIDING MEMBER MOORE: -- the Air
15 District, I'm aware of that. I believe the
16 applicant's aware of that.

17 And I'm going to -- using that
18 information I'm going to have a conversation with
19 the Executive Officer of the Air District to see
20 if we might be able to smooth that out in --

21 MR. REEDE: Well, I think there's one
22 other item that goes with that. The work that
23 they were supposed to have performed in a timely
24 manner per our letter agreement, the applicant
25 then had to pay overtime to the Air Quality

1 District to get it even later.

2 So, --

3 HEARING OFFICER SHEAN: Okay, I think
4 for purposes of the record, we have enough
5 information --

6 MR. REEDE: -- I drop that -- I'll leave
7 that one alone --

8 HEARING OFFICER SHEAN: -- on that
9 subject.

10 MR. REEDE: Okay.

11 HEARING OFFICER SHEAN: All right.

12 MR. REEDE: We have one additional item
13 on air quality, and that deals with the visual
14 impact of the plume.

15 MR. VARANINI: Could we interrupt just
16 for a second. I think we also have forgotten for
17 a moment that Mr. McKinsey can tell you, we just
18 had a conversation this morning with the District,
19 and there's one other element that the Committee
20 might be able to think about, and perhaps assist
21 in moving the external analysis ahead.

22 John, why don't you --

23 MR. MCKINSEY: Yeah, we found out today
24 that the Air District erroneously did not publish
25 the notification in the paper for the PDOC until I

1 believe yesterday.

2 MR. VARANINI: Today.

3 MR. MCKINSEY: Today. So that was
4 another error on their part. And it means that
5 their 30-day comment period will commence running
6 the date that they published that notice in the
7 paper, which means that --

8 PRESIDING MEMBER MOORE: I'm aware of
9 what it means.

10 MR. MCKINSEY: Yes.

11 PRESIDING MEMBER MOORE: I guess I'll
12 look back to you to say how would I influence that
13 other than to make sure that it happens today?

14 MR. MCKINSEY: Well, there is a
15 strategic way that we could request that the
16 District clarify, at least we have requested some
17 minor changes to the PDOC that were mistakes on
18 their part in the PDOC.

19 And one thing that would help achieve
20 resolution, it would help the staff if the Air
21 District is able to indicate that they received
22 those comments and pending any other comments,
23 that they can insert those.

24 PRESIDING MEMBER MOORE: You want a
25 letter from them to us that says that --

1 MR. McKINSEY: Yes.

2 PRESIDING MEMBER MOORE: If you'll
3 remind me of that, then I'll put that in my call
4 to them.

5 HEARING OFFICER SHEAN: May I just ask,
6 are these changes to the PDOC as to the
7 conditions, or as to some of the textual material
8 to support the analysis?

9 MR. McKINSEY: They were the changes we
10 recited last week at the Committee workshop that
11 we requested in a letter which we docketed. And
12 they're changes to the conditions, but they're all
13 either where they made a map mistake, a typo, or
14 something that they've omitted.

15 HEARING OFFICER SHEAN: It may well be
16 that there's a problem without being a problem
17 because of the timeframes both for the preparation
18 of the proposed decision, as well as the comment
19 period on the proposed decision.

20 However, the 30-day comment period on
21 the PDOC begins and ends, as far as I'm concerned,
22 with respect to the process that we would employ
23 here.

24 All we have to have is a final
25 determination of compliance coming out of the

1 District sometime ahead of the full Commission
2 consideration of the Committee's proposed
3 decision. And that can easily be accomplished, it
4 seems to me.

5 MR. REEDE: But that is what my comment
6 is. We need from them a date that they're going
7 to issue the FDOC. That was the reason for my
8 previous comments. They keep putting us off,
9 putting us off. We need a date that they can
10 commit to, and that they will meet.

11 PRESIDING MEMBER MOORE: And that's the
12 reason I agreed to make the call.

13 MR. REEDE: Thank you.

14 PRESIDING MEMBER MOORE: Let's go back
15 to the plume.

16 MR. REEDE: Okay, as far as the
17 visibility impacts, originally the applicant had
18 provided us a different type of modeling to accept
19 the project's visibility impacts.

20 We then had it put into the SACTI plume
21 modeling. And they're re-running it right now.
22 It may not be a problem. We don't expect it to be
23 a problem. It wasn't a problem earlier.

24 But they want to verify what they ran
25 was correct. And so, because that's part of air

1 quality and we're asking that the record remain
2 open for a revised staff air quality assessment,
3 that is part of it.

4 PRESIDING MEMBER MOORE: Okay.

5 HEARING OFFICER SHEAN: Okay.

6 MR. REEDE: I have one last thing, as we
7 move into declarations, uncontested and others,
8 Hearing Officer Shean, and that's the letter from
9 the California Independent System Operator,
10 stating that they see no major impacts from -- or
11 they see no adverse impacts from the bringing on
12 line of this particular plant.

