

STAFF PRESENT

Garret Shean, Hearing Officer

James Reede, Project Manager

APPLICANT

John McKinsey
Livingston & Mattesich

Gary Chandler
Director of Project Development
Mountainview Power Company

George Hall, Plant Manager

ALSO PRESENT

Robert T. Garrett
The Press-Enterprise

I N D E X

	Page
Proceedings	1
Opening Comments	1
Comments on Presiding Member's Proposed Decision	
Alternatives	3
Air Quality	10
Cultural Resources	14
Biological Resources	21
Geological Resources	27
Land Use	28
Noise	33
Visual Resources	36
Public Health	37
Socioeconomics	39
Traffic and Transportation	44
Waste Management	45
Water Resources	46
Compliance	52
Adjournment	59
Certificate of Reporter	60

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

2 HEARING OFFICER SHEAN: All right, we'll
3 go on the record this morning. We are conducting
4 a Committee Conference on the Mountainview
5 Presiding Member's Proposed Decision. The
6 essential purpose in our conference today is to
7 hear any comments that the parties, agencies, or
8 public have on the Proposed Decision. And as an
9 aid to presenting the Commission with the best
10 possible decision, we're also going to hear
11 suggestions for revisions, whether they be
12 essentially typographical errors, diction errors,
13 or enhancements of language that exists in the
14 Proposed Decision.

15 And I'll just indicate that with me here
16 today is James Reede, who's the Project Manager.
17 And I ought to let the Applicant introduce itself,
18 too.

19 MR. MCKINSEY: I'm John McKinsey, from
20 Livingston and Mattesich. I'm the project counsel
21 for Mountainview Power Company. Also here with me
22 is Gary Chandler and George Hall of Mountainview
23 Power Company.

24 HEARING OFFICER SHEAN: We have another
25 gentleman that came in. Would you mind just, at

1 least for the moment, coming to the mic, or if
2 you'd like to, you can sit down and join us.

3 MR. GARRETT: My name is Bob Garrett.
4 I'm a reporter for The Press-Enterprise newspaper.
5 It's a Riverside-San Bernardino.

6 HEARING OFFICER SHEAN: And it's a good
7 one. Enjoy reading it, and have followed it since
8 I have friends and former law school associates in
9 Redlands and San Bernardino.

10 Okay. With that, why don't we just --
11 we have no members of the public here to comment.
12 We don't appear to have any other agencies
13 present. If they do come in prior to the end of
14 the meeting, we'll give them an opportunity to
15 speak. But at this point, why don't we move into
16 any of the language changes in the Proposed
17 Decision. And in the absence of any other
18 suggestion, I guess we'll go sort of from front to
19 back, and --

20 MR. REEDE: In alphabetical order, then.

21 HEARING OFFICER SHEAN: Pardon me?

22 MR. REEDE: In alphabetical order on the
23 topics.

24 HEARING OFFICER SHEAN: Well, or in --
25 from page 1 to page 253, I guess.

1 MR. REEDE: Okay.

2 MR. MCKINSEY: Either method will work
3 for me.

4 HEARING OFFICER SHEAN: Okay. I need to
5 keep things very simple nowadays.

6 MR. REEDE: Okay. We won't talk about
7 pre-Alzheimers then. Okay.

8 Our first area that there was comments,
9 Hearing Officer Shean, is in the Alternatives
10 section, page 12 on the Mountainview PMPD, on the
11 final bullet, a change was suggested by Staff
12 Senior Counsel to delete the following language.
13 Alternatives Locations considered. Delete --

14 HEARING OFFICER SHEAN: Why don't we
15 just ask the Applicant. Have you seen the --
16 Abelson's proposed change?

17 MR. MCKINSEY: Yeah. But --

18 HEARING OFFICER SHEAN: Okay.

19 MR. REEDE: Okay. Under Alternatives,
20 Locations Considered, delete the following
21 language. Okay. Page 12, the last bullet, where
22 it says none. Modification of an existing power
23 plant is exempt from the requirement for
24 consideration of an alternative site. Insert the
25 following instead. No alternative sites were

1 identified that would mitigate adverse impacts
2 while achieving the purposes of the project.

3 MR. MCKINSEY: That change is
4 acceptable.

5 HEARING OFFICER SHEAN: Okay.

6 MR. MCKINSEY: And it's actually more
7 accurate.

8 MR. REEDE: And -- and it conforms with
9 the requirements of the Warren-Alquist Act.

10 HEARING OFFICER SHEAN: That's fine.

11 MR. REEDE: Okay. The next comments
12 received from Staff regarding Cultural Resources.

13 HEARING OFFICER SHEAN: Okay. Let me
14 just indicate, I have some Air Quality stuff.

15 MR. REEDE: Oh, okay.

16 HEARING OFFICER SHEAN: And you had --
17 if I could have that I'll go ahead and read it
18 into the record.

19 MR. REEDE: Okay.

20 HEARING OFFICER SHEAN: This was from
21 Joe Loyer --

22 MR. REEDE: Joe Loyer, and I thought I
23 had printed them all.

24 MR. MCKINSEY: Actually, if I could
25 interject. What you just did was actually within

1 the Project Description?

2 HEARING OFFICER SHEAN: Correct.

3 MR. MCKINSEY: And we had a couple of
4 other Project Description ones.

5 HEARING OFFICER SHEAN: Okay. Why don't
6 we go back to that.

7 MR. MCKINSEY: So maybe we might knock
8 those out.

9 On page 12 also, the second to last
10 bullet, Site Setting. It describes the site as 64
11 acres, and that's actually 54 acres.

12 HEARING OFFICER SHEAN: Okay.

13 MR. MCKINSEY: And on page 15, there's
14 two issues. The first one is the cooling tower
15 bullet. The first opening sentence refers to a
16 replacement, and -- and that was something that in
17 the waning hours we -- we'd resolved. We were
18 able to eliminate the connection of the cooling
19 towers to the existing project, and we were able
20 to remove all the Air Quality cooling tower
21 conditions.

22 And so the -- the actual changes to the
23 cooling towers, the existing Units 1 and 2 cooling
24 towers, whether or not they occur, really won't be
25 part of this project. And so what we propose is

1 just deleting that sentence. There will be a
2 replacement of the existing cooling towers
3 servicing Units 1 and 2.

4 And then the next sentence, which
5 actually describes what they would be replaced by.

6 HEARING OFFICER SHEAN: Delete that, as
7 well.

8 MR. MCKINSEY: Yeah.

9 MR. CHANDLER: There were a number of
10 references to the existing unit cooling towers
11 throughout the -- throughout the Staff Assessment
12 and we discussed those. Those were all
13 eliminated, and this was the only one that just
14 didn't get picked up.

15 MR. REEDE: Okay. So the cooling
16 towers, the existing cooling towers will not be
17 replaced. The new cooling towers will be added.

18 MR. MCKINSEY: Right. And, well, the
19 existing cooling towers might or might not be the
20 -- I guess the point is that -- that they're going
21 to continue to be part of the older Units 1 and 2,
22 and -- and that if we -- once we eliminated the
23 requirement, and as we went through modifying,
24 essentially there was a lot of air conditions to
25 remove any connection between the existing cooling

1 tower units and their performance capability, and
2 our new project. That eliminated our need to
3 include any changes to Units 1 and 2 cooling
4 towers as part of this project.

5 HEARING OFFICER SHEAN: Okay.

6 MR. MCKINSEY: And one of the best
7 reasons to do that is it allows Units 1 and 2,
8 which are currently outside the Energy Commission,
9 you know, they're not an Energy Commission
10 regulated power plant, to continue to be that way,
11 so that they are separate from Units 3 and 4.
12 Otherwise, those cooling towers would've somehow
13 become part of the new project, and that was what
14 we were trying to eliminate. And this is the only
15 spot left where they're still referred to, because
16 originally that had been part of the project and
17 that was what we had worked out, was to eliminate
18 that.

