

PREHEARING CONFERENCE  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 )  
Application for Certification ) Docket No.  
for the Palomar Energy Project ) 01-AFC-24  
by Sempra Energy Resources )  

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 )

CALIFORNIA CENTER FOR THE ARTS  
ROOMS IV AND V  
340 N. ESCONDIDO BOULEVARD  
ESCONDIDO, CALIFORNIA

THURSDAY, MARCH 13, 2003  
1:00 P.M.

Reported by:  
James Ramos  
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

William J. Keese, CEC Chairman and Associate  
Committee Member

John L. Geesman, Presiding Member

HEARING OFFICERS AND ADVISORS PRESENT

Susan Gefter, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Paul A. Kramer, Jr., Staff Counsel

Bob Eller, Project Manager

APPLICANT

Sempra Energy

Taylor O. Miller, Attorney

Raymond P. Kelly, Permitting Manager

Michael R. Niggli, President Sempra Energy  
Resources

Joseph H. Rowley, P.E., Vice President Asset  
Management

INTERVENORS

Bill Powers, Chairman of the Board, Power Plant  
Working Group

ALSO PRESENT

Lori Holt Pfeiler, Mayor, City of Escondido

Jonathan Brindle, AICP, Assistant Planning  
Director, City of Escondido

Jeffrey R. Epp, Attorney, City of Escondido

Ed Gallo, Councilman, City of Escondido

ALSO PRESENT

John Hoagland, Utilities Manager, City of  
Escondido

Sam Abed, Immediate Past Chairman of the board,  
Escondido Chamber of Commerce

Shawn Delargy, Operations AES, Huntington Beach,  
L.L.C.

Bob Eller, Project Manager, State of California

Ralph Desiena, San Diego Air Pollution Control  
District

Evariste Haury, Permitting Engineer, San Diego Air  
Pollution Control District

Daniel Speer, Senior Engineer, San Diego Air  
Pollution Control District

Greg Morrill

Mark Rodriguez

Steve Lu Russo

Mary Massey, Staff Writer  
North County Times

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

1:00 p.m.

PRESIDING MEMBER GEESMAN: This is a Prehearing Conference for the Palomar Energy Project.

I'm John Geesman, member of the California Energy Commission. I'm the presiding Commissioner of the Committee that's been established to consider this case. Two seats to my left is Bill Keese, who is the Chairman of the Energy Commission and an Associate Member of this Committee. Between Chairman Keese and myself is Susan Gefter, who is the Hearing Officer that will actually be conducting the Prehearing Conference and then next month conducting the evidentiary hearings that we hold on the case.

We're about to go on a site visit. After the site visit, we'll come back and actually resume the Prehearing Conference. But before we left for the site visit, I wanted to give an opportunity to several of the officials that are here today that would like to address us. And in order to accommodate your schedule I think probably the best time to do so would be now before we start the site visit.

1           It's my understanding that Lori Pfeiler,  
2 the Mayor of Escondido is here and would like to  
3 speak to us.

4           MAYOR HOLT PFEILER: Thank you very  
5 much. And we appreciate you being able to come  
6 down and do another site visit because I think you  
7 see it's just so much more descriptive.

8           From the City of Escondido's  
9 perspective, this is a very important project to  
10 us. It is fundamentally an industrial park that  
11 has been in the works for about 20 years. It's  
12 important as far as being able to generate jobs.  
13 And the infrastructure that is there is able to  
14 support both the power plant and the jobs that we  
15 need here in the City of Escondido.

16           Over those 20 years this project has  
17 been in and out of the city many times. There has  
18 been lots and lots of public discussion. It is  
19 not until Sempra came through and proposed a  
20 project that worked with the neighborhood and with  
21 the environment and the land that's available that  
22 the public has become very supportive of this  
23 project as well as the city.

24           So we have reviewed this project. We  
25 are excited about it.

1           When you have a huge infrastructure  
2 project you should put it where it can be  
3 supported. And in the City of Escondido we have  
4 both the transportation corridors to deal with the  
5 project as well as reclaimed water. I consider it  
6 smart growth. Where the people are is where you  
7 should put a power plant. And where the people  
8 are is where you should put jobs and this responds  
9 in both ways to that situation.

10           So I would also like to let Ed Gallo  
11 speak incase I've missed any important points.  
12 We're going to double team today, just to let you  
13 know how important this is to the City of  
14 Escondido.

15           PRESIDING MEMBER GEESMAN: Well, thank  
16 you very much. Mr. Gallo.

17           COUNCILMAN GALLO: Yes. I'll echo the  
18 Mayor's comments. This is a real important  
19 economic project for the City of Escondido. And  
20 with Sempra, the power energy plant will be a  
21 great economic engine for the city along with  
22 Jamie McCann, the developer of the Escondido  
23 research and technology park. We're taking  
24 industrial out, that has a negative connotation in  
25 my opinion. But it's really important for us.

1           We happen to be at a great location and  
2 that's why the energy plant is critical for our  
3 needs in the county, as well as the City of  
4 Escondido and with the economic benefit that we  
5 will derive this is a win win situation for  
6 everyone.

7           It's an environmentally sensitive  
8 project. All the environmental concerns I think  
9 have been addressed. So we really don't have any  
10 issues. As the Mayor said, the city is behind us  
11 now. The people in the city are behind the  
12 project. They have been embracing it as well as  
13 the Council and the City Staff. So we look  
14 forward to your continued progress in approving  
15 this project.

16           PRESIDING MEMBER GEESMAN: Thank you  
17 very much. I want to thank both of you for your  
18 hospitality and your encouraging words.

19           Is there anyone else that cares to  
20 address this before we go on the site visit? When  
21 we come back, we'll do introductions of all of the  
22 parties and everything else. But let's go on the  
23 site visit now. Thank you very much.

24           (Thereupon the meeting adjourned to the  
25 site for a site visit.)

1           PRESIDING MEMBER GEESMAN: Back on the  
2 record. I want to thank the applicant for an  
3 informative site visit. For those of you that  
4 weren't here earlier before the site visit this is  
5 a Prehearing Conference of the California Energy  
6 Commission on the Palomar Energy Project,  
7 sponsored by Sempra Energy Resources.

8           I'm John Geesman a member of the Energy  
9 Commission and the presiding member of the two  
10 Commissioner Committee hearing this proceeding.  
11 Two seats to my left is Bill Keese, the Chairman  
12 of the California Energy Commission and the  
13 Associate Member of this Committee. And to my  
14 immediate left is Susan Gefter, who will be  
15 conducting this Prehearing Conference and then in  
16 another month or so the evidentiary hearings that  
17 we hold on the case.

18           California Energy Commission is the  
19 state agency that reviews and licenses new power  
20 plants in California. And the Commission assigned  
21 a committee of two of the Commissioners, myself  
22 and Mr. Keese to review this project.

23           We provide official transcripts of the  
24 Committee sponsored proceedings. The court  
25 reporter will let us know if he can hear the

1 speakers and if he needs a break. And if you have  
2 a business card, it would greatly help us. Before  
3 you speak if you could provide the court reporter  
4 with your business card.

5 And the official transcript of today's  
6 hearing will be posted on the Commissions web  
7 site. Before we begin, I think we probably should  
8 introduce ourselves to the audience. Susan, you  
9 want to start?

10 HEARING OFFICER GEFTER: Okay. I'm  
11 Susan Gefter. I'm the Hearing Officer assigned to  
12 this Committee and I will be conducting the  
13 procedural aspects of today's event as well as the  
14 evidentiary hearings, which will occur next month.

15 ASSOCIATE COMMITTEE MEMBER KEESE: I'm  
16 Bill Keese and pleased to be here. Also worked on  
17 the power plant adjacent to this site so came in  
18 with an introduction to the site, but was very  
19 pleased with the site visit today. And I'm glad  
20 you're all here and I'm glad this case is moving  
21 as expeditiously as it is.

22 PRESIDING MEMBER GEESMAN: Taylor.

23 MR. MILLER: I'm Taylor Miller with  
24 Sempra Energy; Counsel to the applicant, Palomar  
25 Energy for this project. And I guess I'll allow

1 my colleagues to introduce themselves.

2 MR. ROWLEY: Joe Rowley with Sempra  
3 Energy Resources; I'm Project Developer and also  
4 the Vice President of Asset Management for Sempra  
5 Energy Resources.

6 MR. KELLY: My name is Raymond Kelly.  
7 I'm with Sempra Energy Resources; Permitting  
8 Manager. Responsible for the licensing and  
9 permitting for the Palomar Energy Project.

10 MR. MILLER: Bob.

11 COMMISSION STAFF ELLER: Good afternoon,  
12 I'm Bob Eller. I'm Commission Staff, Project  
13 Manager.

14 MR. KRAMER: And I'm Paul Kramer, the  
15 Commission Staff Counsel, representing the Staff  
16 in this case.

17 HEARING OFFICER GEFTER: Is Bill Powers  
18 here? Bill, would you come forward?

19 MR. POWERS: Sure.

20 HEARING OFFICER GEFTER: Take a seat  
21 right there and introduce yourself, please.

22 MR. POWERS: Hi, I'm Bill Powers, I'm  
23 the Chairman of the Board of Power Plant Working  
24 Group. And I'm the, apparently, the active  
25 intervenor in this process.

