PREHEARING CONFERENCE and EVIDENTIARY HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

THURSDAY, SEPTEMBER 14, 2006

1:37 P.M.

Reported by:
Peter Petty
Contract No. 170-04-001

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
COMMITTEE MEMBERS PRESENT
Jeffrey D. Byron, Associate Member

HEARING OFFICER and ADVISORS PRESENT
Garret Shean, Hearing Officer
Kevin Kennedy, Advisor to Presiding Member Byron
Peter Ward, Advisor to Associate Member Boyd

STAFF AND CONSULTANTS PRESENT
Kerry A. Willis, Staff Counsel
Jack Caswell, Project Manager
Steve Baker

APPLICANT
Allan J. Thompson, Attorney

Henryk A. Olstowski
Imperial Irrigation District Energy

Dana L. Diller, Consultant
High Energy Resource Services
Imperial Irrigation District

Douglas Hahn
URS Corporation

David Johnson
Power Engineers, Inc.
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
ASSOCIATE MEMBER BYRON: My name is Jeff Byron; I'm the Presiding Member on this SPPE application. And joining me at the dais here is my Senior Advisor, Kevin Kennedy. Commissioner Boyd could not be with us this afternoon, and in his stead is his Advisor Peter Ward. And I'm going to turn this over to our Hearing Officer, Mr. Garret Shean.

HEARING OFFICER SHEAN: Thank you, Commissioner. We have noticed today as the prehearing conference, and if there are no contested issues and no opposition to it, we will roll this over into an evidentiary hearing to establish the record by which the Committee can then produce its Presiding Member's Proposed Decision.

What we intend to do after the parties have had an opportunity to introduce themselves, is to go through the list that appears in appendix A of the prehearing conference notice; determine whether or not anyone is requesting a hearing on it or not. If we do not hear from the parties who are present, and if no one is on the telephone
from Niland or any other community, given that we have teleconferencing capability so that this proceeding is open to any member of the public or organization who wishes to, at this time, intervene and indicate that they wish to have testimony either from the applicant or the staff, or present testimony on any issue.

If that does not occur during the pendency of the initial portion of this proceeding, we are going to then commence the evidentiary proceeding, since it will indicate that all matters are uncontested.

And so far the two prehearing conference statements filed by the staff and the applicant indicate that there are no issues that are contested between them.

So, with that, let's go to the applicant and have you introduce your team.

MR. THOMPSON: Thank you very much, Mr. Shean. We have four individuals representing the project here today that I would like to present as a panel if the Commission believes that that would be acceptable. Mr. Henryk Olstowski and Dana Diller, representing IID. Douglas Hahn from URS Corporation, the environmental consultant. And
David Johnson from Power Engineers.

As we indicated in our prehearing conference statement, we have reviewed the staff final study. We concur, and our testimony will show that we concur with the conclusions based in that, and have no issues with staff and no disagreements with the final study.

HEARING OFFICER SHEAN: All right.

Thank you, Mr. Thompson.

Ms. Willis.

MS. WILLIS: Thank you, good afternoon. My name is Kerry Willis; I'm Senior Staff Counsel. And with me is our Project Manager, Jack Caswell. We also brought along, for informational purposes, Steve Baker, who performed our noise analysis.

And as the applicant says, we don't have any issues at this point in time.

HEARING OFFICER SHEAN: All right, I think it's important to indicate for the record, too, that on the day of the informational hearing and site visit for the IID El Centro project that Members of the Committee, and we do have a new Member in Commissioner Byron, went for our own impromptu site visit of the Niland project and the surrounding community.
So, we have made this Commissioner aware of the setting for the project, itself, as well as the neighboring community, as well as the former Marine Corps Camp up above you, which -- and that was a very interesting trip.

So, with that what we'd like to do is go now to appendix A and determine, and I think we can say I have heard both Mr. Thompson and Ms. Willis indicate that there is no issue on appendix A that you would propose to contest, is that correct?

MR. THOMPSON: That is correct.

MS. WILLIS: That is correct.

HEARING OFFICER SHEAN: All right.

Well, with that, then let's roll this into an evidentiary proceeding.