19 HEARING OFFICER SHEAN: Okay.

20 MR. MCKINSEY: And then the second
21 sentence in there refers to the new cooling tower
22 units, and we believe that -- that ten cells is
23 actually going to end up being the ideal
24 efficiency way to design them. It won't change --
25 it's not going to change the visual signature at

1 all. We're still limited in that way. But what
2 we wanted to have said here was that these towers
3 would be up to ten cells. Eight may be the final
4 design, or it might be ten, but to actually put in
5 the project description a specific number of cells
6 might actually create a constraint that we don't
7 need, because it doesn't drive any impacts.

8 We have the, obviously, the site plan
9 and the site design that limits the ---

10 HEARING OFFICER SHEAN: So it's correct
11 to say will consist of two towers, each with up to
12 ten cells.

13 MR. MCKINSEY: Right. Yeah, it's
14 basically a matter of how -- how much they
15 partition down in terms of efficiency in removing
16 heat.

17 HEARING OFFICER SHEAN: Understood.

18 MR. MCKINSEY: Then the next bullet,
19 storage tanks. One of the last items in there
20 refers to an STE reactor clarifier. That was
21 included in the original AFC before we knew a lot
22 of the information about the characteristics of
23 the wastewater that we're going to use, and we
24 don't need that. And so that had been eliminated
25 completely from the project requirements. It

1 turned out that the -- the reclaimed water that
2 we're going to receive was -- was more than
3 adequate, and that would be a necessary component.

4 HEARING OFFICER SHEAN: Okay.

5 MR. MCKINSEY: So it's probably not a
6 major issue. But once again, we just didn't want
7 to have it saying that we're going to put a piece
8 of equipment that we didn't need.

9 HEARING OFFICER SHEAN: No big deal. So
10 we're -- we're going to strike one STE reactor
11 clarifier if wastewater is used for cooling tower
12 makeup.

13 MR. MCKINSEY: Right.

14 HEARING OFFICER SHEAN: What happens to
15 that side stream reactor clarifier?

16 MR. MCKINSEY: That's still correct.

17 HEARING OFFICER SHEAN: Okay.

18 MR. MCKINSEY: That was basically going
19 to be used if we needed to for the -- the water.

20 HEARING OFFICER SHEAN: Okay.

21 MR. MCKINSEY: Now, on the next page,
22 16, there's one more reference to 64 acres. Right
23 after surrounding setting.

24 HEARING OFFICER SHEAN: Yes.

25 MR. MCKINSEY: And that should be 54

1 acres. And that's it.

2 HEARING OFFICER SHEAN: Okay. Air
3 Quality. Okay.

4 We had comments from Joe Loyer. Did you
5 see that, with regard to --

6 MR. REEDE: No, you -- you got the
7 comments. And they didn't go beyond you.

8 HEARING OFFICER SHEAN: All right.
9 Well, let me try to find them here. Basically, it
10 was a revision to the -- there they are. The AQC-
11 2 and 3. You may need to take a look at those.

12 MR. REEDE: Okay. In Air Quality -- Air
13 Quality C-2, item 2 under construction mitigation
14 framework.

15 MR. MCKINSEY: Under what?

16 MR. REEDE: AQC-2. Under construction
17 mitigation framework.

18 MR. MCKINSEY: That's what I'm looking
19 for.

20 HEARING OFFICER SHEAN: They don't have
21 that in the original.

22 MR. REEDE: Yeah.

23 MR. CHANDLER: I don't think we have
24 that.

25 MR. REEDE: Hold on, I'll tell you the

1 page in just a second.

2 MR. MCKINSEY: Oh, it's not the
3 condition, it's the analysis.

4 HEARING OFFICER SHEAN: I think it would
5 be on page 33 -- page 34.

6 MR. REEDE: Actually, it's page -- oh,
7 yeah, I --

8 (Inaudible asides.)

9 HEARING OFFICER SHEAN: Is that an extra
10 copy of it? Okay.

11 MR. MCKINSEY: Oh, I see. It's adding a
12 new --

13 HEARING OFFICER SHEAN: It's changing it
14 --

15 MR. MCKINSEY: -- bullet 2.

16 HEARING OFFICER SHEAN: -- yeah.

17 MR. MCKINSEY: Okay.

18 HEARING OFFICER SHEAN: And I think
19 since you haven't seen it, why don't you take it,
20 mull it over, and just call me later with your
21 reaction to it.

22 Okay. Well, we'll just hold that until
23 later.

24 MR. REEDE: Okay. That'll be my
25 assignment.

1 Okay. Let's move on to Cultural.

2 HEARING OFFICER SHEAN: Do you have
3 anything in Air?

4 MR. MCKINSEY: I have one on Air, yeah.
5 There's a reference to the oxidation catalyst on
6 page 26 that I think slipped through. The
7 condition had been changed to remove the
8 requirement for an oxidation catalyst, and -- in
9 the condition, and then also in the analysis on
10 page 26 -- I'm trying to find where it is now.
11 There's a reference to it on this page.

12 HEARING OFFICER SHEAN: Could be the
13 fourth bullet in approximately the top --

14 MR. MCKINSEY: Yeah, there it is.
15 Employing oxidation -- oxidizing soot filters.

16 HEARING OFFICER SHEAN: That goes away?

17 MR. MCKINSEY: No, that's the part that
18 -- then it should be period.

19 HEARING OFFICER SHEAN: I beg your
20 pardon?

21 MR. MCKINSEY: It should -- the bullet
22 should just read employ oxidizing soot filters
23 where suitable.

24 HEARING OFFICER SHEAN: Oh, and not --

25 MR. MCKINSEY: Remove oxidation

1 catalyst.

2 HEARING OFFICER SHEAN: Okay.

3 MR. MCKINSEY: And that's how the
4 condition now applies, and then that's just
5 another where it slipped through.

6 HEARING OFFICER SHEAN: Okay.

7 MR. MCKINSEY: That's it.

8 MR. REEDE: Hearing Officer Shean, for
9 the record, we've been joined by two members of
10 the public.

11 MEMBER OF THE PUBLIC: Just auditing. I
12 haven't attended one of these in maybe a month or
13 two, I just want to find out how I have to -- keep
14 going.

15 HEARING OFFICER SHEAN: Okay. Welcome.

16 Let me just indicate what we're doing.
17 We have a Proposed Decision on the Mountainview
18 proceeding. And we have -- are basically going
19 through it now and making minor editing changes.

20 MEMBER OF THE PUBLIC: To the original
21 document.

22 HEARING OFFICER SHEAN: To the original
23 document, to prepare it for presentation to the
24 full Commission on March 21st, for its
25 consideration and possible adoption. Okay.

1 MR. REEDE: Okay. The next item will be
2 Cultural Resources. Starting on page 66, under
3 mitigation, third sentence. Okay, it's actually
4 the -- the third line of that paragraph. The
5 sentence, to paraphrase, monitor excavation and
6 provide for the recovery, comma, handling and
7 curation. So add the word recovery just prior to
8 handling.

9 MR. MCKINSEY: We have no objection to
10 that.

11 MR. REEDE: Okay. Page 67, the fifth
12 paragraph from the top, second sentence. The
13 sentence should read -- if everybody's there --
14 will not -- okay, I'll read the whole sentence.
15 The two other pipeline segments, the waterline
16 under San Bernardino Avenue and Nevada Street and
17 a wastewater line attached to a golf course bridge
18 will not impact any known cultural resources. Add
19 the word known, k-n-o-w-n.

20 MR. MCKINSEY: That's fine.

21 MR. REEDE: Okay. Page 67, under
22 mitigation. The first sentence, add, to mitigate
23 impacts to known resources monitoring should occur
24 along the proposed utility route, water
25 alignments, and plant site.

