

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

In the Matter of: )  
 )  
Application for Certification for ) Docket No.  
the Oakley Generating Station ) 09-AFC-4  

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CALIFORNIA ENERGY COMMISSION  
THIRD FLOOR CONFERENCE ROOM  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

TUESDAY, DECEMBER 7, 2010

9:00 a.m.

Reported by:  
John Cota  
Contract No. 170-09-002

COMMITTEE MEMBERS PRESENT

James D. Boyd, Presiding Member

Robert B. Weisenmiller, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kourtney Vaccaro, Hearing Officer

Eileen Allen, Advisor to Commissioner Weisenmiller

Sarah Michael, Advisor to Commissioner Boyd

STAFF AND CONSULTANTS PRESENT

Kevin Bell, Staff Counsel

Pierre Martinez, Project Manager

Brewster Birdsall (via teleconference)

APPLICANT

Scott Galati, Attorney  
Galati and Blek

Greg Lamberg, Senior Vice President  
Jim McLucas  
Radback Energy

Steve Larson  
California Strategies, LLC

Doug Davy  
Keith McGregor  
CH2MHILL

INTERVENOR

Robert Sarvey

ALSO PRESENT - IN PERSON

Rebecca Willis  
City of Oakley

Manuel Canalita  
Canalita Energy Consulting

ALSO PRESENT - VIA TELECONFERENCE

Kathleen Truesdell  
Bay Area Air Quality Management District

Jason Crapo  
Contra Costa County

Viola Lujan  
La Clinica de la Raza

The Honorable Pat Anderson  
Mayor of the City of Oakley

Vice Mayor Jim Frazier  
City of Oakley

Therese Robinson  
Oakley Sunday Seniors

Regina Wilkerson

Dorothy Lashbrook

Brian Hooker, Field Representative  
Office of Congressman John Garamendi

Celeste King  
Office of Assembly Woman Joan Buchanan

Shirley Darling  
Donna Lagano  
Friends of Oakley

Valerie Gastalde

Lauri Winters

Mike Yeraka  
Diablo Water District

Greg Feere  
Contra Costa Building and Construction Trades Council

Mike Heckathorn

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P R O C E E D I N G S

9:07 a.m.

1  
2  
3           PRESIDING MEMBER BOYD: Good morning. Time is  
4 precious this morning so I'm going to be brief. This is a  
5 status conference conducted by the Committee of the  
6 California Energy Commission regarding the proposed Oakley  
7 Generating Station Project.

8           I'm Jim Boyd, the Presiding Member of this siting  
9 Committee. I am joined by the Associate Member,  
10 Commissioner Weisenmiller. My advisor on my right, Sarah  
11 Michael; Commissioner Weisenmiller's advisor on his left,  
12 Eileen Allen. Kourtney Vaccaro, you know, is our hearing  
13 officer. I don't see anybody from our Public Advisor's  
14 Office.

15           And with that I'll just ask that there be an  
16 introduction of the parties starting with the applicant.

17           MR. GALATI: Scott Galati representing CCGS LLC,  
18 which is the proponent of the Oakley Generating Station.  
19 It's a subsidiary of Radback Energy.

20           MR. LARSON: I'm Steve Larson who is also  
21 representing Radback.

22           MR. LAMBERG: Greg Lamberg, Senior Vice President  
23 with Radback Energy, Project Manager and representing CCGS  
24 LLC.

25           PRESIDING MEMBER BOYD: Good morning.

1 MR. LAMBERG: Good morning.

2 PRESIDING MEMBER BOYD: Anyone else from the  
3 applicant?

4 MR. DAVY: Hi, I'm Doug Davy, consultant to  
5 Radback, assisting them with the AFC.

6 MR. MCGREGOR: Keith McGregor, also a consultant  
7 to Radback.

8 MR. McLUCAS: Jim McLucas with Radback.

9 PRESIDING MEMBER BOYD: Okay.

10 MR. SARVEY: Bob Sarvey, Intervenor.

11 PRESIDING MEMBER BOYD: Not ready for you, Bob.  
12 How about the applicant? I mean the staff, excuse  
13 me. Mr. Sarvey rattled me there.

14 MR. BELL: He can go before us, that's fine.  
15 Kevin W. Bell, senior staff counsel, representing staff.  
16 With me is our project manager, Pierre Martinez.

17 PRESIDING MEMBER BOYD: And Mr. Sarvey has  
18 identified himself and he is the only intervenor that I know  
19 present.

20 Any agencies here that want to introduce  
21 themselves, local, state, federal, either here or on the  
22 phone?

23 MS. TRUESDELL: Kathleen Truesdell, Bay Area Air  
24 Quality Management District.

25 PRESIDING MEMBER BOYD: Thank you, Kathleen.

1 Anyone else?

2 MR. CRAPO: Jason Crapo with Contra Costa County.

3 PRESIDING MEMBER BOYD: Jason, welcome. Anyone  
4 else?

5 (No response.)

6 PRESIDING MEMBER BOYD: All right, I'm going to  
7 turn the hearing over to Ms. Vaccaro so we can use this  
8 precious time judiciously.

9 HEARING OFFICER VACCARO: I think before I get to  
10 the heart of things, when the Commissioner says that we have  
11 precious time, it's really, I think, to be taken seriously.

12 We have allocated an hour this morning for this proceeding,  
13 which means that you need to, I think, be succinct and  
14 efficient in your presentations, get to the heart of the  
15 matter. Because my understanding is that at about 9:30 we  
16 are going to have additional public commentators on the line  
17 who we would like to hear from. But again, this is going to  
18 end at ten o'clock.

19 So I think with that, the purpose of today's  
20 meeting is really to get a sense of where we are in this  
21 proceeding. The applicant submitted two sets of documents  
22 to the Committee. The first being a Request for a Status  
23 Conference, the other a Request for a Scheduling Order.

24 Applicant stated pretty succinctly in those  
25 documents the reasons why but I think what we'd like to do

1 is hear from the applicant again because what you have done  
2 is sort of underscored the applicant's perspective of some  
3 urgency. And I think in order for the Committee to  
4 understand what it is that you are trying to accomplish and  
5 the deadline we need to hear that.