ASSOCIATE MEMBER BYRON: Excuse me one moment. Can we be sure that indeed the phone lines are open? Is that a concern here in the event someone was phoning in?

HEARING OFFICER SHEAN: I don't know how we'd check that. Well, first of all, we've had it done. And if nobody calls in, I don't know any indicator --

ASSOCIATE MEMBER BYRON: All right,
MR. CASWELL: I witnessed the Hearing Office Secretary open up the lines and responses from the telephone company that the lines were open.

ASSOCIATE MEMBER BYRON: Okay, thank you.

HEARING OFFICER SHEAN: All right. With that, why don't we have the applicant present it team, have them sworn in and present the testimony that you wish.

MR. THOMPSON: I would like to start with --

HEARING OFFICER SHEAN: Why don't we start with this.

MR. THOMPSON: That's a good idea. Could I ask my four witnesses to rise and raise your right hands to be sworn, please.

Whereupon,

HENRYK OLSTOWSKI, DANA DILLER, DOUGLAS HAHN and DAVID JOHNSON were called as witnesses herein, and after first having been duly sworn, were examined and testified as follows:

THE REPORTER: Could you all
individually state and spell your names, please.

MR. HAHN: My name's Douglas Hahn,
D-o-u-g-l-a-s, last name Hahn, H-a-h-n.

MS. DILLER: Dana Diller, D-a-n-a
D-i-l-l-e-r.

MR. OLSTOWSKI: Henryk Olstowski, H-e-n-r-y-k, last name O-l-s-t-o-w-s-k-i.

MR. JOHNSON: David Johnson, D-a-v-i-d
J-o-h-n-s-o-n.

DIRECT EXAMINATION

BY MR. THOMPSON:

Q    Let me start with Mr. Johnson. You have stated your name; what is your place of employment?


MR. THOMPSON: And what have been your responsibilities with regard to the Niland project?

MR. JOHNSON: My assignment has been project engineer, general supervision of the technical work performed by Power.

MR. THOMPSON: Thank you. And over the course of this proceeding, the applicant has submitted a number of documents, many of those
required engineer data and analysis.

Did Power Engineers perform this engineering support?

MR. JOHNSON: Yes.

MR. THOMPSON: And was this engineering support performed by you or under your supervision?

MR. JOHNSON: Yes.

MR. THOMPSON: And, finally, as you are now under oath, is this material that has been submitted true and correct to the best of your knowledge?

MR. JOHNSON: Yes.

MR. THOMPSON: Thank you. I would like to move on to the second member of our panel, Mr. Hahn.

Would you please state your name and place of employment.

MR. HAHN: Yes, Douglas Hahn with URS Corporation in Denver, Colorado.

MR. THOMPSON: And what are your responsibilities at URS?

MR. HAHN: To compile and oversee the management of large environmental documents similar to the SPPE that we submitted here.
MR. THOMPSON: And what have been your responsibilities with regard to the Niland project?

MR. HAHN: To oversee the URS task leaders and team in the preparation of that document.

MR. THOMPSON: And over the course of this proceeding applicant has submitted a number of documents, many of these required environmental analysis and conclusions, such as noise measurements.

Did URS provide this support?

MR. HAHN: Yes, we did.

MR. THOMPSON: And was this environmental analysis and environmental conclusions performed by you or under your supervision?

MR. HAHN: Yes, they were.

MR. THOMPSON: And finally, as you're now under oath, is this material true and correct to the best of your knowledge?

MR. HAHN: Yes, sir.

MR. THOMPSON: Thank you very much. Ms. Diller, would you please state your name.

MS. DILLER: Dana Diller.
MR. THOMPSON: And what is your place of employment?

MS. DILLER: I own an energy consulting firm by the name of High Energy Resource Services.

MR. THOMPSON: Have you been retained by Imperial Irrigation District? And if so, in what capacity?

MS. DILLER: Yes. High Energy Resources Services has been retained by Imperial Irrigation District to provide project management services for the Niland Gas Turbine plant.

My role in the project was to serve as the project development manager.

MR. THOMPSON: And what have been your responsibilities as project development manager?

MS. DILLER: I have overall responsibilities for the development process, the regulatory environmental processes, procurement, real estate, financial management and other development work to get the project to the point where it's ready to start construction.