1 MR. MCKINSEY: Let me check -- I don't
2 think that's changing anything.

3 HEARING OFFICER SHEAN: It does not.
4 But I'm not sure I want to -- given what we are
5 saying in that mitigation portion, this -- this
6 also has a reference to a page in the Staff
7 Assessment. I don't have any problem with the
8 statement itself, it's just where -- where it will
9 go.

10 MR. REEDE: Okay. Because they're --
11 they're talking about the monitoring should occur
12 along the proposed utility routes, wastewater
13 alignment, and plant site.

14 MR. MCKINSEY: Understood.

15 MR. REEDE: Okay. Page 67, again in the
16 paragraph on mitigation. The existing first
17 sentence should be changed to read, to mitigate
18 identified and potential impacts to historic
19 resources.

20 MR. MCKINSEY: Can you repeat that one?
21 I'm sorry.

22 MR. REEDE: To mitigate identified and
23 potential impacts.

24 MR. MCKINSEY: Any potential impacts.

25 MR. REEDE: Any potential impacts.

1 MR. MCKINSEY: That's --

2 MR. REEDE: To -- to mitigate identified
3 and potential impacts, so you're deleting the word
4 "any" and putting "and" there.

5 MR. MCKINSEY: That, I think that might
6 be a typo.

7 MR. REEDE: Yeah.

8 MR. MCKINSEY: It would make sense were
9 it to say to mitigate and identify any potential
10 impact.

11 MR. REEDE: Okay.

12 MR. MCKINSEY: In other words, the
13 correction may have a typo in it.

14 HEARING OFFICER SHEAN: Well, I think I
15 understand. The purpose of the correction is to
16 expressly state identified and any potential.

17 MR. REEDE: Okay.

18 HEARING OFFICER SHEAN: Potentially
19 unidentified.

20 MR. REEDE: Okay. Also, in that same --

21 MR. MCKINSEY: The -- the change for the
22 addition of the new sentence at the beginning of
23 that paragraph requiring monitoring, that's fine.
24 Because Cultural-9 already requires that.

25 MR. REEDE: Right.

1 MR. MCKINSEY: So we don't have any
2 objection to that, either.

3 MR. REEDE: Okay. In mitigation, the
4 existing second sentence.

5 MR. CHANDLER: Are we still on page 67?

6 MR. REEDE: Yes. Where it says resource
7 specialist, MVPC will designate a Cultural
8 Resource specialist who will prepare a Cultural
9 Resource Recovery Plan -- oh, who will prepare a
10 Cultural Resource Monitoring and Mitigation Plan,
11 rather than just a Cultural Resource Recovery
12 Plan. Instead of recovery, monitoring and
13 mitigation.

14 MR. MCKINSEY: So it would read a
15 Cultural Resource Monitoring and Mitigation --

16 MR. REEDE: Plan, comma --

17 MR. MCKINSEY: -- Plan, delete the
18 recovery?

19 MR. REEDE: Yeah, delete the word
20 recovery and insert Monitoring and Mitigation.

21 MR. MCKINSEY: And once again, I want to
22 verify that's -- we're not creating any missing
23 reference in the condition.

24 MR. REEDE: No.

25 MR. MCKINSEY: Currently we're required

1 to create certain specific things. Cultural-3
2 requires us to create a Cultural Resources
3 Monitoring and Mitigation Plan. Yeah, so that
4 matches Cultural Resources-3.

5 HEARING OFFICER SHEAN: Okay. No, this
6 is the AFC. You need to be in the Presiding
7 Member's Proposed Decision.

8 (Inaudible asides.)

9 HEARING OFFICER SHEAN: Do you want to
10 follow this along?

11 MEMBER OF THE PUBLIC: I was going to --
12 that's all right. It's not necessary. I was just
13 looking at it. Continue.

14 HEARING OFFICER SHEAN: Okay. Why don't
15 you go ahead, James. I'll give these gentlemen a
16 copy of this. I've gone through this, there don't
17 appear to me to be any substantive changes.

18 MR. REEDE: Okay. Page 67, mitigation,
19 third line. It should read, monitor excavation
20 and provide for the recovery, handling and
21 curation. Where it says handling and curation,
22 add recovery just prior to that.

23 MR. MCKINSEY: That's fine.

24 MR. REEDE: Okay. Next one is page 68,
25 under the Finding. In the second sentence, it

1 should read laws related to Cultural Resources,
2 rather than Water Resources.

3 MR. MCKINSEY: That's fine.

4 MR. REEDE: And further on in that
5 sentence, it should also read Cultural Resources,
6 rather than Water.

7 MR. MCKINSEY: That's fine.

8 MR. REEDE: Seeing that we're talking
9 about Cultural Resources.

10 Okay. Page 68, under Condition Cultural
11 Number 1. The fifth sentence, fifth line,
12 immediately after it says qualifications of its
13 designated Cultural Resource specialist, because
14 the acronym had not been spelled out prior to that
15 time.

16 MR. MCKINSEY: That's fine.

17 MR. REEDE: Okay. In -- under also
18 Cultural-1, where it shows the numbers 4, 5, and
19 6, just above all the bulleting in the middle of
20 the page, that should read 1, 2, 3. And I think
21 that's probably from the transition from Microsoft
22 to Apple that threw those numbers off.

23 MR. MCKINSEY: Yeah.

24 MR. REEDE: So that should read Number
25 1, Number 2, and Number 3, and that's on page 68.

1 MR. MCKINSEY: That's fine.

2 MR. REEDE: Okay. Page 69, under
3 Cultural Condition 2. Under the heading -- the
4 heading should read, project maps showing project
5 and linear footprints, rather than ground
6 disturbance. So instead of the word ground
7 disturbance, it should read project and linear
8 footprints.

9 MR. MCKINSEY: That's fine.

10 MR. REEDE: Okay. Next is page 70. The
11 third bullet from the top, the last line there's
12 two words hanging out there, monitoring shall.
13 And that should just be deleted.

14 MR. MCKINSEY: That's fine.

15 HEARING OFFICER SHEAN: Okay. I'm --
16 James, I'm going to ask you to skip to these non-
17 typo stuff. If I -- if I had the luxury of time
18 --

19 MR. REEDE: Okay.

20 HEARING OFFICER SHEAN: -- which I do
21 not, I could sit here going over deleting words
22 and capitalizing A's and B's. But we don't have
23 that luxury of time.

24 MR. REEDE: Okay.

25 HEARING OFFICER SHEAN: The only other

1 thing that seems to be semi-substantive would be
2 on page 74. We go down to Cultural Resources
3 Number 14, basically in the middle of that
4 paragraph, after the words appropriate -- regional
5 archeological information centers, we want to
6 suggest putting a period there and deleting and a
7 person employed by the City of Redlands, County of
8 San Bernardino, who is authorized to receive
9 confidential cultural resource information.

10 MR. MCKINSEY: Basically, they want to
11 not distribute the report to the City of Redlands,
12 but just to the State Historic Preservation
13 Officer, and then the Regional Information Center.

14 HEARING OFFICER SHEAN: Right.

15 MR. MCKINSEY: We don't have a problem
16 with that.

17 HEARING OFFICER SHEAN: Okay. Do you
18 have anything Cultural --

19 MR. REEDE: No.

20 HEARING OFFICER SHEAN: From the
21 Applicant?

22 MR. MCKINSEY: No, we have no comments
23 on Cultural.

24 HEARING OFFICER SHEAN: Let me -- we
25 need to back up a little bit to Bio.

1 MR. REEDE: Okay.

2 HEARING OFFICER SHEAN: There's a
3 comment from Jeff Kaufman. You have to go to page
4 55. And I have that. Near the bottom of the
5 page, just above the paragraph marked Mitigation.

6 Here's the comment. This may be a minor
7 point, but the second to the last sentence states
8 that MVPC will need to include a U.S. Fish and
9 Wildlife Service consultation or apply for an
10 incidental take permit as this project is ending
11 up with a federal nexus. Section 7 of the PSA
12 will apply here, so the incidental take permit
13 will be included in that document. I don't see
14 this as an either/or situation.