1 HEARING OFFICER GEFTER: Thank you. Is  
2 any representative from CURE here today? Is there  
3 anyone here from Cabrillo? Okay, thank you. I  
4 understand there are some representatives from  
5 local public agencies here. Is there a  
6 representative from the San Diego Air Pollution  
7 Control District? Is there someone here today  
8 from the Air District? Could you come up and  
9 introduce yourself please?

10 MR. DESIENA: Ralph Desiena; San Diego  
11 Air Pollution Control.

12 HEARING OFFICER GEFTER: Could you spell  
13 your name for the court reporter?

14 MR. DESIENA: It's D-E-S-I-E-N-A.

15 HEARING OFFICER GEFTER: Okay, and Mr.  
16 Desiena we'd like you to stay around to answer  
17 questions when we get to the air quality topic, if  
18 you would please.

19 MR. DESIENA: Okay.

20 HEARING OFFICER GEFTER: Is there anyone  
21 else from the Air District here?

22 MR. HAURY: Evariste Haury. I am the  
23 permitting engineer. I'm with the San Diego APCD.

24 HEARING OFFICER GEFTER: Could you spell  
25 your name please?

1 MR. HAURY: E-V-A-R-I-S-T-E and last  
2 name is H-A-U-R-Y.

3 HEARING OFFICER GEFTER: Thank you.

4 MR. SPEER: My name is Dan Speer. I'm  
5 with the San Diego Air Pollution Control District.  
6 I'm the Senior Engineer responsible for the  
7 section that processes this type of equipment.

8 HEARING OFFICER GEFTER: Thank you. Is  
9 there anyone here from City of Escondido Planning  
10 Department?

11 MR. BRINDLE: Yes. My name is Jonathan  
12 Brindle. I'm the Assistant Planning Director for  
13 the City of Escondido.

14 HEARING OFFICER GEFTER: Thank you.

15 MR. BRINDLE: B-R-I-N-D-L-E.

16 HEARING OFFICER GEFTER: Thank you. Is  
17 there anyone else here from City Planning  
18 Department with you?

19 MR. BRINDLE: No.

20 HEARING OFFICER GEFTER: What about the  
21 City Public Works Department?

22 MR. HOAGLAND: I'm John Hoagland,  
23 Utilities Manager for the City of Escondido.

24 HEARING OFFICER GEFTER: Could you spell  
25 your name please?

1 MR. HOAGLAND: H-O-A-G-L-A-N-D.

2 HEARING OFFICER GEFTER: Thank you. Is  
3 there any other representatives from the City  
4 here?

5 MR. HOAGLAND: I don't believe so.

6 HEARING OFFICER GEFTER: No? Anyone  
7 from the Water Agency?

8 MR. HOAGLAND: We'd be representing --  
9 the City provides -- I don't know that there's.  
10 Are you talking about the potable water issue, or  
11 they're Rincon Del Diablo is the water service  
12 provider of record.

13 HEARING OFFICER GEFTER: Okay.

14 MR. HOAGLAND: There is no one here from  
15 there.

16 HEARING OFFICER GEFTER: Thank you. Are  
17 there community organizations here representatives  
18 of community organizations that would intend to  
19 address us this afternoon? Any neighborhood  
20 groups? Yes.

21 MR. RODRIGUEZ: Mark Rodriguez, that's  
22 R-O-D-R-I-G-U-E-Z and I'm basically the Quail  
23 Hills Concerned Neighbors Association, on the  
24 western border.

25 HEARING OFFICER GEFTER: Thank you. Mr.

1 Rodriguez is giving us a blue card and we'll call  
2 on you later. Are there any media representatives  
3 here today?

4 MS. MASSEY: Hi, Mary Massey, I'm with  
5 the North County Times. It's a local newspaper in  
6 San Diego.

7 HEARING OFFICER GEFTER: Thank you. And  
8 can you spell your name for us please.

9 MS. MASSEY: Massey, M-A-S-S-E-Y.

10 HEARING OFFICER GEFTER: Thank you. Is  
11 there anyone else here today that intends to  
12 address the Committee and would like to introduce  
13 yourself right now? Yes.

14 MR. ABED: Sam Abed, A-B-E-D; Escondido  
15 Chamber of Commerce.

16 HEARING OFFICER GEFTER: Thank you.

17 MR. DELARGY: Hi, I'm Shawn Delargy,  
18 that's S-H-A-W-N, Delargy is D-E-L-A-R-G-Y. I'm a  
19 local resident here, Escondido.

20 HEARING OFFICER GEFTER: Thank you.

21 MR. MORRILL: Hello, my name is Greg  
22 Morrill. I'm a resident, 724 Allenwood Lane.  
23 We're the street that the project will be right up  
24 against. That's M-O-R-R-I-L-L.

25 HEARING OFFICER GEFTER: Thank you. And

1 if you could fill out a blue card for us and then  
2 we'll have your name and everything. They're over  
3 there on the table. And also if the  
4 representative of there Chamber of Commerce, if  
5 you intend to address us, if you fill out a blue  
6 card we'll have your name and we'll call on you  
7 later.

8 MR. STEVE LU RUSSO: I'm Steve Lu Russo.  
9 I'm also a resident of Quail Hills.

10 HEARING OFFICER GEFTER: Thank you. You  
11 know, I'm going to ask all the local residents who  
12 are now about to line up, if you would fill out a  
13 blue card and put your name on there, we'll take  
14 the blue cards and we plan to take public comment  
15 later this afternoon at 4:00. And so, why don't  
16 you give us your blue cards and we'll have your  
17 names, we'll call on everybody at 4:00.

18 PUBLIC: Oh, we don't need to?

19 HEARING OFFICER GEFTER: You don't need  
20 to introduce yourself right yet, thank you. Okay.  
21 Can we go forward? Okay, I'm going to go off the  
22 record for one minute.

23 (Thereupon a brief discussion off the record was  
24 held.)

25 HEARING OFFICER GEFTER: Mr. Powers do

1 you have someone else you'd like to introduce as  
2 part of your team?

3 MR. POWERS: Yes, the attorney that's  
4 going to be representing the Power Plant Working  
5 Group is Cory Briggs.

6 HEARING OFFICER GEFTER: Okay.

7 MR. BRIGGS: C-O-R-Y B-R-I-G-G-S.

8 HEARING OFFICER GEFTER: Thank you.

9 MR. POWERS: And just one other comment,  
10 the Chairman of the Energy Committee of the San  
11 Diego Chapter of the Sierra Club will not be here  
12 until 4:00 p.m. but did ask me to submit this  
13 statement. We'll try and make it at the comment  
14 period.

15 HEARING OFFICER GEFTER: Thank you.  
16 Okay. I'm going to provide a little background  
17 for members of the public who are here with us  
18 today. The power plant licensing process is a  
19 public proceeding in which members of the public  
20 are encouraged to offer their views on matters  
21 related to the project.

22 And so we invite comments from the  
23 residents and interested members of the public to  
24 speak to us and as I indicated earlier we're going  
25 to set aside time beginning at 4:00 p.m. to hear

1 from all of you this afternoon.

2           At this point we're going to explain to  
3 you what this process is about. The Commission  
4 began review of the Palomar Energy Project in  
5 February of 2002. The review was coordinated with  
6 the City of Escondido EIR process for the  
7 Escondido Research and Technology Center. And  
8 we're going to refer to that as the ERTC  
9 throughout this proceeding.

10           The City adopted the EIR for the ERTC in  
11 November of 2002 and the Commission staff  
12 subsequently issued its final staff assessment in  
13 January of 2003. Earlier today as Commissioner  
14 Geesman indicated we toured the proposed site as  
15 previously scheduled in the notice of today's  
16 event.

17           The purpose of today's Prehearing  
18 Conference is to determine whether the parties are  
19 ready for evidentiary hearings to discuss the  
20 procedures necessary to conclude the certification  
21 process and to establish the schedule for the  
22 evidentiary hearings.

23           We are going to ask each of the parties  
24 to present their positions on each topic as we go  
25 through the process today. The parties have

1 already filed what he call Prehearing Conference  
2 statements. As we had requested the staff and the  
3 applicant re-drafted several of the proposed  
4 conditions for the process and the applicant has  
5 also submitted an outline comparing the ERTC  
6 Mitigation Plan with the proposed conditions  
7 submitted by staff to the Committee.

8 We'll ask the applicant to present some  
9 background on the overlap between the ERTC and the  
10 Palomar. As part of your presentation today, we  
11 ask for just an overview and then when we get to  
12 evidentiary hearings we'll get into more detail.

13 Also, the Bill Powers in your Prehearing  
14 Conference statement you listed your witnesses and  
15 you outlined your concerns regarding the use of  
16 recycled water for project cooling. Today you  
17 will have an opportunity to indicate whether you  
18 want to call additional witnesses or whether you  
19 intend to cross-examine other parties witnesses  
20 and any other exhibits that you may want to  
21 discuss with us.

22 We also understand from the staff and  
23 the applicant that they want to submit undisputed  
24 testimony by declaration at the evidentiary  
25 hearings rather than presenting live witnesses.

1 And we will allow that if there is no dispute,  
2 there is no need to have witness testimony.

3 However, if any other party wishes to  
4 cross-examine the witnesses on the undisputed  
5 testimony you need to let us know so that we will  
6 then require the witness to attend in person at  
7 the evidentiary hearings.

8 MR. BRIGGS: Mrs. Gefter. I'm sorry to  
9 interrupt --

10 HEARING OFFICER GEFTER: I'll call on  
11 you in just a moment. I also wanted to indicate  
12 that if parties wish to cross-examine, we're going  
13 to establish a deadline by which you need to let  
14 us know when you want to cross-examine.