MR. THOMPSON: Were part of your responsibilities the retention of URS as an environmental consultant?

MS. DILLER: URS was hired as part of an
IID purchasing procurement process, an RFP process. I was not on the selection committee, but I did assist in the RFP process.

MR. THOMPSON: And similarly, were part of your responsibilities the retention of Power Engineers for engineering support?

MS. DILLER: Yes. Power Engineers was also hired as a result of an IID purchasing RFP process. I was not on the selection committee, but assisted in the RFP process, and also participated in interviewing the engineer candidates.

MR. THOMPSON: And have you reviewed and approved documents submitted to the California Energy Commission in this proceeding including responses to data requests?

MS. DILLER: Yes.

MR. THOMPSON: Specifically with regard to noise, would you please summarize the commitment made by IID for plant and operational noise for Niland.

MS. DILLER: As is indicated in the final initial study, noise condition 3, the project, IID and applicant has committed to design and construct the project in such a manner that
during operations the facility will not cause noise levels at any sensitive receptor to exceed 45 dba.

MR. THOMPSON: Thank you. And finally, as you are now under oath, are the materials submitted to the Commission in this proceeding true and correct to the best of your knowledge?

MS. DILLER: Yes.

MR. THOMPSON: Thank you. Let me turn to our final witness, Mr. Henryk Olstowski. You stated your name previously; would you tell us by whom you are employed and in what capacity.

MR. OLSTOWSKI: I'm employed by Imperial Irrigation District; I'm the Assistant Manager of energy.

MR. THOMPSON: And what are your duties and responsibilities in that position?

MR. OLSTOWSKI: I'm responsible for all of IID's generating assets; and IID also owns, or participates in some joint ownership projects that I oversee, also.

MR. THOMPSON: And what are your responsibilities with regard to the Niland Gas Turbine Plant?

MR. OLSTOWSKI: I'm the project owner,
and that title with IID means that I'm responsible for oversight of the project development team, and ultimately the project, and project schedule and project costs are maintained within the budgeted amounts approved by our five-member board of directors.

MR. THOMPSON: Have you reviewed the staff final initial study submitted in this proceeding?

MR. OLSTOWSKI: I have not reviewed the final initial study, but I rely on the project development staff to identify any issues that would be unacceptable to Imperial Irrigation District.

And I have read a condensed version of the final initial study that presented all the conditions of exemption.

MR. THOMPSON: On behalf of Imperial Irrigation District do you accept the conclusions contained in the final initial study?

MR. OLSTOWSKI: Yes.

MR. THOMPSON: Again, on behalf of Imperial Irrigation District, do you agree to comply with all conditions of exemption contained in that document?
MR. OLSTOWSKI: Yes, I do.

MR. THOMPSON: That completes our direct testimony. The four witnesses of this panel are ready for any questions or cross-examination.

HEARING OFFICER SHEAN: Why don't we do this. Have you move the application for the SPPE, your data responses and any other documentation that you've provided us to date.

MR. THOMPSON: Without specifically numbering or listing those --

HEARING OFFICER SHEAN: Why don't you just parrot back what I just said and we'll accept it.

MR. THOMPSON: Would the Committee and this Commission please accept as exhibits in this proceeding, the application for an SPPE and applicant's data request responses to Commission Staff data requests? And any other documents relied on by the staff in this proceeding.

HEARING OFFICER SHEAN: Is there objection to the admission of that evidence?

MS. WILLIS: No objection.

HEARING OFFICER SHEAN: Hearing none, it's admitted. Thank you.

MR. THOMPSON: Thank you.
HEARING OFFICER SHEAN: I guess I just have one question. It probably is for Mr. Olstowski. I'll let it -- first of all, let me back up with regard to the engineering.

So, as far as the noise condition number 3, is it IID's position or through your contractors here, that it is engineeringly feasible to maintain a noise level not exceeding 45 dba at any of the nearby sensitive receptors?

MR. OLSTOWSKI: Yes, based on the information I was provided, that is very do-able. And we've adjusted our contract with General Electric to be able to do that.