15 MR. MCKINSEY: That's actually correct
16 at this time, because we went down that route of
17 -- his statement isn't necessarily correct. It's
18 not because it has a federal nexus, but we elected
19 to do a formal consultation in order to remove any
20 ambiguity in the future over the kangaroo rat and
21 any potential impacts we might have to it. And
22 now, because we're in that formal consultation,
23 that will absolve us of the need for an incidental
24 take permit. Essentially, it provides you with a
25 -- a pre-resolved scope of impacts and -- and an

1 agreed upon mitigation for any of those.

2 HEARING OFFICER SHEAN: Okay. So what
3 -- so that sentence, should we make some
4 modification to improve it?

5 MR. MCKINSEY: No, I don't -- I don't
6 think that it's an issue, because it -- the
7 comment is semi-correct, but nevertheless, we're
8 -- it does accurately describe whether you might
9 go down one path or the other. There wasn't any
10 automatic federal nexus, other than the -- the
11 U.S. Fish and Wildlife Service's opportunity to
12 comment to the EPA about the PST portion of the
13 South Coast Air permit. So that's the only
14 connection that our plant has. And that's not a
15 federal nexus in the term that it's often
16 conceived of requiring a Cultural Resources issues
17 to get elevated, or anything like that.

18 HEARING OFFICER SHEAN: Okay. That's
19 fair.

20 Page 58, paragraph 2. And by that I
21 assume he's talking about the -- at the Twin Creek
22 crossing. It states here, regarding the Twin
23 Creek -- Twin Creek condition. The sensitive
24 species surveys are not mentioned, although they
25 are required under BIO-9. Payson's Jewel Flower,

1 and BIO-10, the Southwestern Pond Turtle. I don't
2 know whether he's suggesting -- there is no
3 suggestion that there be an added bullet.

4 MR. MCKINSEY: The Payson's Jewel Flower
5 only -- I mean, he's correct, the condition for
6 the Payson's Jewel Flower refers to the Twin Creek
7 channel.

8 MR. REEDE: I think if we added a
9 reference to BIO Condition 9 and BIO Condition 10,
10 that would let whoever reads this know that there
11 are conditions that address that.

12 MR. MCKINSEY: Yeah. And in fact, the
13 last bullet has to do with the Southwestern Pond
14 Turtle, and that is BIO-10. His point is more
15 that we're not mentioning, I think, the -- the
16 reference to Payson's Jewel Flower. So, I mean, a
17 bullet could be inserted that says --

18 MR. REEDE: See BIO-9 and BIO-10.

19 HEARING OFFICER SHEAN: Well, we're
20 surveying for the Payson's Jewel Flower and --

21 MR. MCKINSEY: Marking of any. We have
22 to survey for the Payson's Jewel Flower and mark
23 with stakes any that we identify them at Twin
24 Creek channel. So the bullet, one bullet that
25 would kind of fit with the last one, which talks

1 about the pond turtle, would be surveying and
2 marking of any Payson's Jewel Flowers, and in
3 parentheses that could say BIO-9. And then
4 following the last bullet, there could be a
5 parentheses, see BIO-10.

6 MR. REEDE: Because both are addressed.

7 MR. MCKINSEY: Right.

8 HEARING OFFICER SHEAN: Okay.

9 MR. MCKINSEY: So the bullet should just
10 say something, I mean, that brings the reader, to
11 their attention that there's also the Payson's
12 Jewel Flower has a condition that would apply to
13 the Twin -- Twin, that's hard to say -- the Twin
14 Creek crossing.

15 HEARING OFFICER SHEAN: Okay.

16 MR. REEDE: The next one is on page 61,
17 under the protocol for the Biological Resources
18 mitigation implementation and monitoring plan.
19 Bulleted item which would be the sixth bullet,
20 where it says all mitigation measures identified
21 in the California Department of Fish and Game
22 Streambed Alteration Agreement. There is no
23 agreement required for this project. California
24 Department of Fish and Game sent a letter dated
25 November 14th, 2000, that because you're

1 directionally drilling you're not going to alter
2 the streambed. And so there is no streambed
3 agreement.

4 And so he's basically saying delete
5 that.

6 MR. MCKINSEY: The -- this got in there
7 because this is a generic --

8 MR. REEDE: Right.

9 MR. MCKINSEY: -- all-inclusive set of
10 potential conditions for a BRMIMP. And --

11 HEARING OFFICER SHEAN: Yeah.

12 MR. MCKINSEY: -- it, I mean, it could
13 be in there. It's fine. But we --

14 HEARING OFFICER SHEAN: Okay.

15 MR. MCKINSEY: -- we could also delete
16 it. We don't have a problem with deleting it.

17 HEARING OFFICER SHEAN: I -- I would
18 rather leave it as a generic -- not to change our
19 generic or standardized conditions, just because
20 it doesn't apply. Okay. That's it for BIO.

21 We've done Alternatives, BIO, Cultural.

22 MR. MCKINSEY: You know, I wasn't going
23 to bring this up on BIO, but I guess I will
24 mention it. On page 53, there's a reference to
25 the Southwestern Pond Frog.

1 MR. REEDE: It's turtle.

2 MR. MCKINSEY: And it's turtle.

3 HEARING OFFICER SHEAN: Okay. Oh, here
4 he is. Okay.

5 MR. MCKINSEY: Well, actually, on Twin
6 Creek it says unidentified frog, and I think
7 that's where it got in there. So whoever was
8 typing on the next line wrote Southwestern Pond
9 Frog.

10 HEARING OFFICER SHEAN: Okay.

11 MR. REEDE: Okay. We do have some
12 comments on Noise and Facility Design.

13 HEARING OFFICER SHEAN: Let's see. My
14 next in order there is something on GEO.

15 MR. REEDE: Okay.

16 HEARING OFFICER SHEAN: And that was I
17 think our good friend, Mr. -- well, from Steve
18 Baker, this is what I have from him.

19 MR. REEDE: I forwarded them to -- do
20 you want me to go ahead and --

21 HEARING OFFICER SHEAN: No, let me do
22 it. We'll just do it. Okay, we're going to page
23 86, actually, because it's not particularly
24 helpful.

25 Page 86 is the LORS table. And here's

1 his comment. The Geology LORS table only vaguely
2 refers to the actual LORS, and is this what you
3 are after. Under the state column, delete 1195,
4 and under the description for the UBC, delete the
5 phrase, quote, storage and open excavation, close
6 quote, and the phrase design and. The description
7 should be, quote, Specifies acceptable seismic
8 hazard analysis criteria, comma, grading
9 requirements, comma, excavation requirements,
10 comma, and requirements for the preparation of
11 both the engineering geologic report and the final
12 engineering geologic report.

13 And he wants that same sentence repeated
14 under the California Building Code.

15 MR. MCKINSEY: That's fine.

16 HEARING OFFICER SHEAN: All right.

17 Okay. Next would be Noise.

18 MR. REEDE: In Noise --

19 MR. MCKINSEY: We've got a -- a couple
20 of Land Use ones.

21 HEARING OFFICER SHEAN: All right.

22 MR. MCKINSEY: Page 96. The second to
23 last paragraph. The second sentence in there
24 refers to construction of a waste -- of a water
25 delivery pipeline. That -- that's another thing

1 that slipped through from the original description
2 of the project.

3 HEARING OFFICER SHEAN: Okay.

4 MR. MCKINSEY: And that sentence,
5 bringing secondary effluent which ends all the way
6 at the end of all within the public road right-of-
7 way, can all be deleted. Makes it a pretty small
8 paragraph, but we don't have to construct a
9 pipeline. And --

10 MR. REEDE: Because the pipe -- I mean,
11 the --

12 MR. MCKINSEY: There's an existing --

13 MR. REEDE: -- the plant is going to be
14 bringing it to the curb, basically.

15 MR. MCKINSEY: Yeah, there's an existing
16 pipeline in the street.

17 HEARING OFFICER SHEAN: Okay.

18 MR. MCKINSEY: And when we had
19 originally designed the AFC, we just said we need
20 a pipeline, so we assumed it would be constructed,
21 and that was something we'd resolve. And I think
22 in Land Use it just slipped through in the
23 description.