6 I think we also need to hear from the staff the  
7 timing of the publication of the Staff Assessment and there  
8 are a few additional issues I think we need to make sure are  
9 being wrapped up into this process.

10 So with that I'll be quiet. I'll let the  
11 applicant speak first then we'll hear from the staff.

12 MR. GALATI: Okay, great. I know that you have  
13 all read both our motion and our Request for a Scheduling  
14 Order. I'm basically asking you for two things. I am not  
15 asking you for a scheduling order that takes us all the way  
16 out to the end of the day. But I am, I did let you know  
17 exactly what date we're shooting for and we do want a  
18 decision in May. And if we have a decision in May we can  
19 begin construction and get construction --

20 MR. BIRDSALL: Is it possible for the speaker to  
21 speak more into the microphone? It's hard to hear on the  
22 phone. Sorry to interrupt.

23 MR. GALATI: Sure. Is that better?

24 MR. BIRDSALL: Yes it is, thank you very much.

25 MR. GALATI: Okay, good. Again, this is Scott

1 Galati representing the applicant. In addressing the  
2 Committee what I'm asking the Committee to do is to have the  
3 staff prepare the Preliminary Staff Assessment here in  
4 December; I gave you a date of December 17. The idea would  
5 be then in January we could go to a Preliminary Staff  
6 Assessment workshop.

7           It has been this applicant's -- although this  
8 applicant hasn't been before you in this particular forum,  
9 Mr. Lamberg and Mr. McLucas and Mr. Bertacci have been doing  
10 work at the Energy Commission since the '90s. They  
11 recognize, as do I, that a Preliminary Staff Assessment  
12 workshop is a place to have productive conversations to get  
13 to the end of matters, to resolve things.

14           We're asking you to help us get to that stage in  
15 January so that we can close this project out. And what I  
16 mean by that is that we have had productive conversations  
17 with staff. We believe that staff has everything they need  
18 right now to complete their Preliminary Staff Assessment.  
19 We have a very thorough Preliminary Determination of  
20 Compliance from the Bay Area Air Quality Management  
21 District. Which as you know from some other cases in the  
22 past the PDOC and the FDOC from the Bay Area has been  
23 subject to challenge. We think this particular Preliminary  
24 Determination of Compliance is very, very thorough and it  
25 acknowledges that what we're dealing with here is a

1 technology that doesn't really raise the kinds of issues  
2 from our perspective that you see in other projects.

3           So what we'd like is the Preliminary Staff  
4 Assessment by December 17th and we'd like the Final Staff  
5 Assessment 30 days, calendar days, after the Final  
6 Determination of Compliance is released by the Air District.

7       To put it in perspective, I think that while we still need  
8 documents to be written, the issues presented in a project  
9 like this are a tenth of the issues of what we have dealt  
10 with recently with the renewable projects. And we're really  
11 trying to get a decision by May.

12           I wrote in there about the tailoring rule and the  
13 greenhouse gas emission exemption from Prevention of  
14 Significant Deterioration or PSD permit. I can answer any  
15 of those questions that you like. But basically that's what  
16 we'd like. A Scheduling Order that takes us to the FSA, 30  
17 days after the FDOC.

18           HEARING OFFICER VACCARO: I'm curious. Let's just  
19 assume that you don't get a decision in May. What's that  
20 mean?

21           MR. GALATI: If we -- I have to back up. If we do  
22 not get to a stage of construction by July 1. And what that  
23 means is putting something permanent into the ground  
24 associated with the emitting facility, we will have to start  
25 all over on our air permit because the greenhouse gas

1 emissions will trigger PSD by themselves.

2 And to put that in perspective, it wouldn't matter  
3 that your staff has already done and will continue to do a  
4 greenhouse gas emissions analysis that is one of the more  
5 thorough analyses in the state. That wouldn't matter.

6 We don't trigger PSD permit now because of  
7 emissions from the facility are low enough for all the  
8 criteria pollutants. When the tailoring rule was created  
9 there was this transition period to allow projects that  
10 were --

11 MR. BIRDSALL: For those of us on the phone it is  
12 very difficult to hear. If there is anything that can be  
13 done I'd appreciate it, thanks.

14 MS. TRUEDELLE: It seems like there's a lot of  
15 static also.

16 MR. GALATI: That might be my normal voice but  
17 I'll try. Is that better?

18 HEARING OFFICER VACCARO: Callers, can you hear  
19 him better now?

20 MR. BIRDSALL: Yes.

21 HEARING OFFICER VACCARO: Okay.

22 MR. GALATI: Okay.

23 CALLER: He's cutting in and out and there's a  
24 clicking noise on the phone.

25 HEARING OFFICER VACCARO: Yes. Unfortunately we

1 realized just before the proceeding that we are having phone  
2 line issues. We have tried various things to correct it and  
3 at this point I think all that the speakers can do is speak  
4 directly into the speakers and do the best that we can. We  
5 certainly apologize for any inconvenience.

6 PRESIDING MEMBER BOYD: And I want to comment to  
7 the people listening on the phone, we hear any and all noise  
8 that you make. So if you can either mute your phones if  
9 you're not speaking or at least recognize that every noise  
10 you make of any kind feeds back into the system and back  
11 into us. We'll try. We're in a small conference room with  
12 obviously not the best telephone system in the building, if  
13 not in the city.

14 MR. GALATI: To repeat the last part that I said  
15 -- this is Scott Galati again. If we are unable to begin  
16 construction of a portion of the emitting unit, which is a  
17 permanent construction, which usually means something like a  
18 foundation, by July 1, we would have to start over again in  
19 the air permitting world with a PSD permit application.

20 What I was explaining to the Committee was that  
21 the Tailoring Rule, when EPA adopted it, specifically chose  
22 a transition period to allow projects that had already  
23 started to not have to refile. They chose a time frame  
24 between 12 and 18 months because they thought that would be  
25 enough time for a permit. And in our case, because of the

1 Commission workload, because of issues with the PDOC, we may  
2 be butting up against that time frame. It was never  
3 intended for projects that had begun the permitting process  
4 to have to start over.

5           And so that's what we're asking the Committee to  
6 consider. Is by giving us a license in May it allows us  
7 time to go through the compliance process and begin  
8 construction to get to a stage where we can build a  
9 permanent foundation for the emitting unit.