HEARING OFFICER SHEAN: All right. I guess just for the purposes of the record should that somehow not come to pass, that the Commission would likely, in the event of noise complaints that have sufficient gravity, if they were not able to maintain that 45 dba, probably want to come back and consider measures that would take place offsite once you've exhausted all possible onsite mitigation.

So, that's just out there. Hopefully not necessary, but just as a caveat.

Have any questions?
ASSOCIATE MEMBER BYRON: No, I don't, thank you very much.

HEARING OFFICER SHEAN: Any questions from the staff?

MS. WILLIS: None.

HEARING OFFICER SHEAN: All right.

Well, we'd like to thank you, ladies and gentlemen from IID and your contractors, and for having been as helpful and forthcoming and timely on all this stuff as you have been.

And I think we're, at this point, pretty much done with you, and can excuse you as witnesses. And we'll shift to the Commission Staff.

MR. THOMPSON: Thank you. I think Mr. Olstowski has a few comments from IID's perspective.

HEARING OFFICER SHEAN: Certainly.

MR. OLSTOWSKI: Yeah, on behalf of IID I'd like to thank the CEC Staff on their execution of the SPPE process for the Niland Gas Turbine Plant.

IID is committed to balancing the need for additional generating resources with the need to maintain a healthy environment for the future.
And I believe that the CEQA process has helped IID to insure that balance.

I'd like to especially thank Jack Caswell, CEC's Project Manager, for his balanced approach towards the project, and success in delivering documents within committed timelines.

IID looks forward to complete the El Centro Unit 3 Repowering project, SPPE process, with the same balance and cooperative spirit.

Thank you.

HEARING OFFICER SHEAN: Thank you very much.

All right, we'll go now to the Commission Staff.

MS. WILLIS: We'd like to call Mr. Steve Baker.

HEARING OFFICER SHEAN: Why don't we do Mr. Caswell, as well, since I have a question of him.

MS. WILLIS: Okay.

Whereupon,

STEVE BAKER and JACK CASWELL were called as witnesses herein, and after first having been duly sworn, were examined and testified as follows:
THE REPORTER: Please state your full names for the record.

MR. CASWELL: Jack Caswell, C-a-s-w-e-l-l.

MR. BAKER: Steve Baker, B-a-k-e-r.

MS. WILLIS: And at this time we have no direct questions, but we would like to allow the Committee to ask any questions of our witnesses.

HEARING OFFICER SHEAN: All right. Let me just indicate for the applicant, I think you know, as well as just for the record, first of all the reason we've asked Mr. Baker here is that the only issue that arose that had impacts to the community that we could discern was the potential for noise impacts to nearby residents. Basically at various points on the compass, east of the project, southeast of the project. And west of the project in the community of Niland there's a trailer park there.

So we wanted to have him come and explain the nature of the analysis performed by the staff, and how it arrived at the condition noise-3 that it has. And the substance for their belief that this condition will satisfy the requirement under CEQA that there are no
significant adverse environmental noise impacts.

And so, with that, if you could describe that process briefly, Mr. Baker. We have read the noise portion of the final initial study, so have it in some detail. But would just like to get it sort of live and in person from you.

MR. BAKER: As you've read in the initial study to determine whether there are likely to be adverse noise impacts, we compared the predicted or projected noise from the power plant to the existing noise environment at any sensitive receptors, which in this case are residences.

If the power plant will increase the noise level at those residences more than some amount, then we can guess that there'll probably be adverse impacts. If the increase in noise level at the residences is less than some amount, then we say there probably won't be any.

Typically we say that -- well, typically we take a very conservative approach. The California Energy Commission Staff, I believe, is the only body around that compares power plant noise to the ambient background or L90 level. Every other agency I'm aware of uses and LEQ or
equivalent energy level comparison, or an L50, 50th percentile level.

So we're setting a more stringent standard by comparing noise levels to the background level. However, the value in this is I don't believe there have ever been any serious noise complaints from anyone living near a California Energy Commission-permitted power plant.

This is the way that staff has been doing this analysis for more than the 14 years I've been doing noise here. I believe that the people before me, they did it since the early days of the Commission.

So, given this conservative approach, we compared projected noise levels. And what we try to do is we compare the projected noise level from the power plant to the background ambient levels. And we say that if the increase in noise level at the receptors is less than 5 decibels, we can't imagine there'd be a significant adverse impact.