24 HEARING OFFICER SHEAN: Okay.

25 MR. MCKINSEY: It's not one of our

1 pipelines.

2 HEARING OFFICER SHEAN: While we're on
3 the subject of pipelines, in one of these
4 comments, and -- I mean, I have it in mind, but I
5 don't have it right in front of me. The comment
6 was something to the effect that there's going to
7 be another crossing, I guess, at Twin Creek, that
8 would be horizontally drilled. That wasn't my
9 understanding.

10 MR. MCKINSEY: No.

11 HEARING OFFICER SHEAN: So there's only
12 one horizontal drill, and that's --

13 MR. MCKINSEY: Santa Ana.

14 HEARING OFFICER SHEAN: -- Santa Ana.

15 MR. REEDE: Under the Santa Ana River.

16 MR. MCKINSEY: Right.

17 HEARING OFFICER SHEAN: Right. Okay.

18 MR. MCKINSEY: Ninety-eight. There's a
19 reference to residences east of the -- of where
20 we're connecting, and there are no residences east
21 of that. I'm trying to find the reference. I
22 didn't have it marked, for some reason. That's
23 probably not a significant issue. It just --
24 there it is. Yeah, on the last sentence of the
25 second full paragraph, under pipeline. Area

1 containing residences in the east.

2 MR. REEDE: Where are you?

3 MR. MCKINSEY: The -- under page 98,
4 paragraph with the bullet pipeline.

5 MR. REEDE: Right.

6 MR. MCKINSEY: The second to last line
7 in that paragraph, it says the wastewater supply
8 line would be extended for approximately 1100 feet
9 from an area containing residences. And that's
10 not correct. It's from a golf course. So it
11 would be from an -- from an area containing a golf
12 course, would be the easiest way to correct it.

13 I don't know how that got in there, but
14 -- that's -- the wastewater line is running from a
15 golf course, and that's the same thing you were
16 just referring to over the -- the Twin Creek
17 channel. We're hanging it from the golf bridge --

18 HEARING OFFICER SHEAN: Hanging it from
19 the golf bridge, right.

20 MR. MCKINSEY: -- so it starts at a golf
21 course and ends on a wastewater treatment line.
22 And there's no residences anywhere near there.

23 HEARING OFFICER SHEAN: Okay.

24 MR. MCKINSEY: That -- and then finally,
25 LAND-2, page 100. We had -- we had fixed the --

1 the condition language here allowing us to be able
2 to progressively work our way through each of the
3 cities. And we hadn't really looked closely at
4 the verification language. The verification would
5 have us provide a letter from every single city
6 and county prior to starting, and most of these
7 cities have told us, you know, you're going to get
8 one thing from us, that's the permit.

9 And so what we wanted to do was to
10 change the verification to allow us to move
11 progressively through. Get the permit from the
12 city prior to starting construction in their city.
13 Because essentially, it's -- it's essentially
14 seven different mini-construction permits and --
15 and work. And one way to accomplish that, I
16 think, would be to say under verification, at
17 least 60 days prior to start of construction of
18 the pipeline, insert, in each city and in the
19 county. So in each city, and in the county,
20 then continue, comma, blah, blah, blah. Project
21 Owner shall submit to the CPM a letter from, and
22 then following from, insert, the respective. And
23 then it would read city, and then delete -- and
24 delete the each there, I'm sorry. Delete the each
25 between from and city. So it would read, from the

1 respective city. And then delete the and the, and
2 put or. So it would read from the respective city
3 or county.

4 I think that will achieve exactly what
5 we need. It's just that allows us to -- and the
6 whole intent was not to do work without getting
7 the appropriate permit from each city.

8 HEARING OFFICER SHEAN: Got you.

9 MR. REEDE: But that -- that raises just
10 a very quick question. You'll be submitting to
11 the CPM a permit, not necessarily a letter.

12 MR. McKINSEY: Right.

13 MR. REEDE: So why not change the word
14 letter to read permit?

15 MR. McKINSEY: Yeah, that's fine. Yeah,
16 that would be -- that's what we actually have --

17 MR. REEDE: You know, because actually,
18 my project manager just wants to see the permit.
19 Doesn't need a cover letter.

20 MR. McKINSEY: Right.

21 MR. REEDE: Is that all on Land Use?

22 MR. McKINSEY: Yeah.

23 MR. REEDE: Okay. Then we go to Noise.

24 Page 104.

25 HEARING OFFICER SHEAN: These are just

1 little minor wording changes. Heat steam recovery
2 to heat recovery steam, things like that.

3 MR. REEDE: The Noise complaint form is
4 missing, though.

5 MR. MCKINSEY: Yeah. We're not going to
6 put a --

7 MR. REEDE: Okay. Facility Design --

8 MR. MCKINSEY: We've got a couple on
9 Noise.

10 MR. REEDE: Okay. You've got a couple
11 on Noise.

12 MR. MCKINSEY: On page 102, under the
13 second mitigation block, after -- basically after
14 it finishes the high pressure, and the next block
15 is construction.

16 MR. REEDE: Uh-huh.

17 MR. MCKINSEY: The -- it says, basically
18 has a reference to construction of -- of
19 pipelines, to the water pipeline, and it should be
20 only the gas pipeline. Once again, that -- that
21 water pipeline is in a golf course area, and so
22 it's not near the street, so the -- the only need
23 for mitigation regarding pipeline construction is
24 for the gas pipeline.

25 MR. REEDE: Okay.

1 MR. MCKINSEY: So there is no need to
2 reference the water pipeline.

3 MR. REEDE: So drop the words and water.

4 MR. MCKINSEY: Yeah.

5 MR. REEDE: Okay.

6 MR. MCKINSEY: And that's consistent
7 with the condition that's produced. I think, once
8 again, that was just a carry-over.

9 And then on page 105, we have a
10 reference to originally -- well, the --
11 essentially the limit for noise level under
12 operation that the condition is obligating us to
13 meet is 52 decibels. And originally, in the
14 original AFC, we had talked of 48. And that 48 is
15 still in the second to the last full paragraph, or
16 third, at the very end, it says 48. That should
17 be 52, and that is what is in the Condition 5.
18 That's the requirement.

19 So, I mean, it's in the condition, but
20 it makes sense to have it match there.

21 HEARING OFFICER SHEAN: Okay.

22 MR. MCKINSEY: Yeah, actually in the
23 next paragraph that same one is there. The
24 second, third sentence, it says 48. That should
25 be a 52, also.

1 That's it on Noise.

2 HEARING OFFICER SHEAN: Okay.

3 MR. REEDE: Reliability, there were no
4 comments. Efficiency, there was a typo, a "d" was
5 left off of combined cycle. So we're not going to
6 go into that because it's typo.

7 Facility Design, again, we have problems
8 with the bulleting changing from the Microsoft to
9 the Apple, and those are of no consequence.

10 HEARING OFFICER SHEAN: Okay. I guess
11 we do need to -- can we go back to Visual. It had
12 to do with page 139. Here it is. It was a minor
13 typo. What they want is added -- some added
14 language here, because right now the mitigation,
15 under the paragraph mitigation, it states MVPC
16 shall paint project structures and fences in non-
17 reflective neutral colors, and further mitigate
18 visual impacts. So we've added that word.

19 But then they suggest the following
20 language be added. Furthermore, MVPC will provide
21 the San Bernardino County Regional Parks
22 Department with up to 61,000, blah, blah, blah, to
23 paint -- I'm sorry, to plant screening trees along
24 the Santa Ana River, VIS-4. So just to add that
25 reference.