10           One of the issues associated with the PSD permit.

11       And I want to make it very clear. We are not avoiding  
12 greenhouse gas emission issues. We think we have a  
13 fantastic project for that purpose. But there has been, in  
14 my opinion and mine alone, an abuse of the PSD permit  
15 process because a simple appeal of the PSD permit creates an  
16 automatic stay for a project. And people have used that not  
17 necessarily for real issues but to delay projects. We do  
18 not want to be subject to that. And that is why we'd like  
19 the Commission to act swiftly.

20           We recognize if we don't do our job between the  
21 PSA and the FSA working cooperatively with staff that it  
22 might be difficult for the Committee to reach a decision in  
23 May. But the District has been very good and the District  
24 is working towards an FDOC as we speak and compiling  
25 comments. I note staff filed comments on the PDOC very

1 recently. And we feel very confident that if we get a PSA  
2 in December and an FSA 30 days after the FDOC we'll be able  
3 to present a project to the Commission that has very, very  
4 few issues that require adjudication.

5 HEARING OFFICER VACCARO: Thank you. I think you  
6 were going to be done but a note was just passed. So is  
7 there a final word that you would like to make before we  
8 hear from staff and then the intervenor, or is that it?

9 MR. GALATI: I'm sorry. That's it for right now,  
10 thanks.

11 HEARING OFFICER VACCARO: Okay. Mr. Bell or  
12 Mr. Martinez?

13 MR. MARTINEZ: Well, notwithstanding what the  
14 applicant's representative mentioned, that date of December  
15 17 poses a very challenging date for staff. We internally  
16 were shooting to do it before the Christmas break but I have  
17 five outstanding sections that have not even reached my desk  
18 yet. I would have liked to have had it reviewed by me at  
19 this time and then we have final edits and final production  
20 to be able to meet December 17.

21 We have probably three-quarters of -- let me  
22 backtrack. About a third of the document is in its final  
23 formatted state. About another third is pending final  
24 feedback to the technical authors so that's a relatively  
25 quick turnaround. Maybe the end of the week where they

1 could get it back to us and then it goes into final  
2 formatting.

3           But the five outstanding sections which are fairly  
4 significant, Air Quality, Bio, Soils and Water, Transmission  
5 Systems Engineering and I forget the other one off the top  
6 of my head. Although there's no issues we foresee and I  
7 think it was accurately characterized that we have  
8 sufficient information to prepare a PSA, those are fairly  
9 lengthy sections that require some time to review. And  
10 depending on how they come in they may or may not need  
11 significant edits. And so to commit to December 17 would be  
12 very challenging.

13           I think we would still strive to meet that date.  
14 Possibly the 20th or something before the break. But we're  
15 also dealing with conflicting priorities, at least  
16 conflicting with the Oakley project. We have compliance for  
17 the ARRA projects that are on a higher priority and we have  
18 other gas-fired plants that are in the queue ahead of Oakley  
19 that were submitted prior to Oakley and they are scheduled  
20 to be published next week as well.

21           We have kind of finite resources on the technical  
22 authors side and finite resources on the publication side.  
23 And so those are kind of the issues that we're dealing with  
24 in trying to meet that specific deadline. So I would feel  
25 more comfortable possibly the first or second week of

1 January but with the goal to get it out before the break,  
2 the 17th, the 20th. But I don't feel comfortable and  
3 management has, you know, directed me not to commit to the  
4 schedule as outlined by the applicant.

5 MR. BELL: I can say that Pierre is doing a really  
6 good job of cracking the whip and getting staff to try to  
7 dedicate the resources to this project. But as he said, we  
8 just have finite resources and we're spread pretty thin  
9 among several other projects and other issues in-house.

10 PRESIDING MEMBER BOYD: You said that you couldn't  
11 commit to the 17th but you did once reference maybe the  
12 20th. How strong a maybe is that?

13 MR. MARTINEZ: Well that was always my internal  
14 goal as of, you know, maybe six or eight weeks ago. You  
15 know, it tends to get bumped out as your priority stays low.  
16 You know, the way it works is you get a priority every  
17 week. Resources are allocated to you and work product  
18 comes. Unfortunately, I mentioned, that there's some other  
19 projects that have a higher priority so the work product has  
20 come in a little bit more slowly than I anticipated.

21 You know, sliding into the 20th or 21st just  
22 allows that extra day for production. Final formatting kind  
23 of things. I would hope that all the sections are in by  
24 later this week or early next week. But again, that  
25 turnaround review, there's still a lot of steps between when

1 the first draft comes to me and kind of the final-final  
2 review and final-final edits happens.

3 And those are really not in my control. If those  
4 sections come in to me today then I'd have a lot more  
5 confidence in telling you that we could probably do it. But  
6 if they don't come in until next Monday or Tuesday or  
7 Wednesday the turnaround time is just not, is just not  
8 there.

9 HEARING OFFICER VACCARO: Just to make sure I'm  
10 understanding because sometimes I'm the slower one in the  
11 room.

12 PRESIDING MEMBER BOYD: Not really but go ahead.

13 HEARING OFFICER VACCARO: The 17th poses a problem  
14 to get the entire document published is what you're saying.

15 MR. MARTINEZ: Yes, it would be very challenging.

16 HEARING OFFICER VACCARO: Okay, okay. Is there a  
17 deadline that was given to the staff that's producing all of  
18 the sections so that there is an internal deadline, a last  
19 possible date by which they are to get those sections to  
20 you? Has that passed or is that deadline --

21 MR. MARTINEZ: Yes, those have all passed.

22 HEARING OFFICER VACCARO: By how much time?

23 MR. MARTINEZ: Sometimes -- in some instances  
24 days, in some instances weeks. Typically it's because of  
25 getting bumped on priority.

1 HEARING OFFICER VACCARO: Okay. And when you say  
2 and you were talking about resource allocation. Is it  
3 because say a given section, let's just call it Air Quality.

4 The individual who is writing Air Quality for Oakley is  
5 also writing Air Quality for or working on Air Quality for  
6 at least one other project?