If the increase in noise levels at the receptors is more than 10 decibels, there's a potential for a significant adverse impact.

In between 5 and 10 decibels we look at
the specifics of the case.

The reason this was raised as an issue in this project is because it's an SPPE. In an AFC process we go through a data adequacy procedure. And if this had been an AFC, staff would have recommended that the application be found data inadequate in the area of noise because the information presented in the application from the ambient noise survey performed by IID was inadequate for us to do our analysis.

But once we talked with the applicant, explained what we needed and they understood what we needed, they went out and they performed another analysis. They presented the figures. And we performed our magic and easily came to the conclusion that there should be no significant adverse impacts from the project.

HEARING OFFICER SHEAN: Can you describe briefly, I know you used the terms that are used in the trade, the LEQ and L90, to just inform the Committee and the record that the essential difference between the analytical method used by the staff and that for the information initially submitted by the applicant, is the difference in averaging times for the measured noise?
MR. BAKER: That's correct. The application surveyed the noise at the nearest sensitive receptor for a period of 25 hours. And then presented only a single 25-hour average for the LEQ and for the L90.

And the reason we feel that's not appropriate is because people are more sensitive to noise at night when they're trying to sleep. And so if the noise environment in that neighborhood is quieter at night than during the daytime, a power plant that doesn't present a significant impact during the day might easily present a significant impact at night.

Without hourly or other more detailed noise figures, we couldn't determine that. The application only showed a single 25-hour average.

So I asked the applicant if they'd provide more detailed numbers. And they went back and provided the numbers. And once I analyzed them, using our standard procedure, I determine that there should be no adverse impacts.

HEARING OFFICER SHEAN: And so condition noise-3, from the staff's perspective, captures the four, is it four consecutive quietest hours during the nighttime, and would require the
applicant not to exceed the 45 dba during that period?

MR. BAKER: That's correct.

HEARING OFFICER SHEAN: Okay. All right, thank you. Any additional questions? Any questions from you, Mr. Thompson?

MR. THOMPSON: No. But I would like, on behalf of applicant, to thank Mr. Baker for his diligence in reaching an accord, asking us for information that he could then use. It was helpful in getting to the end point in this case.

HEARING OFFICER SHEAN: Thank you. All right, thank you, Mr. Baker.

And I just have a question or two for you, Mr. Caswell. You are the project manager on this matter, and were instrumental in the organizing of the preparation of the draft of the initial studies, is that correct?

MR. CASWELL: Correct.

HEARING OFFICER SHEAN: And you were also responsible for the preparation of a document fundamentally entitled, a proposed mitigated negative declaration, is that correct?

MR. CASWELL: Correct.

HEARING OFFICER SHEAN: And can you tell
us what you did with respect to the processing of those two documents, either related to the state clearinghouse, or the County of -- Imperial County in terms of compliance with what you understand to be the requirements of CEQA?

MR. CASWELL: Yes. Based on the CEQA compliance requirements for the filing of a proposed mitigated negative dec, we filed a copy of this document, the draft initial study, with the clearinghouse, as well as the County, Imperial County.

Those documents were sent to the clearinghouse, I can't remember exactly what date that was. We took them over there the very first day we published this document, which was on -- I've been on -- August 30th to the clearinghouse. And I contacted the County and we mailed a copy of, a hard copy as well as a cover for that proposed mitigated negative dec to the County Clerk in Imperial County to be posted at the County Offices. And it probably arrived, I would imagine, I have not had a call back from them, but about within seven days after that filing, which would have made that what, September 6th.

And we believe that by filing that
HEARING OFFICER SHEAN: So, if the Commission were to actually adopt this on October 11th, insofar as you are aware, that all the CEQA requirements with regard to publication, posting, distribution or anything else of that nature will have been met?

MR. CASWELL: Correct. My reading of the CEQA requirements on that require that the County have 20 days posting; and the clearinghouse would have 30 days. And that would meet that timeframe.

HEARING OFFICER SHEAN: All right, thank you very much. Questions? Any questions from you, Mr. Thompson?

MR. THOMPSON: None for me, thank you.