1 MR. MCKINSEY: That's fine.

2 HEARING OFFICER SHEAN: That doesn't --
3 that seems pretty harmless.

4 MR. REEDE: And that was already
5 included in the Staff Assessment and testimony.

6 HEARING OFFICER SHEAN: Yeah. No big
7 deal.

8 MR. REEDE: Do you have anything else in
9 Visual?

10 HEARING OFFICER SHEAN: Anything before
11 we get to Water, on 170?

12 MR. MCKINSEY: Public Health.

13 HEARING OFFICER SHEAN: Okay. Page?

14 MR. MCKINSEY: And, in fact, a few
15 things in here before Water. Public Health is
16 first, on page 111. In the second full paragraph,
17 under construction health risks.

18 MR. REEDE: All right.

19 MR. MCKINSEY: There's -- we had this
20 discussion a few times in the course of the
21 process about the existing soil conditions.

22 MR. REEDE: Correct.

23 MR. MCKINSEY: And there's a sentence in
24 the middle there that could be misleading.
25 Remediation is scheduled to be completed before

1 the start of construction. And that -- that is an
2 accurate statement, and that the real way to put
3 it might've been any remediation, because the --
4 the correct resolution to the existing soil
5 conditions were that there was no excavation or
6 removal needed -- the remediation was fine.

7 MR. REEDE: So add the word any prior to
8 --

9 MR. MCKINSEY: So any remediation. Or
10 better yet, that sentence could be deleted,
11 really, I mean, essentially. It just might
12 suggest that there's some work that needs to
13 happen between now and the start of construction,
14 and there isn't any.

15 HEARING OFFICER SHEAN: Okay.

16 MR. MCKINSEY: And that's what the Phase
17 2 assessment actually says. Which --

18 HEARING OFFICER SHEAN: Okay.

19 MR. MCKINSEY: So I would say delete
20 that sentence would -- would fix it completely.

21 MR. CHANDLER: You've got to delete both
22 those sentences.

23 MR. MCKINSEY: Yeah, the next one,
24 remediation.

25 HEARING OFFICER SHEAN: The second

1 sentence behind that. Okay. Those are both out.

2 MR. MCKINSEY: And -- and that's
3 consistent with the Phase 2 site assessment that's
4 referenced above there.

5 HEARING OFFICER SHEAN: Okay.

6 MR. MCKINSEY: And the -- and our
7 discussions.

8 HEARING OFFICER SHEAN: It's done.

9 MR. MCKINSEY: Page -- under
10 Socioeconomics, page 115, and on a couple of other
11 places. We've had this discussion about the --
12 the school district fees. One of the differences
13 of this project is that we have a development
14 agreement, and so we fall out of the norm for how
15 we have to resolve our state mandated school fees.
16 The development agreement fulfills our obligation
17 and -- and the City of Redlands is obligated to
18 pay those fees for us.

19 And so at a minimum, it's clear we
20 shouldn't be obligated to pay the school directly,
21 because we're not. We're -- we have a development
22 agreement with the City of Redlands wherein
23 they're obligated --

24 MR. REEDE: You're paying the normal
25 school impact fees to the City of Redlands, and

1 the City of Redlands pays the school district.

2 MR. MCKINSEY: Right. And in fact, what
3 we're doing is we're paying comprehensively, and
4 the City of Redlands takes on the burden of paying
5 those.

6 HEARING OFFICER SHEAN: Okay.

7 MR. MCKINSEY: Like a lot of power
8 plants. They produce quite a revenue stream that
9 the city was willing to take on that obligation as
10 part of the annexation.

11 HEARING OFFICER SHEAN: Okay.

12 MR. MCKINSEY: When we made into the
13 City of Redlands. So there's several places where
14 we still have some references. In the mitigation
15 in schools, on page 115, it says in accordance
16 with state law, will pay the Redlands School
17 District a development fee based upon added office
18 space.

19 One way to fix this might be to say that
20 Mountain View Power Company -- well, these are --
21 we've worked over these for a while, and --

22 HEARING OFFICER SHEAN: But the idea is
23 through your development plan --

24 MR. MCKINSEY: The school fees will be
25 paid.

1 HEARING OFFICER SHEAN: The school fees

2 --

3 MR. HALL: There's a section 3.8 in the
4 development agreement that specifically spells out
5 all the extractions that the city has agreed to
6 charge the project, and the project has agreed to
7 pay.

8 MR. REEDE: Right.

9 MR. McKINSEY: So, yeah.

10 HEARING OFFICER SHEAN: And that's
11 between you and the City of Redlands; correct?

12 MR. McKINSEY: Right. See, I guess, you
13 know, normally this is put in there, but it's
14 required under the law, anyway. Often it's put in
15 there because it hasn't been resolved as to --

16 HEARING OFFICER SHEAN: Okay.

17 MR. McKINSEY: But because we have a
18 development agreement that fulfills all these
19 requirements, there really isn't any issue of the
20 school not getting their fees, because we've
21 developed -- because we have an obligation and
22 it's part of our -- our relationship with the City
23 of Redlands.

24 HEARING OFFICER SHEAN: Why don't you
25 just identify the other locations and I'll work on

1 some wording that just essentially says you're
2 paying it through your development -- through your
3 development plan.

4 MR. HALL: In accordance with the
5 development agreement.

6 MR. MCKINSEY: Yeah. In accordance with
7 the development agreement is probably the best way
8 to reference it.

9 HEARING OFFICER SHEAN: Okay.

10 MR. MCKINSEY: Let me get one more on
11 page 115 really fast. It's related to that. The
12 -- the next one for utility services.

13 HEARING OFFICER SHEAN: Uh-huh.

14 MR. MCKINSEY: It says we will pay the
15 City of Redlands a development fee for
16 firefighting services. A better way to put that
17 is Mountainview Power Company has incorporated
18 firefighting services in the development
19 agreement. So once again, the development
20 agreement accommodated any payments we have to
21 make, and absolved us of those specific payments.

22 So the firefighting services are
23 accommodated, or covered, or provided for in the
24 development agreement.

25 HEARING OFFICER SHEAN: Okay.

1 MR. MCKINSEY: Then on page 118, we're
2 back to the school fee. Under schools mitigation.

3 HEARING OFFICER SHEAN: Okay.

4 MR. MCKINSEY: And then page 121, once
5 again it's the project owner shall pay the one-
6 time statutory school facility development fee to
7 the proper authority.

8 HEARING OFFICER SHEAN: You're on page
9 120?

10 MR. MCKINSEY: One twenty-one. SOCIO-2.

11 What the condition ought to require is
12 -- and the verification is a little better. We
13 have to show that the statutory development fee is
14 paid in our monthly status report. So maybe what
15 the condition ought to be saying is that we shall
16 ensure that the statutory development fee is paid.
17 The project owner shall ensure that it is paid.
18 The project owner shall ensure that -- delete pay,
19 replace it with ensure that the -- ensure that the
20 one-time statutory school facility development fee
21 is paid to the proper authority.

22 HEARING OFFICER SHEAN: Okay.

23 MR. MCKINSEY: There won't be any issues
24 with this because the City of Redlands is issuing
25 the building permit, and they have the development

1 agreement.

2 HEARING OFFICER SHEAN: Right.

3 MR. MCKINSEY: So it's not going to be
4 an issue for development, too. It's just a matter
5 of making sure the condition didn't set --

6 HEARING OFFICER SHEAN: Okay.

7 MR. MCKINSEY: And then we had one on
8 Traffic, on page 133, TRAFFIC-7. And this is also
9 something we had gone over that somehow I think
10 just didn't quite get right. But what we had
11 indicated was the -- the construction work hours
12 issue was for the gas pipeline. Some of the areas
13 of the gas pipeline are in -- are in intersections
14 that we needed to restrict our construction in
15 order to ensure that we didn't impact commute
16 periods. And that was the only area where we had
17 an issue.