15 We are going to direct the applicant to  
16 provide live witnesses on the topic of project  
17 description on the topic of project description at  
18 the evidentiary hearing. That is to set a context  
19 for the entire case. And even though it's maybe  
20 an undisputed topic, as typically it is  
21 undisputed, we often ask for that at the  
22 evidentiary hearing as the first topic so that we  
23 can move beyond that.

24 As we go through today's process, we  
25 will identify topics where we are going to require

1 live witnesses. We also do want to hear from the  
2 Air District. And when we get to that topic of  
3 air quality, we'll ask you to participate in that  
4 discussion.

5 And we will turn to the topic areas  
6 right away. I know that Mr. Powers has a question  
7 so why don't we deal with your question now and  
8 then we'll go onto the topic areas. Is it Mr.  
9 Briggs? Yes.

10 MR. BRIGGS: I'm sorry, I just -- are we  
11 now going to talk about how soon before hand we'll  
12 see these undisputed affidavits, or are we going  
13 to take that up later on?

14 HEARING OFFICER GEFTER: That will be  
15 during the schedule discussion.

16 MR. BRIGGS: Thank you.

17 HEARING OFFICER GEFTER: Yeah, okay.  
18 You have a question?

19 MR. KRAMER: I think you may  
20 misunderstand what we mean by introducing the  
21 testimony by declaration. We're really not  
22 talking about adding any substance to any  
23 document. We're simply going to say that we're  
24 submitting, in the case of the staff, the  
25 testimony and the assessment and the addendum.

1 And in the case of the applicant it would be their  
2 pre-file testimony, which will come shortly. But  
3 I don't think there is anything new. I think you  
4 may be assuming something.

5 MR. BRIGGS: Okay, thank you.

6 HEARING OFFICER GEFTER: All right, any  
7 other questions at this point?

8 MR. BRIGGS: No, thank you.

9 HEARING OFFICER GEFTER: All right. I  
10 distributed a list of the topics. I don't know  
11 whether you had it? Okay, it turns out that on  
12 this list, the one topic that we understand is  
13 disputed, the main topic is soil and water. And  
14 unfortunately, somehow that was not put on the  
15 list.

16 So add soil and water at the bottom of  
17 your list and we will get to that topic. The list  
18 of topics is in alphabetical order. Air quality  
19 is number one, I think that would be the right one  
20 to begin with. However, I had asked the applicant  
21 to give us an overview of the project before we  
22 got started on the topics. And so we can begin  
23 with project description from the applicant and  
24 then we'll go on to air quality.

25 MR. ROWLEY: Great, thank you. I've

1 just prepared a few slides to give you a brief  
2 overview. This is just a four page document. The  
3 first page is entitled project objectives.

4 The primary objective was recognizing  
5 that there is a deficit of generation. In other  
6 words, there is more customers than there is power  
7 plant capability in the northeast portion of the  
8 SDG&E service area. And we felt that was an  
9 opportunity for inciting a project. And so we  
10 decided to take a hard look at that starting in  
11 about summer of 2000.

12 And when we look at that area of the  
13 grid, there are transmission lines around and  
14 there are locations where you can interconnect the  
15 power plant without having to build a new  
16 transmission line. So we felt that was certainly  
17 a possibility that if we picked the right site  
18 that we could avoid the construction of any new  
19 transmission lines.

20 Also, the SDG&E gas system is fed from  
21 the north off the So. Cal Gas System. So the  
22 closer a gas user is to that source, the less  
23 stress it puts on the gas system and the less  
24 possibility of curtailment. So we wanted to try  
25 to get as close to the So Cal Gas source as

1 practicable. We wanted to avoid the use potable  
2 water.

3           And really, all these criteria represent  
4 kind of an evolution from our earlier projects,  
5 where we ran into issues that if we had picked  
6 maybe a different site it would have been a  
7 smoother permitting process. It would have  
8 resulted in a project that was just a better  
9 project.

10           And so we wanted to, from the outset  
11 avoid the use of potable water. We wanted to make  
12 use of reclaimed water if it was available and we  
13 also looked at other cooling alternatives.

14           And lastly, recognizing that the project  
15 objective of siting in this load pocket near the  
16 load really meant that we would be putting the  
17 project in an urban area. And given that, we  
18 wanted to locate a site that presented  
19 opportunities for screening with substantial  
20 terrain.

21           And so these were our project  
22 objectives. And really we feel we've done well in  
23 satisfying these objectives and they essentially  
24 become the project description. And on the second  
25 page, we'll get into a little more detail in terms

1 of the specific attributes of the project.

2           It's a natural gas fired combined cycle  
3 power plant. We talk about nominal output of 500  
4 megawatts baseload capacity, 550 peakload  
5 capacity. The word nominal is important because  
6 one of the attributes of combined cycle power  
7 plants is there exact output capability varies  
8 with ambient temperature.

9           So it's hard to put an exact number on  
10 the plant, but in round numbers 500 baseload, 550  
11 peak. By peak we mean that up to about 2000 hours  
12 a year the plant could have more output squeezed  
13 out of it for short periods of time.

14           The power is generated by two combustion  
15 turbines and one steam turbine. And the  
16 combustion turbines produce hot exhaust, which is  
17 ducted into heat recovery steam generators. Those  
18 heat recovery steam generators are really boilers.  
19 And the boilers produce steam. The steam is piped  
20 over to a third turbine, a steam turbine. About  
21 two-thirds of the power output is produced by the  
22 combustion turbines and about one-third by the  
23 steam turbine.

24           The steam from the steam turbine needs  
25 to be cooled and condensed to that we can reuse

1 that and send that water back to the boiler.

2 We do that cooling with re-claimed water  
3 from the City of Escondido's Hale Avenue Resource  
4 Recovery Facility, which is a tertiary treatment  
5 facility that is nearing completion. That will  
6 produce about 9 million gallons a day. And a  
7 substantial amount of that capacity was unspoken  
8 for. And the City was very much interested in  
9 entering into a relationship to supply that water  
10 to the project.

11 We also recognized that in an urban area  
12 we want to minimize the visible plume. And so  
13 we've agreed in the proposed conditions of  
14 certification to have very stringent plume  
15 abatement design to deal with the visible plume  
16 issue.

17 We've succeeded in siting the project at  
18 a location as you saw in the site tour that  
19 involves no new transmission lines. Also involves  
20 no new gas line other than the de-bottlenecking of  
21 about a half mile of line that's actually at a  
22 location that's removed from the project site.

23 There is a 1.1 mild, 16 inch reclaimed  
24 water supply pipeline that extends from an  
25 interconnection point with the City's reclaimed

1 water network and then extends up to the plant  
2 site. And then a brine return line that the blow  
3 down from the cooling tower is returned to the  
4 City and goes into their brine return network that  
5 they have planned.

6 The project occupies a 20 acre site  
7 within the Escondido Research and Technology  
8 Center. Go to the next page. On the left there  
9 you see an aerial photo of this area of Escondido.  
10 You can see I-15 running north/south. Interstate  
11 78 roughly east/west. And then the white outline  
12 on the aerial there is the business park property,  
13 roughly 200 acres.

14 The power plant site is in that little,  
15 sort of beak that sticks out on the right side  
16 there. And if you look at the picture on the  
17 right, that's that same shape that overall shape  
18 fits right into that white outline. That's the  
19 overall 200 acre business park and then the 20  
20 acre power plant site is outlined there with the  
21 dark black line.

22 And the 200-foot wide transmission  
23 corridor, if -- maybe I could point that out with  
24 the cursor. The corridor extends from the north  
25 side of the business park property at this

1 location and extends south all the way through the  
2 business park. And then turns east and exits the  
3 business park, so all the way through here.

4 And you can see that that transmission  
5 corridor runs right along side the power plant  
6 site. And we will be able to drop the  
7 interconnection line directly from the  
8 transmission corridor structures into the  
9 switchyard.

10 Also, we will be rebuilding the  
11 transmission corridor to improve its visual  
12 appearance and would replace the lattice towers in  
13 that area with mono-poles, line the poles up, make  
14 them equal height. One of the things we found in  
15 zone of transmission lines is that the eye is  
16 drawn towards things that are ragged or uneven or  
17 unusual. And that if you make things even and  
18 more, well more uniform then it tends to, after a  
19 while you tend not to see it any more.

20 And so I think one of the reasons why  
21 the transmission corridor is so apparent today is  
22 because it's such a jungle of lattice towers and  
23 lines and so forth and that will be all cleaned up  
24 as part of the project.

25 Turn to the next page. The power plant

1 site, I apologize this is turned at right angles  
2 now as compared to the previous page, but it shows  
3 the detail of the power plant site. The major  
4 equipment is shown in light yellow. Right above  
5 the, in fact, I'm going to go back to the cursor.

6 MR. BRIGGS: The reporter may not be  
7 able to hear you on his tape. Can you hear him  
8 when he stands up to talk?

9 REPORTER: Yeah if everybody stays quiet  
10 it will be all right.

11 MR. ROWLEY: We talk a lot about terrain  
12 screening today and this kind of illustrates that  
13 for the power plant site. This area here is a cut  
14 slope. This point right there, where the cursor  
15 is, is the location where those two lattice towers  
16 are on the highest part of the hill. And this  
17 area down here is all in a flat elevation that's  
18 about 80 feet below this point. And so,  
19 when you look at that in elevation view, this is  
20 the elevation that directly corresponds. This  
21 dark line here is a ridge line that is the ridge  
22 line represented by this border of the project  
23 site.