7 MR. MARTINEZ: Yes.

8 HEARING OFFICER VACCARO: I mean, is that sort of  
9 what some of the challenge is?

10 MR. MARTINEZ: That could be the case; that could  
11 be the case. The other case situation is you have a  
12 technical author and then you have a senior above them. And  
13 it doesn't get to me until the senior has proofed it. And  
14 so oftentimes technical authors in a division with maybe  
15 five or ten technical specialists are preparing sections for  
16 various projects and they all work their way up to the  
17 senior or the office manager who has to kind of give the  
18 final okay before it comes to me. And so sometimes it's  
19 held up in that person's -- you know, at that person's desk  
20 because, you know, they're reviewing the whole division's  
21 work product as it is coming out and so -- there's been  
22 times where the technical author has completed their draft  
23 section and it has sat in a senior's office for perhaps a  
24 week or more because they are trying to just, you know,  
25 shuffle their work.

1 HEARING OFFICER VACCARO: Understood. So then by  
2 the 17th do you expect to have these five outstanding  
3 sections?

4 MR. MARTINEZ: Yes. They have been promised to me  
5 prior to the 17th.

6 HEARING OFFICER VACCARO: Okay. So then how about  
7 by three o'clock on the -- by no later than three o'clock on  
8 December 17th send an email to the Committee letting us know  
9 status if you haven't already received those documents. So  
10 basically whenever they come in let us know but certainly by  
11 no later than the 17th.

12 MR. MARTINEZ: Yeah, I can do that. I want to  
13 make sure that it's clear that for those coming to me by the  
14 17th at three o'clock, my review occurs concurrently with  
15 staff counsel and another person in the siting office. Then  
16 if warranted we kick it back to the technical author for  
17 some, usually its minor edits. They have to make those  
18 edits, run it through their senior and then get it back to  
19 me for finalizing. There's usually about a week turnaround  
20 if everyone can kind of review it, make the edits, kick it  
21 back. Maybe less if it's very simple. As an example: This  
22 morning I sent two sections back to a senior with minor  
23 edits and he sent them back in an hour. They were very  
24 minor.

25 HEARING OFFICER VACCARO: Okay.

1           MR. MARTINEZ: I foresee most of the edits to be  
2 minor in nature, not new analysis or things like that that  
3 take some time.

4           HEARING OFFICER VACCARO: Okay. I mean, that  
5 makes perfect sense and thank you for the explanation. I  
6 think maybe I'll rephrase what I was saying. As soon as  
7 those five sections are received by you, even if they  
8 require additional edit and review, please let the Committee  
9 know. But certainly we would like to hear from you by no  
10 later than December 17 because the hope is that all of those  
11 outstanding sections will be received by you by that time.

12           MR. MARTINEZ: Absolutely I can keep the Committee  
13 apprised of that.

14           PRESIDING MEMBER BOYD: Please, as I'm sure you  
15 will, let your division management know that we have made  
16 this request.

17           MR. MARTINEZ: Absolutely.

18           ADVISOR ALLEN: Pierre, do you have the resources  
19 that you think are sufficient on the publication and  
20 production end too?

21           MR. MARTINEZ: Well, you know, that's just another  
22 one of the issues that I raised. We have I think either two  
23 or three other -- either supplemental staff assessments or  
24 staff assessments, other public documents that need to be  
25 published next week. They are all in various stages, as

1 I've explained in my situation, where sections have been  
2 formatted, there are still some outstanding things.

3 I have been in close communication with my project  
4 assistant to understand what product could conflict with  
5 what I'm trying to get done with Oakley. We talk daily.  
6 I'm trying to understand --

7 MS. LUJAN: Hello, this is Viola Lujan from La  
8 Clinica de la Raza.

9 MAYOR ANDERSON: Hi, we have Mayor Pat Anderson  
10 and Vice Mayor Jim Frazier from the City of Oakley.

11 HEARING OFFICER VACCARO: Great, thank you.

12 CALLER: Good morning, good morning, good morning.

13 HEARING OFFICER VACCARO: Thank you. Those of you  
14 on the phone. Excuse me. This is Hearing Advisor Vaccaro.

15 Thank you so much for letting us know that you're on the  
16 line but we are in the middle of someone explaining some  
17 important information to us. We will go back to the folks  
18 on the line and get appearances in just a few moments. But  
19 if you would please just wait until we ask for appearances  
20 because we have two more individuals who are presenting to  
21 us some pertinent information. And then we would be pleased  
22 to hear from those of you on the telephone.

23 MAYOR ANDERSON: Happy to do so.

24 MR. MARTINEZ: So basically to summarize my point.  
25 I'm confident with staff up to I believe the 21st, then

1 people start taking vacations. Some people are taking the  
2 whole week of the 20th. And then one thing I would ask from  
3 the Committee is an order for an electronic filing. That  
4 can save us several days for photocopying hard copies of the  
5 document. We can get those hard copies to the libraries and  
6 to, you know, other people that require those copies but the  
7 publication date can be predicated on the digital copy being  
8 made available.

9           Again, if we can finalize some of these sections,  
10 or rather the document in its totality by Friday the 17th,  
11 you know, then we could have a publication date maybe on the  
12 20th in digital format. So that was something I had  
13 intended to share with you and ask that you grant that  
14 order. That would help on the publication side. That way  
15 we don't have to deal with the reproduction group downstairs  
16 right away. Because they're going to be -- I don't know if  
17 the other projects are also requesting electronic filing but  
18 that would be, you know, a competing task. Because my  
19 understanding is some of these projects take a day or two of  
20 repro time. And so if there's two or three or four lined up  
21 in a given week they're just, they're overloaded.

22           MR. BELL: And that order could just encompass the  
23 filing of the PSA; we can revisit that issue later on. I'm  
24 an advocate for electronic filings, at least in the early  
25 stages, if not for the entire process. But if it pleases

1 the Committee --

2 THE REPORTER: Mr. Bell, I need you to speak a  
3 little bit more into the mic, thank you.

4 MR. BELL: Oh sure.

5 THE REPORTER: I'm barely picking you up.

6 MR. BELL: Sorry. If that's all right for the  
7 Committee it would help staff out.

8 MS. ROBINSON: Hello everyone, this is Therese  
9 Robinson. I represent the Oakley Sunday Seniors and I'm  
10 urging a speedy approval of this project.