18 So TRANS-7 was supposed to apply to
19 pipeline construction. And what we had -- what we
20 had said at the workshop that we were going to
21 insert was shall schedule construction work hours
22 for gas pipeline construction in potentially
23 impacted areas. And the verification -- and we
24 had agreed on that, I think it just made it
25 through without us getting that right.

1 But then in the verification section,
2 the whole verification sentence is more the
3 generic one that's focused on the site based. The
4 -- the way to do this would be some kind of
5 verification, I would think, that would require us
6 to -- we have to get the permits from each city,
7 and --

8 MR. REEDE: How about the project owner
9 shall maintain a construction log, versus delivery
10 log, which specifies in part the time and date of
11 construction activities on the gas pipeline.

12 MR. McKINSEY: That's fine.

13 MR. REEDE: On the gas pipeline, and the
14 onsite compliance file. So in your compliance
15 file at the plant --

16 MR. McKINSEY: Right.

17 MR. REEDE: -- you will maintain a
18 construction log showing the times the work was
19 being done on the gas pipeline.

20 MR. McKINSEY: And then one more before
21 Water. Waste Management, on page 156. I missed
22 it on the next page. Sorry.

23 MR. REEDE: One fifty-six?

24 MR. McKINSEY: Yeah. And this is
25 another one that slipped through. We fixed the --

1 under WASTE-1, we fixed the initial part to add
2 soil to be disturbed. There was no need to
3 obviously worry about soil we weren't disturbing.
4 And that should be in the last line of the
5 verification, also. Verification that the project
6 site is -- is free of soil contaminants to be
7 disturbed.

8 MR. REEDE: As established. To be
9 disturbed as established.

10 MR. MCKINSEY: Right. That ensures that
11 -- we know that there is some material down there
12 and the Phase 1 and Phase 2 said leave it alone.
13 And -- and we have stated we're not going to touch
14 it. And so that ensures that if we end up
15 touching it, then these things kick in.

16 HEARING OFFICER SHEAN: Okay.

17 MR. MCKINSEY: And that takes up to
18 Water.

19 (Inaudible asides.)

20 HEARING OFFICER SHEAN: We're going to
21 just make a photocopy of this. This is just
22 diction stuff. In fact --

23 MR. REEDE: Then we can look at Air
24 Quality when I get back.

25 MR. MCKINSEY: We have one under page

1 163, there's a reference to the wrong discharge
2 volume.

3 HEARING OFFICER SHEAN: Okay.

4 MR. MCKINSEY: It says will discharge up
5 to 288,000 gallons, about in the middle paragraph,
6 right in the middle.

7 HEARING OFFICER SHEAN: Uh-huh.

8 MR. MCKINSEY: And that should be
9 430,000. And that's consistent with everything
10 else.

11 HEARING OFFICER SHEAN: Okay. These
12 other comments are -- readability and update. You
13 can get the rain to stop.

14 MR. MCKINSEY: And then --

15 HEARING OFFICER SHEAN: Okay.

16 MR. HALL: It's hard to listen and
17 concentrate at the same time.

18 HEARING OFFICER SHEAN: Oh, sure. Well,
19 it's hard to concentrate before you talk, too.

20 (Pause.)

21 HEARING OFFICER SHEAN: While we're here
22 doing this, let me just indicate this on the
23 compliance stuff. Apparently, page 236, in the
24 version of this that -- since this is all Staff
25 boilerplate, the original version I got did not

1 include a section called Definitions. I'm talking
2 about the definitions.

3 MR. MCKINSEY: Yeah. I have here in
4 front of me, these are Lorraine White's Water
5 comments?

6 HEARING OFFICER SHEAN: Right.

7 MR. REEDE: Yes. The comments do not
8 materially change the information provided. I'll
9 go through them if you want me to.

10 HEARING OFFICER SHEAN: Why don't we
11 just do the verification on Water Resources 2.
12 She wants a date.

13 MR. REEDE: Okay. The owner -- the
14 project owner shall submit an annual report
15 listing the total amount of water withdrawn by
16 each project well to the California Energy
17 Commission Compliance Project Manager, the
18 Regional Water Quality Control Board, and the San
19 Bernardino Valley Metropolitan Water District in
20 writing by.

21 MR. HALL: I'm sorry, I was looking at
22 this.

23 HEARING OFFICER SHEAN: Why aren't we
24 just doing this with the annual report, I guess.

25 MR. MCKINSEY: How many months time do

1 you need after the end of an annual year to report
2 volumes pumped? Three?

3 MR. HALL: I want to say we have 30 to
4 60 days. We -- we have several different reports
5 that we send out. The minimum's 30, and I think
6 the maximum is 60.

7 MR. MCKINSEY: You mean the other
8 reports.

9 MR. HALL: For the -- for the water
10 quality reports, the minimum would be 30, the
11 maximum 60.

12 MR. MCKINSEY: For your existing
13 reports.

14 MR. HALL: Yeah, for existing reports.
15 We -- we send out different reports. Some go to
16 the watermaster, some go to the state, some go to
17 the water quality control board. And they have
18 different --

19 MR. MCKINSEY: Typically, most annual
20 reports are delivered with some kind of, you know,
21 first quarter connotation on them, so I don't know
22 why this just couldn't be -- and that's assuming,
23 though, that we want to do it on the January to
24 December basis. I guess, I mean, this just says
25 an annual report, so it doesn't lock us into a

1 particular, you know, beginning and ending period,
2 but we could go June 1st to May 31st, and then it
3 would be --

4 HEARING OFFICER SHEAN: And I don't
5 really have a problem with that. You know, as
6 long as the information gets here, why do we care
7 whether we get it in January or November. Okay,
8 maybe we'll just leave that go.

9 MR. REEDE: What about just put by the
10 end of the first fiscal quarter?

11 MR. MCKINSEY: Yeah, that might work.
12 Because that allows --

13 MR. REEDE: And that's, you know, broad
14 enough so that whatever fiscal quarter you're
15 going to be operating on, or whatever fiscal year
16 you're going to be operating on, you know that 90
17 days after the end of your fiscal year you're
18 going to have to make the report.

19 MR. MCKINSEY: Right. And typically,
20 what anybody who sets up a compliance plan for a
21 power plant wants to do is get all their annual
22 reports that they can all lined up together, so
23 they have one annual reporting. And that would
24 make sense to let this fit right in with those.

25 MR. REEDE: Okay. So for --

1 HEARING OFFICER SHEAN: Let me
2 deliberate that, because I don't -- adding a
3 fiscal quarter puts it -- another milestone in our
4 compliance jargon that we need to be reducing
5 them, not adding to them. So I understand the
6 nature of the comment.

7 MR. MCKINSEY: One good question might
8 be how we've handled other annual reporting
9 requirements.

10 HEARING OFFICER SHEAN: We'll try to
11 check that out. I will.

12 MR. MCKINSEY: That might fit with
13 those.

14 HEARING OFFICER SHEAN: Okay. Other
15 than that, most of these are just diction changes.

16 MR. MCKINSEY: Yeah. I don't see any
17 problems with the changes to 1, to WATER-1. Three
18 has the same comment about needing an annual
19 report.

20 HEARING OFFICER SHEAN: Right.

21 MR. REEDE: Number 6, instead of
22 storability, it's called storativity.

23 MR. MCKINSEY: Right. Those are all
24 fine. And I guess our main comment on deadlines
25 would be if -- if we are going to have a date, we

1 should have 90 days to -- from the time we would
2 -- cumulate that end of that period to report it.

3 We have a couple of things on Water.

4 HEARING OFFICER SHEAN: Okay.

5 MR. MCKINSEY: Page 160 -- no, I'm
6 sorry, 163. There's another reference to -- I
7 already did that one. It was Water. Never mind.
8 No, that's it. We have no comments on Water.