24 So those two transmission towers, the  
25 base of them sit right there and they stick up

1 about 145 feet up and down right here. And then  
2 there is another pair of towers down here that  
3 stick up and you can see that we were pretty  
4 successful in screening the power plant using  
5 ridge lines.

6 That only, only this little portion here  
7 sticks above the ridge line and is visible from  
8 the west from within the business park. As viewed  
9 from the east the ridge line is lower, it gets as  
10 high as 50 feet right here and you can see it  
11 tapers down to nothing eventually.

12 And then this rectangle is the  
13 operations building, which serves to separate and  
14 provide a face to the neighboring industrial  
15 building to the east.

16 One thing that I forgot to mention is  
17 the water supply to the project from the Hale  
18 Avenue Resource Recovery Facility is -- the  
19 Facility is owned by the City of Escondido, so the  
20 City of Escondido is producing the water. The  
21 project site is actually inside the Rincon Del  
22 Diablo Municipal Water District so we have an  
23 agreement with the City for supply of the water  
24 and a will-serve letter from Rincon since we're in  
25 their district. And that concludes our project

1 description.

2 ASSOCIATE COMMITTEE MEMBER KEESE: You  
3 mentioned that there is a -- you're adding 500  
4 megawatts to a pocket. What is the general demand  
5 in the area, San Diego area, or your territory?

6 MR. ROWLEY: The SDG&E service area, my  
7 recollection is the overall load in the service  
8 area is something like 3000 megawatts. This  
9 portion of the service area -- well, let me back  
10 up.

11 Most of that service area we would  
12 consider to be not inside the load pocket. But,  
13 the northeast portion of the service area we would  
14 definitely consider to be an area of deficit. Or,  
15 in other words, there is more load than there is  
16 generation and that's how we would define a load  
17 pocket. And I would say there is around 700  
18 megawatts of load and perhaps 100 megawatts of  
19 generation in that same area.

20 ASSOCIATE COMMITTEE MEMBER KEESE: Okay.  
21 And generally speaking of the 3000 megawatts, how  
22 much of that is generated in the San Diego area?

23 MR. ROWLEY: Again, I'm going just on my  
24 sort of vague recollections. The Encina Power  
25 Plant, or now Cabrillo plant in Carlsbad is around

1 900 megawatts. The South Bay Plant operated by  
2 Duke is around 700 megawatts. And there are a  
3 number of peaking facilities scattered around.

4 ASSOCIATE COMMITTEE MEMBER KEESE: Okay.  
5 So a little over half.

6 MR. ROWLEY: Yes.

7 ASSOCIATE COMMITTEE MEMBER KEESE: Now  
8 do you anticipate that any of those power plants  
9 are going to go out of service in the next five  
10 years, five to ten years?

11 MR. ROWLEY: Well, this is a competitive  
12 business and so really I'm talking about my  
13 competitors. So you know when the competitors go  
14 out of business, that's --

15 ASSOCIATE COMMITTEE MEMBER KEESE: It  
16 may happen, but it's not scheduled at this time?

17 MR. ROWLEY: I, I -- you know --

18 ASSOCIATE COMMITTEE MEMBER KEESE: That  
19 you're aware of?

20 MR. ROWLEY: It's hard for me to be  
21 objective on that, let me put it that way.

22 ASSOCIATE COMMITTEE MEMBER KEESE: Thank  
23 you. You'd like to force them out of business.  
24 Okay. One other question on the -- you have an  
25 agreement with the City of Escondido on reclaimed

1 water?

2 MR. ROWLEY: Yes.

3 ASSOCIATE COMMITTEE MEMBER KEESE: It is  
4 signed?

5 MR. ROWLEY: We have a development  
6 agreement with the City that calls for the  
7 provision of reclaimed water and we have a three  
8 party agreement between the City of Escondido, the  
9 project and Rincon. That agreement is essentially  
10 finalized but not yet executed.

11 ASSOCIATE COMMITTEE MEMBER KEESE:  
12 Without delving into confidential contract  
13 arrangements, my general question is, is it cost  
14 effective for you to use reclaimed water?

15 MR. ROWLEY: Absolutely. Yes, in fact  
16 when we're -- this is a competitive business and  
17 so we certainly have environmental requirements  
18 that we need to meet. And I believe in most cases  
19 we not only met them but we've exceeded them. But  
20 at the same time we need to make the project  
21 competitive. And so we're looking at ways to  
22 fulfill all the project function in the lowest  
23 cost way that we possibly can and the arrangement  
24 that we have with Rincon and the City of Escondido  
25 does that for us.

1           ASSOCIATE COMMITTEE MEMBER KEESE: Yes,  
2 and so it would be fair to say that you receive  
3 recycled water at less cost than you would have to  
4 pay is you were using fresh water?

5           MR. ROWLEY: That's correct.

6           ASSOCIATE COMMITTEE MEMBER KEESE: Thank  
7 you.

8           HEARING OFFICER GEFTER: Thank you Mr.  
9 Rowley. At this point I'm going to ask whether  
10 the Intervenor, Mr. Powers, do you have any  
11 questions about anything that Mr. Rowley just  
12 said. Not going into your issues, but just  
13 anything that you need clarification?

14          INTERVENOR POWERS: Are you asking if I  
15 have questions about the description of the  
16 project?

17          HEARING OFFICER GEFTER: Yes.

18          INTERVENOR POWERS: No.

19          HEARING OFFICER GEFTER: We're going to  
20 go on then to each topic and discuss whether there  
21 are contested issues and whether we're going to  
22 require the parties to put on live witnesses. And  
23 the first topic is air quality. And we would like  
24 the Air District representatives to participate in  
25 this discussion. We're going to start with the

1 applicant and whether you have any issues that you  
2 want to discuss with us with respect to this topic  
3 or how you expect to present it to the Committee?

4 MR. MILLER: We have no issues that we  
5 feel we need to discuss today. Specifically we do  
6 understand it might be useful, although we think  
7 that -- if I could just jump to the contested and  
8 uncontested topic.

9 We don't think that air is contested  
10 between us and the staff. There may be some  
11 aspects of the dry cooling matter that touch upon  
12 that. And we understood that there may be an  
13 interest in having a live witness in air, just  
14 whether it's contested or not just because it is  
15 an important area for any power plant. So that  
16 would be our intention.

17 PRESIDING MEMBER GEESMAN: Let me jump  
18 in here to say that's it's my understanding that  
19 the issues raised by Mr. Powers, although they fit  
20 most directly in the soil and water topic they do  
21 have some crosscutting features that may include  
22 air quality, may include several others. So that  
23 when we get to you Mr. Powers or Mr. Briggs if you  
24 would identify topics that you do think have that  
25 crosscutting effect on the issue you want to raise

1 as it relates to dry cooling.

2 MR. POWERS: Would you like me to  
3 address that now.

4 PRESIDING MEMBER GEESMAN: Well, let's  
5 hear from the staff first.

6 MR. KRAMER: We agree with the  
7 applicant. The only reason we suggested that we  
8 might want to discuss air quality issues in  
9 general was for the edification of the public  
10 because we know it's probably the primary area of  
11 interest to them from the comments we've received  
12 previously.

13 HEARING OFFICER GEFTER: And from the  
14 Committee's perspective we have a few questions  
15 that we would like addressed as well. And I would  
16 like to bring those questions to the Aid District  
17 to that in the next several weeks perhaps this can  
18 be cleared up.

19 The question that I have particularly is  
20 with respect to the offset emission package that  
21 the applicant has submitted and the Air District  
22 has indicated that it complies with the statutory  
23 requirements. However, in a letter from the Air  
24 District to me, dated March 5th, it indicates that  
25 there may be additional offsets required. And I

1 needed some clarification on that. And perhaps  
2 somebody from the Air District could explain that.

3 And then again when we get to  
4 evidentiary hearings we will ask her to reiterate  
5 that in more detail.

6 MR. SPEER: What we were attempting to  
7 point out in the letter was that some of the  
8 anticipated available offsets were somewhat  
9 reduced. As we processed applications there was  
10 one particular application we actually cancelled  
11 so those offsets were not available. So we gave  
12 you some small number of offsets that were reduced  
13 from the anticipated offsets that would be  
14 available.

15 HEARING OFFICER GEFTER: Mr. Speer, you  
16 needed to introduce yourself so the reporter had  
17 your name.

18 MR. SPEER: I'm sorry?

19 HEARING OFFICER GEFTER: Just introduce  
20 yourself again so the reporter has your name.

21 MR. SPEER: Oh, Daniel Speer S-P-E-E-R.  
22 Senior Engineer with the San Diego Air Pollution  
23 Control District.

24 HEARING OFFICER GEFTER: Okay. Now, how  
25 is that going to be enforced if the applicant

1 needs to obtain additional offsets since the  
2 offsets have been cancelled.

3 MR. SPEER: We have provided in the  
4 conditions of the proposed conditions that the  
5 applicant and it is required in our rules and  
6 regulations. The applicant in order to operate  
7 must surrender the required offsets. If those,  
8 the quantity of available offsets is reduced then  
9 the actual operating emissions or operating time  
10 that would result in those emissions will have to  
11 be reduced to coincide with the amount of offsets  
12 that were provided.