11 PRESIDING MEMBER BOYD: Ma'am, we have a hearing  
12 going on here. Thank you for letting us know you're on the  
13 phone. We'll be calling on comments from the public and  
14 others in a short time. We're still in the middle of  
15 hearing from some of the listed individuals including the  
16 applicant and the staff. So thank you for letting us know  
17 you're there, we'll get back to you.

18 MS. ROBINSON: Okay.

19 MS. WILKERSON: Good morning, this is Regina  
20 Wilkerson, resident of Oakley, California.

21 PRESIDING MEMBER BOYD: Ma'am, will you please  
22 hold back until we call for public comments.

23 MS. WILKERSON: All right.

24 HEARING OFFICER VACCARO: Mr. Bell or  
25 Mr. Martinez, was there anything more that you wanted to

1 add?

2 MR. MARTINEZ: No.

3 HEARING OFFICER VACCARO: Thank you. Mr. Sarvey.

4 MR. SARVEY: Yeah, I had a couple of concerns  
5 here. I'd like to know when the applicant is planning on  
6 bringing this online. There seems to be a big push to get  
7 this done. Normally we're talking about there's some online  
8 date we need to meet and in this case we're talking about  
9 some sort of PSD issues that we have. What's your online  
10 date here, I'd like to ask the applicant, that we're in a  
11 rush to meet? You seem to be pushing staff pretty hard  
12 here. Do you have an online date you have to --

13 HEARING OFFICER VACCARO: I think, Mr. Sarvey, how  
14 about -- this is how I'd like this to work. Why don't you  
15 -- we know that that's a question that you'd like to pose  
16 and I suspect there are some other comments you'd like to  
17 make. So why don't you address everything to the Committee  
18 and when you're finished speaking we'll go ahead and give  
19 the applicant an opportunity to respond or make any closing  
20 comments. Thank you.

21 MR. SARVEY: The applicant has put forward here  
22 that Oakley has a purchase and sell agreement that's  
23 scheduled to be approved on December 16th and that date has  
24 been. That decision has been put on hold until the 23rd.  
25 It could be overridden by the other two Commissioners so we

1 could be in a situation where it does get approved on the  
2 16th.

3 But what I wanted to tell the Committee here and I  
4 sent an email out, that there's two decisions out there, one  
5 recommends no approval, one recommends approval. The  
6 decision that recommends no approval was written by ALJ  
7 Farrar who is the assigned ALJ on this particular case. So  
8 it's up in the air whether there is going to be an approval  
9 here or not and that's why I asked that question.

10 You know, I just really wanted to clarify that and  
11 wanted to get to the bottom what the rush was here. I mean,  
12 I know staff's got a lot of work to do. I know they're  
13 working on Mariposa I know for sure and a lot of other  
14 issues. And I don't want to push them to put out a product  
15 that, you know, could be less than what they could if they  
16 had appropriate time. If there is not an online date issue  
17 here I don't see why we should push staff. You know, I'm  
18 ready at any time.

19 HEARING OFFICER VACCARO: Anything else that you  
20 wanted to add, Mr. Sarvey?

21 MR. SARVEY: Just I'd like to get answers to the  
22 online date question. Whether that's a critical element to  
23 this thing in that we need to push staff to get online for a  
24 certain date. That's the only thing I have at the moment.  
25 I might have something later after I hear what the other

1 parties have to say.

2 HEARING OFFICER VACCARO: Okay. Mr. Bell.

3 MR. BELL: Yes, on behalf of staff. I appreciate  
4 Mr. Sarvey's concern about pushing staff. One of the  
5 reasons why we are hesitant to commit to a December 17th  
6 date, as difficult as that is, is because staff is doing a  
7 thorough job in our analysis of the information that's been  
8 provided by the applicant. We could probably have a product  
9 out today if staff wasn't thorough. Staff is taking the  
10 same amount of --

11 CALLER: Hello?

12 MR. BELL: Staff is taking the same amount of time  
13 on this project in their analysis as they would if we had  
14 plenty of time. So it's not that staff is being pushed.

15 HEARING OFFICER VACCARO: Thank you. I think it's  
16 appropriate for Mr. Galati on behalf of the applicant, if  
17 you would just answer the question posed that would be very  
18 helpful. The question that was posed by Mr. Sarvey.

19 MR. GALATI: Sure. Yes, we want to start  
20 construction and we want an online date that is before the  
21 online date that would be identified in the alternate  
22 decision by the PUC, of which PG&E would actually acquire  
23 the project. So while many projects have a PPA with a  
24 online delivery date that drives the schedule, I've already  
25 outlined for you what's driving our schedule.

1           And we intend to begin construction, meet the  
2 deadline for July 1st, continue to construct the plant, come  
3 on line, get that thing up and operating. It's new  
4 technology. Make sure that it operates correctly. Operate  
5 probably merchant for a year or two until PG&E actually  
6 takes the project for us under PSA.

7           Let's understand here that the technology that  
8 we're talking about is new; it's fast-start technology. It  
9 has been identified by CaISO and the PUC as very, very  
10 instrumental in integrating renewables. General Electric  
11 who is supplying that technology has big plans for it in  
12 California. And so we're going to take some time, we're  
13 going to make sure that it operates exactly as planned.

14           And so yes, our online date will be before the  
15 2016 date that's identified in the alternate decision.

16           HEARING OFFICER VACCARO: Okay, and just for the  
17 purposes of everyone in the room. You and Mr. Sarvey are  
18 referring to PUC proceedings and two alternate proposed  
19 decisions. But you're also assuming that everyone in the  
20 room knows what those decisions state.

21           I don't think we need to belabor that point but I  
22 think perhaps you could at least tell us what that date is  
23 that's being, that was specifically referenced. Mr. Sarvey  
24 says, what is the date. Is there a date?

25           MR. GALATI: There is a date in the Purchase and

1 Sale Agreement with PG&E of 2016. That is not the date that  
2 we will come online. We will come online before that date.

3 HEARING OFFICER VACCARO: Thank you for the  
4 clarification.

5 Okay, is there anything further that any of the  
6 parties think that you need to underscore or provide  
7 information to the Committee?