9 HEARING OFFICER SHEAN: Okay. Let's
10 finish off with Compliance, the definitions.

11 MR. MCKINSEY: Those definitions are
12 fine.

13 HEARING OFFICER SHEAN: Okay. I just
14 wanted to let you know what I'm probably going to
15 try to do with regard to Compliance is something
16 that was done similar to this routine order that
17 we had back when these NOI exemptions were being
18 granted. And -- and that is to call out the
19 compliance plan that's in the Mountainview
20 decision as a precedential order, so that -- and
21 rename it something like Energy Commission General
22 Order Number 1, Compliance, so that for future
23 cases -- as well as I'm going to suggest that they
24 do retroactive applicability on an optional basis
25 -- this compliance plan applies to everything. It

1 doesn't need to be rewritten for every case, so on
2 and so on.

3 So you might anticipate that. I think
4 it's good for the efficiency of the Commission's
5 procedures. Because, you know, it has, as you'll
6 notice, these substantive areas dealt with, the
7 temporary facility closure, semi-permanent, semi
8 and then temporary, you know, whatever it was. We
9 can take care of all that in the compliance plan,
10 it seems to me.

11 MR. MCKINSEY: Okay.

12 HEARING OFFICER SHEAN: So it won't
13 affect you directly, but it probably will be an
14 item that will show up on the 21st.

15 MR. MCKINSEY: Yeah. It looks like the
16 C-2 has a lot of substantive changes, and some of
17 them are a complete reversal of what we had
18 resolved.

19 HEARING OFFICER SHEAN: Okay.

20 MR. MCKINSEY: For instance, it inserts
21 oxidizing catalyts, which we had agreed weren't
22 going to be required.

23 HEARING OFFICER SHEAN: I'm quite
24 willing to live with what we have, because it's
25 what we have basically hammered out.

1 MR. MCKINSEY: Okay.

2 HEARING OFFICER SHEAN: I guess I --
3 Rick York also came up with some Biology changes.
4 They're not significant, but they are like, you
5 know, the turtle thing, and -- versus frogs. And
6 some of these, a lot of them are just the -- the
7 conversion of the word, the PDF and the two
8 different operating systems. So we'll try to
9 correct those. If it works, it works. If it
10 doesn't, it doesn't.

11 MR. REEDE: Can we go back to Air
12 Quality just for a second. In reading through
13 here, it's not saying that you have to use
14 oxidizing catalysts.

15 HEARING OFFICER SHEAN: Well, let's do
16 it this way. I'll give you more time to review
17 the thing. If you think it doesn't comport with
18 what --

19 MR. HALL: I -- I believe, reviewing it,
20 that there are substantive changes -- I believe,
21 after reviewing it, that there are substantive
22 changes in here that read differently than what we
23 originally agreed to. We could caucus some, but
24 it's -- it is a major change.

25 I, from a plant perspective, I'm

1 comfortable with the original language that we
2 had.

3 MR. CHANDLER: I think there's kind of
4 two issues there. One is that what we -- what we
5 were using has been reviewed by our contractor and
6 by our air people, and they've all signed off on
7 it. I think before we can agree to what's in here
8 we would have to go back to both of those parties
9 and make sure they understand and concur with --
10 with what it currently says.

11 HEARING OFFICER SHEAN: Okay. Well,
12 have them call Joe Loyer. My understanding is
13 that this may be a sort of a generic change for
14 the Staff, over this to something that they feel
15 is better, and would apply to future cases. And
16 that they send it to us with kind of that in mind,
17 that if -- if it's going to be used in future
18 cases, and I haven't seen it yet in any future
19 cases that I'm dealing with. But maybe --

20 MR. MCKINSEY: Well, as you know, we
21 spent a lot of time on this --

22 HEARING OFFICER SHEAN: I do know that.

23 MR. MCKINSEY: -- and we've changed the
24 condition quite a few times and finally found a
25 condition. And that's one of the complexities, is

1 that requiring these kinds of pieces of a -- of --
2 on the construction equipment, and this kind of --
3 of emission reduction devices, really has a lot of
4 potential impacts to construction delays and
5 construction costs, and involves talking to
6 equipment manufacturers. But, more importantly,
7 all the people that are going to be involved in
8 the chain of contracts between the master
9 construction contract to subcontracting, and --
10 and it makes it really challenging to find common
11 ground. And I think that's where -- what we had
12 had.

13 HEARING OFFICER SHEAN: I understand.

14 MR. MCKINSEY: I'm sure, you know, that
15 what we had at the close of the -- of the last
16 evidentiary hearing was agreement that this
17 condition was okay. And -- and that's what George
18 Hall is referring to, is going back to each one of
19 these entities can -- all over again might be --

20 HEARING OFFICER SHEAN: That's fine.

21 MR. MCKINSEY: -- and it does change a
22 lot of it, just terminology would --

23 HEARING OFFICER SHEAN: We'll leave it.

24 MR. MCKINSEY: -- involve a lot of
25 soothing, so.

1 HEARING OFFICER SHEAN: We'll leave it.
2 Okay. Is that it? Have you gone through
3 everything that the Staff --

4 MR. REEDE: Yes.

5 HEARING OFFICER SHEAN: -- has, or --

6 MR. REEDE: That's all Staff's comments.

7 HEARING OFFICER SHEAN: And everything
8 the Applicant has?

9 MR. MCKINSEY: We have no more comments.

10 HEARING OFFICER SHEAN: Okay. Do we
11 have anything from our good friends here? Well,
12 we're just about to conclude, so if you want to
13 get up and share the limelight, and have any
14 comments or whatever.

15 MEMBER OF THE PUBLIC: My comment is
16 don't build it down there. I've got a good site
17 up in northern California.

18 HEARING OFFICER SHEAN: Okay.

19 (Laughter.)

20 HEARING OFFICER SHEAN: All right.

21 Well, if that's the case, what I'm going to do now
22 is take this and turn it around and try to have,
23 with the full Commission, prior to the Business
24 Meeting on the 21st, a fully revised edition. I
25 don't think any of these comments or changes have

1 -- or, let me see. I don't believe any of the
2 comments have resulted in any significant
3 substantive change. In fact, it's hard to say it
4 even resulted in insignificant substantive change.

5 And so I think what we're going to do is
6 be here on the 21st. We'll have it up for full
7 Commission consideration, and I'll have a revised
8 edition at that point.

9 Now, what format it'll be in, I don't
10 know. It certainly will be in at least a disk
11 format. Do you want to see this before? Do you
12 have some concern about getting it before we --

13 MR. MCKINSEY: No, I'm fine.

14 HEARING OFFICER SHEAN: -- go up on the
15 21st? And my plan also is if they approve it,
16 we'd probably be capable of filing a black and
17 white copy that day.

18 MR. MCKINSEY: Great. That'd be great.

19 MR. CHANDLER: Does that begin the 30
20 day time period?

21 HEARING OFFICER SHEAN: It would.

22 MR. CHANDLER: When it's filed, or when
23 -- when they actually approve it?

24 HEARING OFFICER SHEAN: When it goes
25 into the docket unit.

1 MR. CHANDLER: Okay, when it's docketed.

2 HEARING OFFICER SHEAN: Right.

3 MR. REEDE: And you're talking about the
4 appeal.

5 MR. MCKINSEY: The 30 day appeal period.
6 Right. Well, it's the -- it's the 30 day right to
7 ask for reconsideration. And then there's the
8 Supreme Court appeal period following that.

9 HEARING OFFICER SHEAN: Right. I would
10 assume that if you're voted through, that --
11 particularly on anything greater than a three/zero
12 vote, that we -- we don't have a history, let me
13 say, of having Commissioners choosing to
14 reconsider the decisions that are by a majority.

15 All right. With that, thank you very
16 much. Appreciate it, and see you in a couple of
17 weeks.

18 (Thereupon the Committee Conference
19 was concluded at 11:15 a.m.)

20

21

22

23

24

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 Committee Conference; that it was thereafter transcribed into typewriting.

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

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

VALORIE PHILLIPS

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345