13 HEARING OFFICER GEFTER: We would need  
14 the completed offset package before the Commission  
15 can vote on adopting this case, adopting the  
16 certification for this case. So what is the  
17 timeframe that a new offset package can be  
18 identified?

19 MR. SPEER: There are only two  
20 applications still into the District for offsets  
21 that are being processed. I don't know exactly  
22 the timeframe, but the likelihood is that those  
23 will be processed sometime before your in the  
24 process of making your decision on your  
25 certification.

1 HEARING OFFICER GEFTER: Okay. We'll  
2 need to get more specifics on that and at the  
3 evidentiary hearings we'll ask for more specific  
4 information.

5 MR. SPEER: I would have to do a little  
6 bit of research and maybe be able to pinpoint the  
7 period of time necessary a little better for you  
8 with some research into where those applications  
9 stand right now.

10 HEARING OFFICER GEFTER: And what I  
11 would request is that the parties work with the  
12 Air District to give us a complete offset package  
13 in the form of a table, or some sort of document  
14 that is in one place that identifies the offset  
15 package that is acceptable to the Air District.

16 A final package that then could be  
17 presented to us as part of our evidentiary record.

18 MR. KRAMER: And staff intends that  
19 table to be in condition AQSC5.

20 HEARING OFFICER GEFTER: Okay. That's a  
21 proposed condition that staff has?

22 MR. KRAMER: Right, there is one in  
23 there now. It sounds like it may be modified,  
24 need to be modified slightly based on this new  
25 information.

1 HEARING OFFICER GEFTER: Okay.

2 MR. KRAMER: Which is new to us frankly.

3 MR. MILLER: I think if I could address  
4 this briefly. That what we're looking at is as  
5 was stated in the letter from the District, I  
6 think it was .76 tons per year on the one credit  
7 that was adjusted from the table. So we're  
8 dealing with marginal changes and it's a matter of  
9 true-up that we need to accomplish between now and  
10 ideally the hearings, I understand. So we will  
11 work with the District to accomplish that to  
12 clarify the record for you on that.

13 HEARING OFFICER GEFTER: Great. And  
14 then I have another question to Mr. Speer. With  
15 respect to a revised annual geometric mean of PM  
16 or particulate emissions, apparently Mr. Powers  
17 has raised this as a concern and so has Mr.  
18 Rodriguez, a member of the public.

19 And I wanted to ask you while we have  
20 you here to explain the Air District's policy on,  
21 this is a new state standard a mean of 20 ug's. I  
22 don't know how to pronounce it, but there's a  
23 state standard which actually reduced the amount  
24 of PM emissions in your region. And I'm not clear  
25 on the process and perhaps you can address that

1 for us as well.

2 MR. SPEER: I'm not completely sure that  
3 I know which standards your referring to. Are you  
4 referring to the standards that have recently been  
5 adopted by the Air Resources Board?

6 HEARING OFFICER GEFTER: Yes.

7 MR. SPEER: These standards are not in  
8 affect at this time. They have not gone to the  
9 Office of Administrative Law, they are about to.  
10 When they are finally adopted, they will still  
11 have to go through an implementation period that  
12 could be considerable. These are not, since  
13 they're not actual standards they are not  
14 standards that we can use as a criteria for  
15 judging this project.

16 HEARING OFFICER GEFTER: Okay. And when  
17 the standards are adopted, if they are adopted  
18 would the Air District then revise the level at  
19 which this particular, this project can emit PM,  
20 particulate matter?

21 MR. SPEER: No, these standards would  
22 only apply to new applications for projects that  
23 were submitted after those standards went into  
24 affect.

25 HEARING OFFICER GEFTER: We would need,

1 perhaps from the Air District, since this would  
2 effect you directly a status on where those  
3 standards are in the process and how they will be  
4 treated by the Air District with respect to this  
5 project, to Palomar.

6 MR. SPEER: Well, at this point in time  
7 I do know where they are. We actually contacted  
8 the Air Resources Board today and they expect them  
9 to be submitted to the State --

10 MR. POWERS: Office of Administrative  
11 Law.

12 MR. SPEER: Thank you, Office of  
13 Administrative Law within a few days. They expect  
14 that review to take about 30 days. And then it  
15 follows to the Secretary of States Office, that  
16 will take about 45 days. And then those standards  
17 will be established.

18 HEARING OFFICER GEFTER: Okay.

19 MR. SPEER: Then, they will go through  
20 the implementation development process, which they  
21 expect to take approximately one year. And that  
22 process determines how you would actually apply  
23 those standards to a project. At this point in  
24 time we have to guidance as to how we would  
25 analyze a project to determine whether they would

1 violate those standards.

2 HEARING OFFICER GEFTER: If, for  
3 arguments sake, let's say that the implementation  
4 process will occur within one and one half years  
5 from now, say eighteen months from now. And if  
6 this project is certified based on current  
7 standards.

8 And you have, you can issue an authority  
9 to construct, but not a permit to operate. In  
10 that period of time between the authority to  
11 construct and the permit to operate could you then  
12 change the requirements of a project, such as  
13 Palomar. And require them to meet the standards  
14 of the, you know, as newly adopted, even though  
15 it's in between the authority to construct and the  
16 permit to operate stage?

17 MR. SPEER: The District typically  
18 considers the authority to construct to be what  
19 establishes the standards that would apply to a  
20 project.

21 HEARING OFFICER GEFTER: Oh.

22 MR. SPEER: And those are the standards  
23 that we would judge the project under to issue  
24 their permit to operate.

25 HEARING OFFICER GEFTER: Okay.

1 MR. KRAMER: Can I ask a question?

2 HEARING OFFICER GEFTER: Yes.

3 MR. KRAMER: Are we talking about an  
4 attainment limit here? A lower state standards  
5 for PM 10 to determine whether or not the  
6 District's in attainment?

7 MR. SPEER: We will be talking about  
8 that when that standard exists.

9 MR. KRAMER: Okay, but that's what the  
10 standard is, is an attainment standard?

11 MR. SPEER: That's correct.

12 MR. KRAMER: Right, so you're requiring  
13 this project to fully offset it's PM10 emissions,  
14 is that correct?

15 MR. SPEER: That is correct.

16 MR. KRAMER: Okay, so there's -- the two  
17 aren't necessarily connected are they?

18 MR. SPEER: I think that --

19 MR. KRAMER: In other words, you're not  
20 letting a lot of PM10 because you currently feel  
21 that the area is an attainment and you don't have  
22 a PM10 problem, that's not what you're doing are  
23 you?

24 MR. SPEER: Well, keep in mind we're not  
25 offsetting PM10, the PM10 increase is very small.

1 And does not cause additional violations of the  
2 existing standard.

3 MR. KRAMER: But the staff is taking  
4 additional efforts aren't they?

5 HEARING OFFICER GEFTER: Okay, Mr.  
6 Kramer, you know, rather than you know, asking the  
7 witness -- first of all, Mr. Speer isn't a witness  
8 at this point and we're not doing examination.

9 But what I would like to see is between  
10 now and the time of the evidentiary hearing for  
11 the parties to work with the Air District to clear  
12 up this question. Because you know, I may have a  
13 misunderstanding what the standards apply to. I  
14 wanted to find out when they would be implemented  
15 and how they would impact the Palomar Project.

16 Mr. Powers has raised this and so has  
17 Mr. Rodriguez, a member of the public. And it  
18 would be very helpful for our record to get these  
19 different, perhaps confusing issues settled among  
20 the parties so that we will have a clear and  
21 accurate record. So Mr. Speer, you work with the  
22 parties and figure out how to address the  
23 question. That would be very helpful. Thank you.  
24 And I do have another question too with respect to  
25 air and that's regarding the cumulative impacts.

1 And staff I know has done analysis of cumulative  
2 effects, which is outside of what the Air District  
3 has done. But taking into consideration the new  
4 Calpine Project, which is adjacent to the project  
5 site, was that included in the cumulative impact  
6 analysis that -- okay, Mr. Eller?

7 MR. ELLER: Yes it was.

8 HEARING OFFICER GEFTER: Yes it was,  
9 okay. Now did the Air District look at that when  
10 you looked at whether the emissions could be  
11 offset of the Palomar Project.

12 MR. ELLER: If I may, I would like to  
13 call Ralph Desiena who is our air quality  
14 meteorologist that actually performed that or  
15 reviewed that information.

16 HEARING OFFICER GEFTER: Okay.

17 MR. ELLER: So he can answer that  
18 question for you.

19 MR. DESIENA: Ralph Desiena, San Diego  
20 Air Pollution Control. Yes we did review a  
21 cumulative impact. It included two other power  
22 plants recently that were built in the area. And  
23 reviewed them with regard to our air quality  
24 standards and so forth. And on an accumulative  
25 basis, no additional exceedances of the State PM10

1 standards or any other violations of Federal or  
2 California standards were noted.

3 HEARING OFFICER GEFTER: Okay, thank  
4 you. What I'll, again I'll ask the Air District  
5 to address that at evidentiary hearing.

6 MR. DESIENA: Okay.

7 HEARING OFFICER GEFTER: I wanted to  
8 bring it up to the parties so that again a focus  
9 could be made on that particular issue. I  
10 appreciate that, thank you.