8 PRESIDING MEMBER BOYD: Let me ask a question  
9 based on the last response. Mr. Galati, 2016 is the  
10 absolute deadline for turnover to PG&E. Am I interpreting  
11 that correctly?

12 MR. GALATI: That's correct.

13 PRESIDING MEMBER BOYD: So you have the latitude  
14 of running and testing -- running in merchant position until  
15 that date in 2016.

16 MR. GALATI: That is correct.

17 PRESIDING MEMBER BOYD: Thank you.

18 MR. GALATI: I have one follow-up comment as a  
19 proposed solution to the Committee, hearing what staff had  
20 said about the outstanding sections. One thing that might  
21 be helpful -- I know staff doesn't care to do this but I'd  
22 ask the Committee to consider it. And that is a  
23 bifurcation. Let me tell you why a bifurcation would be  
24 helpful. And what I mean by that is, staff could produce a  
25 document that is missing four or five sections, with the

1 idea that part two would come out in the beginning of  
2 January, allowing them some additional time for review of  
3 the outstanding sections.

4           What that would do for us is we could get a jump  
5 on reviewing the sections that are completed. So that when  
6 the Staff Assessment comes out Part Two in the January time  
7 frame we don't need a very long period of time before we can  
8 go be productive at a PSA workshop. We will only have five  
9 sections we need to read and review thoroughly. That would  
10 allow us to continue with a PSA workshop in the January time  
11 frame, which we think is critical to being able to have a  
12 productive FSA.

13           So I would -- if staff is having difficulty  
14 marshalling the resources. I do know that they're working  
15 on Watson Cogen, I know there's a part two for the HECA  
16 project, that's been bifurcated. And it has happened in the  
17 past. And so that would be -- we could work with that  
18 scenario if that helps staff.

19           HEARING OFFICER VACCARO: Thank you.

20           MS. LASHBROOK: My name is Dorothy Lashbrook.

21           PRESIDING MEMBER BOYD: Madam.

22           MS. LASHBROOK: I've lived in Contra Costa County  
23 for 44 years and --

24           PRESIDING MEMBER BOYD: Madam, we'll be calling  
25 for public testimony shortly; would you please hold until

1 that time. We're engaged in a dialogue up here at the  
2 hearing.

3 HEARING OFFICER VACCARO: Okay. Mr. Bell or  
4 Mr. Martinez, I don't know if you were inclined to make a  
5 brief response. And then after that we do have a question  
6 for Ms. Truesdell so we'd love to hear from her in just a  
7 moment as well.

8 MR. BELL: I know that we have bifurcated some  
9 documents in the past but I believe that's happened in  
10 circumstances where we're missing information or where there  
11 is an unresolved issue. In this circumstance --

12 MR. MARTINEZ: I actually haven't talked with  
13 management so I haven't -- I mean, I think it can be done.

14 MR. BELL: I think we'd have to gauge --

15 PRESIDING MEMBER BOYD: There is precedent  
16 established, there is precedent.

17 MR. BELL: Yes. Absent word from the Committee I  
18 think we would have to run that by management to gauge  
19 management's feelings on a bifurcated document.

20 HEARING OFFICER VACCARO: Okay, thank you.

21 And Mr. Sarvey, did you have any comments at all  
22 on the issue of bifurcation of the preparation of the  
23 document?

24 MR. SARVEY: No, I don't have any issues with that  
25 at all.

1 CALLER: Hello.

2 HEARING OFFICER VACCARO: Thank you. Okay,  
3 callers on the line, if you would please -- excuse me,  
4 callers on the line; this is Hearing Advisor Vaccaro. If  
5 you could please wait until we call for appearances we'd  
6 greatly appreciate it. We are just wrapping up hearing from  
7 the parties in this matter. The Committee does have a  
8 question for Ms. Truesdell, who I believe is still on the  
9 line. Are you still there?

10 MS. TRUESDELL: Yes, I'm here. But if there is a  
11 specific question for me if you could please speak clearly  
12 into the microphone. I'm having a hard time hearing you.

13 HEARING OFFICER VACCARO: Okay, is this any  
14 better?

15 MS. TRUESDELL: Yeah.

16 HEARING OFFICER VACCARO: Okay. The question is,  
17 the Committee was just curious about the timing of the FDOC,  
18 when you think that might occur. Whether or not the  
19 schedule as proposed by Mr. Galati is also the schedule that  
20 the District is looking at.

21 MR. HOOKER: This is Brian Hooker, Field  
22 Representative for Congressman John Garamendi's Office  
23 calling in.

24 HEARING OFFICER VACCARO: Thank you. We have a  
25 question for an individual right now, we're waiting to hear

1 from Ms. Truesdell. We will take appearances from people on  
2 the line. We're so pleased to have so many of you but if  
3 you would just indulge us for a few more moments. We want  
4 to finish with the Committee questions and then we'll turn  
5 to public comment.

6 MR. HOOKER: Thank you.

7 MS. TRUESDELL: The District is currently  
8 reviewing the comments received for the PDOC so I'm not  
9 clear on the time line at this point. Probably we can meet  
10 the deadlines that were proposed.

11 HEARING OFFICER VACCARO: Okay, thank you.

12 Mr. Crapo, we believe that you're still on the  
13 line on behalf of Contra Costa County. Was there anything  
14 that you wanted to state or any follow-up that you have with  
15 respect to the comments made this morning?

16 MR. CRAPO: No, thank you very much.

17 HEARING OFFICER VACCARO: Okay. I think at this  
18 point -- Mr. Sarvey, you have a final comment you would like  
19 to make?

20 MR. SARVEY: I have one more question. I have one  
21 more question I'll post to the Committee. If the Oakley  
22 Generating Station contract is rejected by the PUC are we  
23 still under the gun here that we have to move forward  
24 quickly?

25 HEARING OFFICER VACCARO: Mr. Galati, is there

1 anything you would like to say in response to that question?

2 MR. GALATI: Yes, we are still under the gun. We  
3 want to get a license, we want to begin construction. If we  
4 have to operate merchant for a longer period of time, while  
5 it would be horrible to do so, we would like the opportunity  
6 to consider that. So the bottom line is that we think  
7 that's a very low probability of occurrence.