HEARING OFFICER SHEAN: All right. Why don't we have you move the admission of your final initial study and the proposed mitigated negative declaration document and any other information you would --

MS. WILLIS: At this time we'd just like
to move in those two documents, the final initial
study and the proposed mitigated negative
declaration, into the record.

HEARING OFFICER SHEAN: Is there

objection?

MR. THOMPSON: No objection.

HEARING OFFICER SHEAN: Hearing no

objection, those two documents are admitted.

I think we have now a fairly well
rounded and complete record for the purpose of the
Committee's preparation of a Presiding Member's
Proposed Decision.

At this point it's appropriate for the
Committee to ask if there are any comments or
questions from any member of the public. I can
tell you, sitting here, that it's very clear that
in the audience at the Commission headquarters
there are no members of the public present.

And we have had the telephone line open
for approximately the last 40 minutes and have had
no call from any member of the public wishing to
comment or even listen in to the proceeding.

So, on that basis it appears that this
matter is fully uncontested and that there is no
public concern that has caused any member of the
public to contact us with regard to the matters
that we've noticed here today, which would have
indicated that we would be proceeding to this
evidentiary hearing.

And anticipate that therefrom the
Committee would prepare a Presiding Member's
Proposed Decision based upon this uncontested
record. And it is our intention to do that and
have it released early next week. So it will be
available to members of the public along with a
notice that the Commission will conduct a hearing
on October 11th, during a regularly scheduled
business meeting, for the purpose of considering
and adopting the Committee's Presiding Member's
Proposed Decision.

So, are there any comments or questions
from either party at this point?

MS. WILLIS: None.
MR. THOMPSON: No.

HEARING OFFICER SHEAN: All right. This
will likely be the Committee's last opportunity to
address you outside of the full Commission
setting. And with that, I think it's appropriate
to thank IID, Mr. Thompson, and your contractors
and consultants for your cooperation and
particularly our informational hearing, which was a rather unique event. And fun, in its own way, I guess is about the best way to express that.

(Laughter.)

HEARING OFFICER SHEAN: But it was very interesting to see the community of Niland and get some of the flavor by visiting your local merchants, particularly the restaurants and things like that. And try to get a grasp on what it was that prompted the community to come into being in the first place. And then, unfortunately watch and see what's happened as events changed on them, and they are now what they are.

But it's obvious that this project will benefit a growing electricity demand in Imperial County, that IID needs it. And we think that between the work that has been preformed by IID and your team, as well as the Commission Staff, that the process that is developed here at the Commission for the purpose of assuring not only that the energy needs of the state are met, but it's done in a manner that is least harmful to the environment and least impactful to the local community, has been met and has been served.

So, with that we'd like to thank you
all, and thank the Commission Staff for the
diligence in the preparation of the final initial
study and the preparation, posting, et cetera, of
all the documents that are required to meet, you
know, what is a more complex, it seems, even
though it's supposed to be simpler, a more complex
requirement for the SPPE. So, thank you.

With that, --

ASSOCIATE MEMBER BYRON: I had a
comment. Mr. Shean, thank you for developing such
a complete record for the Presiding Member,
Commissioner Boyd. I'm sure he'll appreciate that
very much.

I'd like to also thank the staff for
their thoroughness and the applicant for their
cooperativeness.

I don't have any additional questions,
obviously this is uncontested. And appreciate
everyone's effort to be here. I'm sure we would
have started on time had we had a more cooperative
applicant in the business meeting that we had
earlier.

Mr. Ward, would you like to add anything
on Commissioner Boyd's behalf?

ADVISOR WARD: No, I think Jim concurs
with what you just said, and we all did enjoy our
visit to Niland.

ASSOCIATE MEMBER BYRON: Thank you.

HEARING OFFICER SHEAN: All right, with
that, I don't know who won the pool for how long
this would take, but I think you owe us a drink.

(Laughter.)

HEARING OFFICER SHEAN: Thanks very
much, we're adjourned.

(Whereupon, at 2:07 p.m., the prehearing
conference and evidentiary hearing were
adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Prehearing Conference and Evidentiary 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 conference and hearing, nor in any way interested in outcome of said conference and hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2006.

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345