13 And they have issued their conclusions
14 and recommendations. They realize that the system
15 impact study has indicated that a number of
16 circuit breakers would have to be replaced.
17 However, there's no requirement to add any
18 additional lines, or to reinforce any transmission
19 lines.

20 And basically they have a recommended
21 condition of certification which very closely
22 parallels our transmission system engineering
23 condition of certification. And that is that the
24 project's interconnection to the California-ISO
25 grid shall comply with applicable California-ISO

1 and Southern California Edison interconnection
2 requirements.

3 And so if that's not a problem, I will
4 docket this and include it in the record.

5 HEARING OFFICER SHEAN: All right.

6 MR. REEDE: And that's all staff has as
7 far as the matter is concerned.

8 HEARING OFFICER SHEAN: Any -- Mr.
9 Loyer.

10 MR. LOYER: I just had one more thing.
11 We had discussed a letter from the Commission
12 somehow indicating to the District that we would
13 like them to, pending no other comments on the
14 PDOC, for them to proceed with it.

15 I just want to let the Committee be
16 aware that we are very likely to get comments from
17 EPA. We have gotten comments from EPA on very
18 recent projects, the Western Midway Sunset
19 Project, where they have taken issue with the BACT
20 analysis.

21 EPA is now claiming that BACT is no
22 longer 2.5; it is now 2.0 at 50 percent O2
23 averaged over one hour.

24 PRESIDING MEMBER MOORE: So you are
25 advising us that that letter is likely to be

1 forthcoming?

2 MR. LOYER: The letter's up to you to
3 write. And I'm just advising --

4 PRESIDING MEMBER MOORE: You mean the
5 letter --

6 MR. LOYER: -- you that it is likely
7 that EPA is going to comment, as well as the
8 applicant. And there are some --

9 PRESIDING MEMBER MOORE: I guess I'm
10 going ahead of it, and saying be ready for a
11 response from EPA? Be ready for a response from
12 EPA?

13 MR. LOYER: Yes. Be ready for a
14 response from EPA. And we are likely to also make
15 comments on the PDOC.

16 HEARING OFFICER SHEAN: Okay.

17 MR. REEDE: Commissioner Moore, the
18 District did inform me that the clock started for
19 EPA's 45-day review on November 2nd. So, EPA is
20 supposed to get their comments back sometime
21 around mid December.

22 PRESIDING MEMBER MOORE: Okay.

23 MR. REEDE: Those are the comments to
24 which Mr. Loyer was just referring.

25 HEARING OFFICER SHEAN: All right.

1 MR. REEDE: The staff has no other
2 issues, sir.

3 HEARING OFFICER SHEAN: Any other
4 housekeeping matters from the staff?

5 MR. REEDE: No.

6 HEARING OFFICER SHEAN: How about from
7 the applicant?

8 MR. MCKINSEY: In our table you will
9 note we have a couple other conditions that attach
10 to the table, includes the relevant information
11 that needs to be agreed upon.

12 Essentially, of the conditions from the
13 original set of staff conditions there were only,
14 as of this morning, three conditions where we
15 needed to resolve something. Regarding air
16 quality C2 we've essentially resolved those
17 issues.

18 The other two red colored ones are
19 Paleo-2 and Traffic and Transportation-7. And
20 those cases we think these are either corrections
21 to an error, or simply at the speed we've been
22 moving, we didn't quite insert something
23 correctly. And that they shouldn't be an issue.

24 And we would like the staff, and I think
25 it's going to take the paleo people, unless

1 Mr. Reede can evaluate the proposed changes today,
2 a chance to respond to those two.

3 MR. REEDE: I'm prepared to resolve Geo
4 and Paleo at this time.

5 MR. MCKINSEY: Okay. On Geo-2 we hadn't
6 agreed on the exact language to insert, so we've
7 proposed inserting specific language that reads:
8 Each of the major project components (the
9 wastewater connector line, project site, and the
10 natural gas pipeline) in place of what before just
11 said, the power plant site and related linear
12 facilities.

13 And then inserting "each of" at the
14 beginning of the next sentence in that condition.
15 That was essentially what the language we had
16 agreed upon in principle at the Committee
17 workshop.

18 MR. REEDE: Right. And staff accepts
19 those modifications. And I would consider Geo-2
20 no longer contested.

21 PRESIDING MEMBER MOORE: Okay. Paleo?

22 MR. MCKINSEY: And then Paleo-2 we
23 discovered two references to BLM land. One in the
24 protocol and one in the verification.

25 And we've requested that the first

1 sentence in Paleo-2 be deleted, which basically
2 says for all the project components on BLM land,
3 you need to comply with BLM procedures.