8 HEARING OFFICER VACCARO: Thank you. Thank you  
9 all for your participation today, this is a lot of very  
10 helpful and useful information. The request is on the table  
11 for a Revised Scheduling Order so of course that's the next  
12 order of business for the Committee as well as to consider  
13 the request for electronic filing of the PSA, the  
14 possibility of bifurcation. So thank you for submitting  
15 these matters to the Committee. They are under submission  
16 and the Committee will issue a corresponding order.

17 I think at this point what we would like to do is  
18 take public comment. Typically we have a much better sense  
19 of who is on the phone lines and we are able to navigate I  
20 think a little more efficiently. This might not be as  
21 efficient as it typically would be. So if everyone would  
22 just be patient and we'll get through all the callers to the  
23 extent that we can. However, this proceeding will end at  
24 10:00 a.m. so we ask the callers to keep their comments to a  
25 minimum -- or a maximum, I should say, of about -- just no

1 more than two minutes.

2 I think what we'll do, unfortunately, you know, as  
3 people started to give their names while others were  
4 speaking I wasn't able to capture those names so we are just  
5 going to do this the best we can. If you hear someone else  
6 starting to talk please be quiet and wait until there's a  
7 natural pause to go ahead and introduce yourself. So with  
8 that --

9 CALLER: Hello?

10 HEARING OFFICER VACCARO: We'll take the first  
11 public caller on the line. I think why don't we start first  
12 with the representative from Congressman Garamendi's Office.

13 MR. HOOKER: Thank you very much. This is Brian  
14 Hooker, I'm field representative from Congressman John  
15 Garamendi's Office here in the 10th Congressional District,  
16 which includes Antioch, Oakley and a large portion of East  
17 Contra Costa County.

18 The Congressman is in strong support of this  
19 project due to the economic and environmental stimulus that  
20 it will bring to the district and would certainly like to  
21 see this implemented. That's our comment.

22 HEARING OFFICER VACCARO: Thank you.

23 PRESIDING MEMBER BOYD: Thank you.

24 HEARING OFFICER VACCARO: I believe there were  
25 perhaps one or more officials from the City of Oakley that

1 might also be on the line. Would you be --

2 MS. KING: My name is Celeste King, I'm speaking  
3 on behalf of Assemblywoman Buchanan. And she would like to  
4 lend her support to this as well.

5 PRESIDING MEMBER BOYD: Could you repeat your  
6 name, please; we missed it.

7 MS. KING: Celeste King.

8 PRESIDING MEMBER BOYD: All right, thank you very  
9 much.

10 MS. KING: You're welcome.

11 MS. DARLING: Good morning.

12 HEARING OFFICER VACCARO: Good morning.

13 MS. DARLING: My name is Shirley Darling and I  
14 serve on the Board of Directors of the Friends of Oakley, a  
15 community foundation with the simple mission of raising the  
16 quality of life for our residents young and old.

17 I would like to express my full support for this  
18 project and urge its approval as soon as possible. Thank  
19 you.

20 HEARING OFFICER VACCARO: Thank you.

21 MS. GASTALDE: Good morning.

22 HEARING OFFICER VACCARO: Good morning.

23 PRESIDING MEMBER BOYD: Good morning.

24 MS. GASTALDE: My name is Valerie Gastalde. I'm a  
25 parent in Contra Costa County and I am in complete support.

1 HEARING OFFICER VACCARO: Thank you.

2 MS. LAGANO: My name is Donna Lagano and I'm a  
3 resident of Oakley. I also serve on the Board of Directors  
4 for the Friends of Oakley nonprofit organization as does  
5 Shirley Darling. And I wanted to offer my support for this  
6 project as well and encourage its approval.

7 HEARING OFFICER VACCARO: Thank you.

8 MAYOR ANDERSON: Commissioners and staff, good  
9 morning. This is Mayor Pat Anderson from the City of  
10 Oakley. I'd like to thank you for this opportunity to  
11 express an opinion.

12 I have served with this Council since Oakley's  
13 incorporation in 1999 and as a City Council we have been  
14 intimately involved in this process since December of 2008.  
15 We're concerned that if this project is not approved in a  
16 timely manner one of many financial or regulatory windows  
17 will shut and we'll be left without a project. And that's  
18 definitely not what we want or need.

19 The jobs alone in the construction phase will  
20 certainly help our depressed job market. The improvement to  
21 the parcel that is under-utilized and at the northwest  
22 entrance to our community is critical. And the community  
23 foundations and schools, amongst just a few, will reap  
24 benefits from our community benefit agreement.

25 So at this point I know time is limited. I would

1 like to pass this off to our Vice Mayor, Jim Frazier.

2 VICE MAYOR FRAZIER: Hi, Oakley Vice Mayor Jim  
3 Frazier here. I wanted to join this call today to show the  
4 support I personally have for this project. In just one  
5 week I'll be taking over the duties as mayor. And I want to  
6 stress that not only does our current mayor support this  
7 project, so does the incoming mayor and the rest of our city  
8 council members.

9 Mayor Anderson mentioned the year we incorporated  
10 and I'm glad she did. Being such a young city we have lost  
11 a tremendous amount of sales tax revenue to our neighbors.  
12 We need the property and sales tax revenue associated with  
13 the Oakley Generating Station. And the reality is we don't  
14 have other suitors willing to make this type of investment  
15 in our community that this applicant has.

16 I am encouraging you to approve this in a timely  
17 manner, the project by the CEC. Thank you.

18 HEARING OFFICER VACCARO: Thank you.

19 MS. LUJAN: Good morning. I'm Viola Lujan from La  
20 Clinica de la Raza. I'm the regional director for La  
21 Clinica. We have been a service provider for close to 40  
22 years and we will be a service provider in Oakley very  
23 shortly. I'm very excited to say so.

24 And we have been very supportive of this project  
25 from the beginning and look to extend our support that there

1 be immediate approval for this project. It is a great  
2 benefit to the community and will have a positive impact on  
3 those communities that we will be serving.