11 MR. DESIENA: Your welcome.

12 HEARING OFFICER GEFTER: Okay and you  
13 know, rather than getting in to any other details  
14 my point here is to raise questions that we need  
15 addressed. And I'm letting you know now rather  
16 than telling you about it at the evidentiary  
17 hearing. I'd rather have the answers at the  
18 hearing.

19 And then I know Mr. Powers had raised  
20 several questions with respect to air quality.  
21 And I know it's in connection with your concern  
22 about the use of recycled water. Perhaps you can  
23 focus in on the air questions so that since we  
24 have the Air District representatives here,  
25 perhaps they will be able to address some of the

1 questions that you were going to raise.

2 MR. POWERS: I would be happy to do  
3 that. The, I think you have addressed very  
4 adequately the issue of annual ambient PM10  
5 standard dropping from 30 micrograms a cubic meter  
6 to 20 micrograms per cubic meter. And that's,  
7 hopefully the district can address that, as you've  
8 requested with more supporting information during  
9 the evidentiary hearings.

10 A core issue for me and for the Board of  
11 Power Plant Working Group is issue of BACT in that  
12 we have an interesting situation here where a, on  
13 what seems to be a narrow interpretation of an  
14 exemption clause.

15 The cooling system is not officially  
16 subject to permitting or to BACT. Yet, at kind of  
17 an informal way, the District did request a cost  
18 evaluation and it has -- a couple of iterations  
19 have been submitted by the applicant. I've  
20 commented on those iterations and the problem is  
21 that because it's not an official exercise under  
22 official regulatory review it's really a situation  
23 where the Intervenor, or the applicant can produce  
24 any number and justify a position without it going  
25 through any type of peer review or scrutiny.

1           And I think that it is my position that  
2 the cooling system is subject to BACT, that it is  
3 in fact process water and therefore not exempt  
4 from permitting.

5           And that once that determination is made  
6 and I would like the District to comment on this,  
7 is that if that determination is made, that this  
8 is subject to permitting. Then, all of these  
9 questions about, you know, the cost of the water,  
10 subsidies for the water, cost of energy are  
11 relevant. because you're running calculations to  
12 determine if BACT is appropriate for dry or wet.

13           And so I think that's going to be a core  
14 issue. And I don't know, and stop me if this is  
15 not the time to speak of this, but the CEC staff,  
16 Mr. Kramer, did mention that it might be  
17 appropriate to bundle the discussion about cooling  
18 alternatives into one category, work it all into  
19 one.

20           And at the time that offer was made I  
21 had already prepared a draft of my testimony by  
22 topic. And in having completed it, it would  
23 actually appear to be more effective to keep it as  
24 topic based as opposed to splitting it out. So I  
25 just wanted to mention that. So, the BACT

1 exemption from Rule 11, Process Water is contended  
2 and is an important issue.

3 And the other issue is the ammonia  
4 emissions from the tower. And the fact that that  
5 isn't a part of, again, since this is an, at least  
6 ostensibly exempt source, the issue of including  
7 those.

8 Primarily from the standpoint of the  
9 applicant prepared a secondary PM2.5 PM10 analysis  
10 using South Coast data and extrapolating from some  
11 modeling that was done there. And ammonia is  
12 actually a primary precursor to PM2.5 and that is  
13 not included in the analysis, that is in fact  
14 ignored, both from the stacks and from the cooling  
15 system. And I would like the District to address  
16 that as well. And those are the three areas.

17 HEARING OFFICER GEFTER: All right. And  
18 if the District is willing to work with Mr. Powers  
19 and the parties to address those questions, we  
20 would appreciate that. Because I don't want to  
21 get to the evidentiary hearing and not have the  
22 answers available. Mr. Speer is that reasonable  
23 to ask you?

24 MR. SPEER: I'm sorry, I can't hear what  
25 you're saying.

1 HEARING OFFICER GEFTER: Okay. I was  
2 asking whether the Air District is willing to work  
3 with Mr. Powers and the applicant and our staff to  
4 come up with, you know, some evidence and some  
5 response to his concerns. So that when we get to  
6 the hearings we'll have answers to the questions.

7 MR. SPEER: That would be fine.

8 HEARING OFFICER GEFTER: Okay. And so  
9 what we'll do, is we'll ask the parties to meet  
10 with the Air District to address the questions  
11 raised by Mr. Powers.

12 MR. SPEER: Certainly.

13 HEARING OFFICER GEFTER: Okay, thank  
14 you.

15 MR. MILLER: I would like to interject  
16 just one comment if I might?

17 HEARING OFFICER GEFTER: Yes.

18 MR. MILLER: The issue of BACT and  
19 whether it is or isn't required in the District  
20 rules was within the purview of the comment  
21 period on the PDOC. I don't believe that comment  
22 was made and it strikes me that that was the forum  
23 to raise it. District has certified compliance  
24 with it's rules in issuing the DOC. I think under  
25 the rules that is their determination.

1           So I am not objecting necessarily to  
2 looking at some of the issues really, because  
3 we're already looking at, as you've requested the  
4 pro's and con's of dry cooling. I'm sure we'll  
5 get into that.

6           We, our position of course is that is  
7 not a BACT issue. And that it is an issue that  
8 has been raised by the Committee so we're willing  
9 to deal with it. But without thinking it  
10 completely through here on the spot I just wanted  
11 to register that concern that this might be a rule  
12 interpretation that's been made by the District  
13 and is really their purview.

14           HEARING OFFICER GEFTER: Okay. Thank  
15 you Mr. Miller. You know, we understand that  
16 would be the applicants position on that. And  
17 notwithstanding you can make that argument at the  
18 hearings, but I still want to hear the information  
19 from the District and have the questions answered.

20           MR. MILLER: Okay.

21           HEARING OFFICER GEFTER: Okay, thank  
22 you. Is there anything else on air, any questions  
23 that either of the Commissioners would like to  
24 have addressed?

25           PRESIDING MEMBER GEESMAN: Mr. Powers

1 are you going to have a witness on air besides  
2 yourself?

3 MR. POWERS: Yes. The, currently the  
4 complete lineup of witnesses would include myself,  
5 two residents in the vicinity of the proposed  
6 plant. Potentially an expert witness on ammonia  
7 stripping, who may or may not present personally.  
8 And cross-examination would include the CEC Staff  
9 and the Air District.

10 PRESIDING MEMBER GEESMAN: Right. And r  
11 two residents you're not suggesting are expert  
12 witnesses, simply members of the public.

13 MR. POWERS: It's an interesting  
14 question which I discussed with the public  
15 advisors office and she recommended that they  
16 could serve in the capacity as witnesses, one for  
17 her expertise as an R.N. that works with sensitive  
18 populations and the other related to, just housing  
19 values and the impact of the plant in the area.

20 PRESIDING MEMBER GEESMAN: Okay.

21 HEARING OFFICER GEFTER: Okay. You  
22 mentioned there might be a witness on ammonia  
23 stripping?

24 MR. POWERS: Right, I do have and I had  
25 not yet passed that out, but the expert testimony

1 is an expert on ammonia stripping who did just  
2 validation of calculations that were prepared and  
3 submitted earlier in the docket on the stripping  
4 rate of ammonia from the cooling tower.

5 HEARING OFFICER GEFTER: Okay.

6 MR. POWERS: The reason that's  
7 significant from an air quality standpoint is one,  
8 the air toxic nature of ammonia, two, the  
9 potential to form secondary PM2.5.

10 HEARING OFFICER GEFTER: Right, so you  
11 would be submitting the document itself as an  
12 exhibit? Are you planning to submit a document as  
13 an exhibit or are you planning to have the  
14 individual testify?

15 MR. POWERS: Well, the document will be  
16 submitted as testimony, or the confirmation. And  
17 at this point, I'd like to reserve the right to  
18 have him testify, but I'm not certain that he will  
19 be testifying.

20 HEARING OFFICER GEFTER: Okay. Well, we  
21 need to know at this point whether you're  
22 proposing the person as a witness. If you want to  
23 propose him as a witness --

24 MR. POWERS: I am proposing him as a  
25 witness.

1 HEARING OFFICER GEFTER: All right, then  
2 we would accept his name. Because you can't bring  
3 him in at the evidentiary hearing at the last  
4 moment.

5 MR. POWERS: And I did place, in the  
6 Prehearing Statement I did indicate he would be a  
7 witness.

8 HEARING OFFICER GEFTER: All right,  
9 thank you.

10 MR. MILLER: Comment please?

11 HEARING OFFICER GEFTER: Yes.

12 MR. MILLER: Would there have been, this  
13 is as good a time as any to raise it. There are a  
14 number of references to exhibits that Mr. Powers  
15 has made in his statement that are sometimes not  
16 specifically described. And none of which I think  
17 have yet been filed with the docket.

18 And since we're trying to run a process,  
19 I think that avoids surprise and gives time for  
20 response I would just request that any exhibits  
21 that he intends to include at the earliest  
22 opportunity be filed with docket.

23 HEARING OFFICER GEFTER: Yes, I have  
24 also indicated to Mr. Powers through the Public  
25 Advisors Office that the exhibits be identified

1 and submitted.

2 MR. POWERS: I did -- I have one copy  
3 for, this is a hard copy. I will put it in e-  
4 mail, but this is the --

5 MR. MILLER: Thank you. No time like  
6 the present I guess.

7 HEARING OFFICER GEFTER: And what is the  
8 document that you're handing out?

9 MR. POWERS: My testimony, the testimony  
10 of Dr. Khandan and the testimony of Greg Morrill.

11 HEARING OFFICER GEFTER: Okay, but this  
12 is --

13 MR. POWERS: Actually it's --

14 HEARING OFFICER GEFTER: All right,  
15 these are your prepared testimony. But what I'm  
16 looking for are the exhibits, the actual documents  
17 that you are referring to in your Prehearing  
18 Conference statement.