4 And then in the verification, the second
5 sentence be deleted, which says, report all those
6 BLM issues.

7 I think those are --

8 MR. REEDE: And staff accepts those
9 changes and apologizes for the error.

10 MR. MCKINSEY: And that only leaves
11 Traffic and Transportation-7. This was a
12 condition that we had stipulated to in September,
13 and at the Committee workshop last week we agreed
14 to add it to the staff's conditions.

15 However, when we added it, we didn't
16 note that the driving requirement for it is the
17 construction of the natural gas pipeline. It's a
18 condition that restricts the timeframe for
19 construction.

20 And the only area where we have a
21 traffic timing issue is in the natural gas
22 pipeline, and that's in accordance with the
23 staff's assessment.

24 And so we've proposed a change that
25 says, in the first sentence of Trans-7, to delete

1 project site and substitute potentially impacted
2 areas of gas pipeline construction.

3 And we feel that those potentially
4 impacted areas are very clear from the staff
5 assessment, and it lays out the very specific
6 areas along the 17-mile gas pipeline where there
7 are potential --

8 MR. REEDE: No objection to the change.

9 HEARING OFFICER SHEAN: Okay. And those
10 will be reflected then in the draft that you'll
11 do?

12 MR. McKINSEY: Yes.

13 HEARING OFFICER SHEAN: Okay.

14 MR. McKINSEY: And with that resolution,
15 there are no outstanding issues regarding the
16 conditions.

17 The only remaining language is the soot
18 filter and then the resolution of the staff's
19 revised assessment on air quality.

20 MR. REEDE: Correct, the staff's revised
21 assessment will be including all the conditions of
22 the PDOC from Air Quality District. And all of
23 our standard construction air quality conditions.

24 So in our revised assessment, because
25 the record's open we can discuss those when they

1 come back.

2 HEARING OFFICER SHEAN: All right.

3 MR. REEDE: But they all have been
4 identified to the applicant at this point. And
5 the applicant did stipulate to accept those
6 conditions.

7 In the event that one of the PDOC
8 conditions, because we haven't had the opportunity
9 to review it, is inadequate, so to speak, we may
10 put an additional condition in air quality to meet
11 the requirements of CEQA.

12 PRESIDING MEMBER MOORE: Understand.

13 MR. REEDE: We have nothing else.

14 HEARING OFFICER SHEAN: All right, with
15 that, let's move to item 4, which are the
16 declarations. Staff had submitted declarations
17 attached to the staff assessment, and those are
18 the ones you would be offering --

19 MR. REEDE: Yes.

20 HEARING OFFICER SHEAN: -- today to
21 support the --

22 MR. REEDE: Staff testimony.

23 HEARING OFFICER SHEAN: -- analysis, and
24 proposed mitigation and conditions in the staff
25 assessment, is that correct?

1 MR. REEDE: That is correct.

2 HEARING OFFICER SHEAN: Is there
3 objection to the admission of those declarations
4 by staff members?

5 MR. MCKINSEY: We have no objection.

6 HEARING OFFICER SHEAN: None by the
7 applicant or any other party present. And I think
8 I should note that there is no other party
9 present.

10 And the --

11 MR. REEDE: Excuse me, Hearing Officer
12 Shean. Sir, can I ask you to sign the sign-in
13 sheet?

14 HEARING OFFICER SHEAN: And then we have
15 from the applicant, how did you plan to --

16 MR. MCKINSEY: We'd like to submit for
17 the record the AFC that we originally submitted,
18 the supplements that we submitted, all the formal
19 data responses that we made and other letters that
20 we put in the docket record.

21 And as a declaration George Hall is the
22 person that we'd like to have make the declaration
23 that those are all accurate to his knowledge, and
24 we'll stand on that as the record basis for our
25 proceeding.

1 HEARING OFFICER SHEAN: All right.

2 MR. VARANINI: We call Mr. Hall.

3 HEARING OFFICER SHEAN: Oh, all right.

4 MR. VARANINI: Mr. Hall, would you state
5 your name and your responsibilities with the
6 company?

7 HEARING OFFICER SHEAN: First of all,
8 let's get --

9 PRESIDING MEMBER MOORE: Let's have him
10 sworn in.

11 Whereupon,

12 GEORGE HALL

13 was called as a witness herein, and after first
14 having been duly sworn, was examined and testified
15 as follows:

16 MR. HALL: My name is George Hall and
17 I'm the Plant Manager for Mountainview Power
18 Company.

19 DIRECT EXAMINATION

20 BY MR. VARANINI:

21 Q Now, Mr. Hall, what is your
22 responsibility in terms of the preparation of the
23 application for certification and all the related
24 materials that have been submitted to this record?