4 MS. WINTERS: Good morning. My name is Lauri  
5 Winters and I am a 37-year East Contra Costa County  
6 resident. I am a parent and former president of the Oakley  
7 Union Elementary School District. And I supported this  
8 project previously and I continue to support it. I just  
9 echo the words of Mayor Anderson about what this project  
10 will do for our community. So I really urge approval in a  
11 very timely manner. Thank you.

12 MS. WILKERSON: Good morning, Commissioner and  
13 staff.

14 HEARING OFFICER VACCARO: Could you please speak  
15 up.

16 MS. WILKERSON: Mayor Anderson and Mayor-Elect  
17 Frazier. My name is Regina Wilkerson, Domaine Way, Oakley,  
18 California, 22-year resident of Oakley. Also a parishioner  
19 at Saint Anthony Church and that's within my community.

20 I would like to state for the record that I fully  
21 support the Oakley Power Plant Project. Thank you.

22 PRESIDING MEMBER BOYD: Thank you.

23 MS. LASHBROOK: Good morning, everyone. My name  
24 is Dorothy Lashbrook. I have been a resident of Contra  
25 Costa County for 44 years. I have been through brown-outs

1 and other electrical problems.

2 I think it's necessary to have this power plant  
3 and I think the majority of Oakley residents are for this  
4 project. So I am really hoping that we make some inroads at  
5 this time, thank you.

6 HEARING OFFICER VACCARO: Thank you.

7 MR. YERAKA: Good morning, my name is Mike Yeraka.  
8 I am general manager of Diablo Water District in Oakley. I  
9 am calling on behalf of my Board of Directors offering  
10 public support for the Oakley Generation Station and to also  
11 let you know that we have a more than adequate water supply  
12 available for the project. Thank you very much.

13 HEARING OFFICER VACCARO: Thank you.

14 MR. FEERE: Good morning. I'm Greg Feere, I'm the  
15 Chief Executive Officer for the Contra Costa Building and  
16 Construction Trades Council. We're made up of 30 of the  
17 construction trades and approximately 35,000 building trades  
18 men and women who reside in Contra Costa.

19 Unfortunately over a third of them are unemployed  
20 at this particular point. So the economic job stimulus that  
21 this project would bring to Contra Costa is phenomenal. I  
22 think everybody has heard that jobs is the main priority and  
23 this project stimulates exactly that.

24 One thing that I think a lot of people don't  
25 realize. For every one construction job there's two-and-a-

1 half to three secondary jobs that are also generated. So we  
2 are, you know, very much in support of this project. And  
3 quite frankly, the best thing that you could give an  
4 unemployed building trades man or woman is a job at this  
5 time. And as soon as this project can get online the better  
6 and we're 100 percent in support of this project. Thank  
7 you.

8 MR. HECKATHORN: Good morning, this is Mike  
9 Heckathorn. I'm an Antioch resident for 22 years. I have a  
10 local engineering and construction company here and we  
11 strongly support timely approval of this project.

12 The Eastern Contra Costa County has been hit very  
13 hard economically with foreclosures, loss of jobs, et  
14 cetera. This power plant construction project would bring  
15 greatly infused capital into the area, which is desperately  
16 needed to help the unemployed construction people and the  
17 ancillary businesses. So we strongly approve the timely --  
18 support the timely approval of this project. Thank you.

19 MS. ROBINSON: Good morning, this is Therese  
20 Robinson and I represent the Oakley Sunday Seniors. And all  
21 the seniors that belong to this club are urging you to  
22 approve the project as well. Thank you.

23 HEARING OFFICER VACCARO: Do we have any other  
24 callers on the line who wish to make a comment?

25 (No response.)

1 HEARING OFFICER VACCARO: Okay, it doesn't sound  
2 like it and it doesn't appear that we have any members of  
3 the public in the room. Oh, I'm sorry. We do have a member  
4 of the public in the room.

5 MS. WILLIS: Good morning. My name is Rebecca  
6 Willis, I'm the City of Oakley's Community Development  
7 Director.

8 There is overwhelming support for this power plant  
9 in our city, as you probably guessed at this point. We are  
10 here with our consultant, Manny Canalita. If there are any  
11 technical questions or any decisions that you needed from  
12 our City we are here to represent that.

13 I also wanted to assure you the CEC staff has been  
14 very thorough in this process. They are doing a lot of  
15 fact-checking. So we are very confident that the work  
16 product that is being put out is very thorough and very  
17 well-investigated. To hear that there are no technical  
18 problems is phenomenal.

19 This is truly -- this is truly a very special  
20 place, a very special moment, a very special opportunity.  
21 Thank you.

22 HEARING OFFICER VACCARO: Thank you. And again my  
23 apologies for not recognizing you as a member of the public.  
24 Would you like to speak as well?

25 MR. CANALITA: No, I'm fine, thank you.

1 HEARING OFFICER VACCARO: Thank you.

2 I think with that it appears that we are finished  
3 with public comment so I'll turn this back over to Vice  
4 Chair Boyd.

5 PRESIDING MEMBER BOYD: Thank you. Seeing and  
6 hearing no further questions in the room or on the phone I  
7 think we're nearing the end of this status conference. It  
8 is just a status conference. And as many of you have heard  
9 it is an issue of deadlines, of staff capabilities at the  
10 present time to meet all their workload requirements.

11 I appreciate the kind words of many people  
12 sympathizing with the status of the staff's ability here to  
13 crank out all the projects that are before us. These are  
14 tough times for applicants, the Energy Commission, cities,  
15 counties and most of the people of the state. And I think  
16 everybody is trying their best to meet the deadlines.

17 We will consider what we heard today and working  
18 with our Hearing Officer, Ms. Vaccaro, we will issue a  
19 Hearing Order in the very near future. So if there are no  
20 other comments, questions. My fellow Commissioner, anything  
21 you'd like to say before I close this proceeding?

22 ASSOCIATE MEMBER WEISENMILLER: I wanted to thank  
23 the public for their involvement today and the public  
24 comment that we got.

25 PRESIDING MEMBER BOYD: Thank you.

1           If there is no other comment this status  
2 conference stands adjourned. Thank you, everybody.

3           (Whereupon, at 9:52 a.m. the  
4 Status Conference was adjourned.)

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## CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December, 2010.

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JOHN COTA

## CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

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RAMONA COTA, CERT\*\*478

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December 10, 2010