19 MR. MILLER: Right.

20 HEARING OFFICER GEFTER: Okay. Those  
21 exhibits, as Mr. Miller indicated, either they  
22 have not been docketed or they're not described  
23 sufficiently so that you know which document Mr.  
24 Powers is referring to.

25 MR. MILLER: Correct.

1 HEARING OFFICER GEFTER: Right.

2 MR. POWERS: Let me explain, in that I  
3 did check with the PAO last week just to  
4 understand the schedule to ensure that given the  
5 nature of my day job it's helpful to have as much  
6 time as possible to get this information in. And  
7 so what I have done and what I have just handed  
8 out is include an exhaustive list of exhibits, of  
9 which ninety percent of them are already a part of  
10 the record and accessible. Some of them are not.  
11 Those that I will not be able to provide  
12 immediately I've indicated delivery pending by  
13 April 1st so that everyone's aware of when this  
14 information will be provided to the participants  
15 in the evidentiary hearing process.

16 HEARING OFFICER GEFTER: Okay. And  
17 could you point me to where the exhibits are  
18 listed in your document. Just tell me what page  
19 number.

20 MR. POWERS: Well I don't think you have  
21 a copy of this yet.

22 HEARING OFFICER GEFTER: Oh, all right.

23 MR. POWERS: This is, this exhibit,  
24 about 35 items here that are exhibits. And what  
25 I've done is, the original exhibit statement only

1 had a few exhibits and I've indicated that all of  
2 the italicized information is new information,  
3 supplemental information.

4 HEARING OFFICER GEFTER: All right. And  
5 do you have copies for the other parties as well?  
6 Do you have copies for the staff and the  
7 applicant?

8 MR. POWERS: I think they have copies of  
9 all four. There should be four items. One is my  
10 testimony, Dr. Khandan's, Greg Morrill's and then  
11 the supplementary exhibit list.

12 HEARING OFFICER GEFTER: Three items,  
13 all right.

14 MR. POWERS: So you're missing one.

15 MR. MILLER: So we're missing Mr.  
16 Morrill's, so--.

17 HEARING OFFICER GEFTER: Mr. Kramer do  
18 you have the documents?

19 MR. KRAMER: No.

20 HEARING OFFICER GEFTER: Okay, Mr.  
21 Powers you have to also give the same documents to  
22 staff.

23 MR. POWERS: Is that required in this  
24 proceeding? I'm kidding, I'll do that. I'll have  
25 to e-mail it to you because I only have two

1 copies.

2 HEARING OFFICER GEFTER: Okay.

3 MR. KRAMER: Tomorrow please.

4 HEARING OFFICER GEFTER: Okay, these  
5 documents also have to be docketed.

6 MR. POWERS: Correct.

7 HEARING OFFICER GEFTER: Okay. Are you  
8 planning to docket them tomorrow?

9 MR. POWERS: Right and I will, as soon  
10 as I get back to my office I will be e-mailing  
11 them to the Public Advisors Office.

12 HEARING OFFICER GEFTER: Very good. And  
13 then the Public Advisors Office will docket these  
14 documents?

15 MR. POWERS: Yes.

16 HEARING OFFICER GEFTER: Thank you.

17 PRESIDING MEMBER GEESMAN: And did I  
18 hear you say that with respect to those items on  
19 your exhibit list that are not currently part of  
20 the record, is your intent to have them docketed  
21 by April 1?

22 MR. POWERS: Correct.

23 MR. MILLER: I'm getting a little  
24 confused. The list that was just provided has  
25 italicized and non-italicized?

1 MR. POWERS: Right.

2 MR. MILLER: And is there some part --  
3 some part is going to be e-mailed tomorrow. And  
4 then is there another sub-set that would be coming  
5 on April 1st that's on this list or is that a  
6 separate list?

7 MR. POWERS: No, what will be provided  
8 is on the list that you have. Again, the non-  
9 italicized is in the original exhibits submittal  
10 of last week. This list includes everything  
11 italicized is new, it was not on that original  
12 list. And then there are several items that say  
13 pending, will be provided by April 1st.

14 MR. MILLER: Okay, they're called out.  
15 I'm sorry, I didn't follow.

16 MR. POWERS: Right.

17 MR. MILLER: I'm sorry, I didn't follow.

18 HEARING OFFICER GEFTER: Okay. And on  
19 the list, you don't have the dates that these  
20 items were docketed? Do you have that somewhere  
21 on your files to let me know where these items  
22 are?

23 MR. POWERS: Yes, I can update that and  
24 identify all of the docketed items.

25 HEARING OFFICER GEFTER: All right. If

1 you can give us the date when these items were  
2 docketed.

3 MR. POWERS: Okay.

4 HEARING OFFICER GEFTER: That would be  
5 very helpful so we can identify them in the  
6 record. And then the items that are pending or  
7 will be docketed, those would be, you would need  
8 to let us know April 1st. Some of these items are  
9 on web pages. Are you going to download the web  
10 page and file a hard copy?

11 MR. POWERS: I'd be happy to do that.  
12 In fact, I will do that definitely. I'll file it  
13 so that no one has to search on the web for  
14 documents.

15 HEARING OFFICER GEFTER: All right.

16 MR. MILLER: I don't know if this would  
17 help the proceedings, but some of the exhibit are  
18 Commission decisions;

19 HEARING OFFICER GEFTER: Uh-huh.

20 MR. MILLER: And they are 400 pages long  
21 typically.

22 HEARING OFFICER GEFTER: Oh, I'm not  
23 asking for the decisions that are already in  
24 dockets.

25 MR. MILLER: If we could just take note

1 of those perhaps.

2 HEARING OFFICER GEFTER: Some of the  
3 items that are web pages are articles and that  
4 sort of thing. Anything that is a Commission  
5 document you don't need to give us a hard copy of.

6 MR. POWERS: And much of those  
7 professional papers and items of that type are  
8 already docketed as appendices to submittals in  
9 the project file.

10 MR. MILLER: I apologize, I have one  
11 other question.

12 HEARING OFFICER GEFTER: Yes.

13 MR. MILLER: With regard to Dr. Khandan,  
14 if the work done by Dr. Khandan is going to be  
15 offered as testimony then we would want to be able  
16 to cross-examine Dr. Khandan.

17 HEARING OFFICER GEFTER: And Dr. Khandan  
18 is the expert on ammonia strip. When will you be  
19 able to let us know if Dr. Khandan is going to be  
20 testifying.

21 MR. POWERS: If the applicant would like  
22 to have Dr. Khandan here for cross-examination, we  
23 will arrange for him to be here for cross-  
24 examination.

25 HEARING OFFICER GEFTER: Okay, thank

1 you.

2 MR. MILLER: Of course if you don't  
3 choose to put him on as a witness, off witness  
4 testimony we're not requiring it.

5 MR. POWERS: Understood.

6 MR. MILLER: It's your option.

7 HEARING OFFICER GEFTER: Thank you. All  
8 right, since the topics are listed alphabetically,  
9 the next topic is alternatives. I know that the  
10 alternative is the dry cooling alternative.

11 So what we could do with that topic is  
12 include it as part of the series of topics that  
13 will go to the dry cooling issue. And with  
14 respect to any other aspect of alternatives, I  
15 don't believe it's disputed is that right?

16 MR. MILLER: That's my understanding.

17 HEARING OFFICER GEFTER: Mr. Powers?

18 MR. POWERS: No, there is no other issue  
19 in dispute.

20 HEARING OFFICER GEFTER: All right, so  
21 on alternatives the issue will be regarding the  
22 dry cooling option. On biology, I'm just going to  
23 go through this more quickly. Because air was of  
24 main concern to me. The other issues, until we  
25 get to one that has a lot of issues I'm just going

1 to go through it quickly.

2 On biology, the applicant submitted a  
3 table comparing the biology mitigation under the  
4 specific plan with the proposed conditions of  
5 certification that staff has on biology.

6 Although there doesn't appear to be any  
7 dispute, I would like to have the testimony  
8 amplified to some extent with a witness to explain  
9 to us the context in which the biology mitigation  
10 will be implemented. We don't need a lot of time  
11 on that. But I do need an overview, particularly  
12 because there is such an overlap between the  
13 specific plan and the condition certification that  
14 staff has proposed on the biology issue.

15 And a specific question is with respect  
16 to the window of opportunity for the project to  
17 begin construction, I understand you can't do  
18 anything on the site during the Gnat Catcher  
19 breeding season and that's a long season, correct?

20 MR. MILLER: Uh-huh.

21 HEARING OFFICER GEFTER: So I'd like to  
22 have some testimony on that so we can get it very  
23 clear in the record.

24 MR. MILLER: Okay.

25 HEARING OFFICER GEFTER: So that will

1 provide a live witness on that for us. With  
2 respect to compliance there is no dispute. It's  
3 standard compliance that general conditions of  
4 compliance that the staff has proposed in their  
5 standard there is nothing unusual about those  
6 compliance conditions.

7 Cultural resources, I understand there  
8 is no dispute on that topic. Facility design, no  
9 dispute as far as I understand, except for perhaps  
10 your dry cooling issue.