25 A I have been involved in the preparation,

1 review and comments on all the materials that have
2 been submitted.

3 Q And is this information either prepared
4 by you or under your direction true and accurate
5 to the best of your knowledge?

6 A Yes, sir, it is.

7 MR. VARANINI: The evidence of Mr. Hall
8 is available for any questions that anyone might
9 have.

10 HEARING OFFICER SHEAN: Is there
11 objection from the staff to admission of his
12 testimony?

13 MR. ABELSON: No objection.

14 HEARING OFFICER SHEAN: Any questions
15 from the staff?

16 MR. VARANINI: We meant the AFC and all
17 the related papers including supplements, data
18 responses, other analyses, stipulated matters into
19 the record.

20 HEARING OFFICER SHEAN: Okay. Any
21 objection?

22 MR. ABELSON: No objection.

23 HEARING OFFICER SHEAN: None? They're
24 admitted. Thank you, Mr. Hall, you're excused.

25 All right, that takes care of that. Now

1 we have two other matters of substance in the
2 record that we will be relying upon.

3 One would be the preliminary
4 determination of compliance by the Air District.
5 And the other, I think now would be the Cal-ISO
6 letter.

7 Is there objection by either party to
8 the admission of those two documents into the
9 evidentiary record, as if presented by a witness
10 from either agency who had the competency to
11 testify to the matters contained therein?

12 MR. MCKINSEY: No objection.

13 HEARING OFFICER SHEAN: From the staff?

14 MR. REEDE: No objection.

15 HEARING OFFICER SHEAN: Then we have our
16 hearing record. We will not close it. We will
17 leave it open for further revisions of the staff's
18 air quality assessment, and ultimately for the
19 final determination of compliance, or any matter
20 any party petitions the Committee to consider.

21 MR. ABELSON: Hearing Officer Shean,
22 just for clarification, air quality would include
23 the visual plume issue, as well, to the extent
24 there's any variation.

25 HEARING OFFICER SHEAN: Yes, and that's

1 why I used sort of a broad term of the staff's air
2 quality assessment.

3 MR. ABELSON: Okay.

4 HEARING OFFICER SHEAN: All right, with
5 that we're drawing to a close here, and we have
6 good reason to.

7 As far as the Committee is concerned
8 there are just a couple of outstanding matters.
9 One is the project description that we asked you
10 to prepare. And you can provide that. Do you
11 have an estimated idea of when that might be?
12 Could it be within the next two weeks?

13 MR. McKINSEY: Yes.

14 HEARING OFFICER SHEAN: Okay. And it
15 also seemed, I've been looking through the
16 materials with respect to the applicant's
17 mitigation, and I think it can be considered an
18 enhancement with respect to the use of the middle
19 aquifer.

20 And there is no presentation on that --
21 oops, there now is. Perfect. We'll scratch that
22 item. I thought it was worth putting in the
23 Committee's documents something that has some
24 visual impact to show the benefit from the water
25 extraction that you're taking from that particular

1 aquifer.

2 Both by not using otherwise potable
3 water, but it has some benefits with regard to
4 creating a barrier to the migration of other
5 polluted water.

6 So, thank you.

7 The last thing -- or not quite the last,
8 but we anticipated holding some sort of a
9 compliance verification workshop to go through not
10 only additional verification matters, but it might
11 be that at that point if there's additional
12 information, at that time, on either the staff
13 assessment or anything else, become more current
14 and just before the Committee comes out with its
15 proposed decision, we'll be able to incorporate
16 that in whatever it is we're doing.

17 So, we will provide notice to all the
18 parties with respect to that. It will probably be
19 sometime in mid December.

20 All right, with that is there any other
21 matter that either the staff wishes to address to
22 the Committee or the applicant?

23 MR. ABELSON: Hearing Officer Shean, I'd
24 just like to offer, as we close out, my own
25 personal compliments to the applicants in this

1 proceeding.

2 As staff has stated repeatedly their
3 satisfaction with the constructive approach that's
4 been taken throughout.

5 We'd also like to offer our compliments
6 to you, personally, for the innovative techniques
7 that you have offered in terms of streamlining
8 this procedure.

9 And while it may be literally, to say
10 this with certainty, it appears that this may be
11 one of the, if not the, most rapidly processed
12 major power plant siting application in the
13 Commission's experience. And all the staff feel
14 very good about this and wanted to share that on
15 the record.

16 HEARING OFFICER SHEAN: Thank you. All
17 right, do we have any comments from any member of
18 the public?

19 All right, with that we will adjourn
20 this meeting. Next see you at our workshop in
21 December. Thank you very much.

22 (Whereupon, at 11:06 a.m., the hearing
23 was adjourned.)

24 --o0o--

25

CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, 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 29th day of November, 2000.

VALORIE PHILLIPS

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