11 MR. POWERS: Correct, there are a number  
12 of issues.

13 HEARING OFFICER GEFTER: Yes.

14 MR. POWERS: Because the application and  
15 the preliminary and final staff assessments did  
16 not deal with the issue of wet versus dry in any  
17 of these areas. They don't appear in the  
18 documents and so it's almost a separate topic.

19 HEARING OFFICER GEFTER: Uh huh, all  
20 right. Well, what we'll do, is we'll accept  
21 facility design by declaration. But you will have  
22 the opportunity in your alternatives testimony to  
23 address the design of the project in that topic.

24 Geology, paleontology, no dispute as far  
25 as we understand from the filings, right? Okay.

1 Hazardous materials, no dispute. Now land use,  
2 also there is no dispute indicated. However,  
3 because, again the ERTC specific plan overlaps  
4 with the power plant, I would like to take  
5 testimony on the topic and hear from the City  
6 Planning Department on the process by which the  
7 ERTC, a specific plan was developed.

8           And the intersection and the overlap  
9 with the power plant project. Again, I understand  
10 there's no dispute, I just want to have somebody  
11 available so that we could clear up any  
12 inconsistencies in the record, any questions that  
13 I might have at that point.

14           Noise and vibration, I understand there  
15 is no dispute. Power plant efficiency and  
16 reliability, apparently no dispute on those  
17 topics. Project description, no dispute.  
18 However, again I would like the applicant to make  
19 a very short presentation similar to what you did  
20 today just to lay the foundation for the other  
21 topics.

22           So we would require a witness on that  
23 topic.

24           MR. KRAMER: But you wouldn't need a  
25 witness from staff?

1 HEARING OFFICER GEFTER: Not from staff.

2 MR. KRAMER: Okay.

3 HEARING OFFICER GEFTER: Unless staff  
4 had any comments or questions for the applicant on  
5 that topic.

6 MR. KRAMER: Okay, well we could handle  
7 that. But you know, we're trying to save travel  
8 costs.

9 HEARING OFFICER GEFTER: Sure. On  
10 public health, very connected with the air quality  
11 question and therefore public health will require  
12 witnesses. In addition, I understand that Mr.  
13 Powers has questions that you would need addressed  
14 on the public health topic?

15 MR. POWERS: Right, there are two areas  
16 in dispute on public health. One is again, the, I  
17 think there was a bit of a misunderstanding in  
18 that that FSA includes in it the calculation for  
19 ammonia emissions from the tower, but not from the  
20 mechanism that is actually generating the vast  
21 majority of the ammonia.

22 What is happening, or what the FSA has  
23 done is simply taken drift aerosols, the liquid,  
24 assumed you know, the small concentration of  
25 ammonia in the drift and then calculated that as

1 the total ammonia emissions from the tower,  
2 ignoring the stripping mechanism.

3 And so, I think that's an oversight that  
4 needs to be addressed. And I think it affects the  
5 acute risk assessment in that the ammonia  
6 emissions from the tower will increase  
7 substantially. And I am not familiar with the  
8 details of the analysis.

9 But, I mean, it's important to point out  
10 that this tower is emitting 10 million,  
11 approximately 10 million cubic feet a minute of  
12 air at a relatively low altitude with relatively  
13 low momentum. And so, it will have a significant  
14 impact on that analysis. I don't know if it will  
15 be -- push it to the significance level or not,  
16 but it definitely is something that has to be  
17 addressed.

18 And number two is the Legionella issue  
19 in that I do appreciate the staff recommending a  
20 condition for that. And just wanted to point out  
21 that issues to discuss are, the primary one is  
22 that the analysis treats legionella as if it is a  
23 carcinogen. Essentially it's looking at the  
24 neighborhood, which is two or 300 feet from the  
25 site. When in fact, the legionella exposure is an

1 acute issue. The people that would be most  
2 impacted by legionella, potentially the  
3 neighborhood. But anyone working in the buildings  
4 that are immediately adjacent to the site would be  
5 more subject to impact than neighborhoods.

6 And so I think that needs to be  
7 refocused to address the population that is in  
8 fact at risk. And I don't know if this is the  
9 time to mention this, but the FSA does note that  
10 on several occasions that these studies that  
11 they're relying on that do show legionella  
12 impacts, you know, half a kilometer in  
13 neighborhoods from cooling towers. Where people  
14 are exposed, they get --

15 MR. MILLER: Excuse me we're getting  
16 almost into testimony at this point. I think  
17 we're looking for issue identification and I  
18 politely object.

19 MR. POWERS: And that may be true.

20 HEARING OFFICER GEFTER: Yeah, okay.  
21 But I think Mr. Powers is trying to indicate what  
22 his questions are going to be and what his areas  
23 of concern are.

24 MR. POWERS: And I can wrap this up very  
25 quickly.

1 HEARING OFFICER GEFTER: Yes.

2 MR. POWERS: The statement is made  
3 repeatedly that the tower was old. As if, because  
4 the tower was old, that's the reason that there's  
5 a legionella issue. And therefore, we don't have  
6 to worry about it because we're now dealing with  
7 new towers.

8 I'd just like to point out that the  
9 predominant issue is biocide delivery and control  
10 of bacterial blooms, etc in the cooling tower  
11 water. The age of the cooling tower has very  
12 little to do with whether it's a potential  
13 legionella source. It is the continuous  
14 application of biocides and so we need to talk  
15 about that as well.

16 HEARING OFFICER GEFTER: Okay. And so  
17 what we'll do is we'll ask the staff and the  
18 applicant to provide witnesses who can talk about  
19 those issues. And are you intending to bring your  
20 own witness or do you just intend to cross-examine  
21 the staff and applicants witness?

22 MR. POWERS: Cross-examination only.

23 PRESIDING MEMBER GEESMAN: I want to  
24 make certain I understand when you speak of the  
25 alleged risk to the people in the buildings,

1 whether you're talking about the controlled  
2 building on the power plant site or the proposed  
3 buildings in the new business park?

4 MR. POWERS: I'm excluding the power  
5 plant site, the workers and talking about the  
6 industrial facilities on the fence line of the  
7 plant.

8 PRESIDING MEMBER GEESMAN: Okay.

9 HEARING OFFICER GEFTER: Okay. And so  
10 you're concerned that the nearby industrial sites  
11 were not considered in the analysis, but rather  
12 the residential areas were looked at and not the  
13 close sites.

14 MR. POWERS: Correct, the focus was on  
15 the residences and not the industrial sites.

16 HEARING OFFICER GEFTER: Okay. And so  
17 your intention is to cross-examine both -- and  
18 what kind of timeframe do you have in mind in  
19 terms of your cross-examination?

20 MR. POWERS: Relatively brief. I think  
21 I indicated maximum one hour for cross-  
22 examination. It could be -- it really depends on  
23 the verbalness of the witness being cross-  
24 examined.

25 HEARING OFFICER GEFTER: Okay. If the

1 witness presents, in addition to the witnesses  
2 written testimony, which is already submitted. If  
3 they present oral testimony on these specific  
4 topics, then your cross-examination would then  
5 just be limited to their oral testimony on these  
6 specific issues? Is that your plan?

7 MR. POWERS: Correct.

8 HEARING OFFICER GEFTER: Okay, so  
9 perhaps in order to maintain some sort of time  
10 control over the cross-examination your witnesses  
11 could be prepared to present direct testimony on  
12 the questions raised by Mr. Powers. And therefore  
13 the cross-examination would be limited to those  
14 question. Hearing nothing from staff or applicant  
15 we're going to move on.

16 Socioeconomic, I understand there is no  
17 issue with respect to socioeconomic. Mr. Powers?

18 MR. POWERS: Just a quick question. And  
19 that is so that I understand the process, is that  
20 the testimony that I prepared is based on the FSA  
21 and the applicant submittals. In some cases for  
22 example, the issue of ignoring the ammonia  
23 stripped and looking only at the ammonia in the  
24 water, to me, just from a technical standpoint  
25 that's an oversight.

1           And my question would be and what would  
2 effect the cross-examination is if the CEC's staff  
3 or expert is simply defending his work in the FSA  
4 or her work in the FSA, it may be a long cross-  
5 examination. But, if prior to the evidentiary  
6 hearing they address the issue and we may not  
7 discuss it at all. Because they will have  
8 addressed it and it is no longer in dispute.

9           So if that's the process, that will  
10 effect to a great extent the level of cross-  
11 examination.

12           HEARING OFFICER GEFTER: Well, that's  
13 what we're hoping they will do. Is to address  
14 your question so that when they come to the  
15 hearing they will be able to present some direct  
16 testimony in addition to the testimony they have  
17 already submitted that may address your questions.  
18 And we'll see what they can say.

19           MR. KRAMER: Yeah, I don't think there  
20 will be -- I doubt that we'll be filing anything  
21 in writing ahead of time, just to make that clear.  
22 So there is no expectations raised. But I think  
23 the best we can do is put them on and try to  
24 address those questions in their direct testimony.  
25 To further direct or oral direct.

1 HEARING OFFICER GEFTER: Okay --

2 MR. POWERS: It makes it difficult to  
3 predict the amount of time that would be required  
4 if I'm in a position of having to build a case  
5 after having submitted a comment that I would  
6 think the staff could address straight away. It  
7 simply --

8 HEARING OFFICER GEFTER: Well, Mr.  
9 Powers, you know, if they don't address the  
10 questions and we're asking them to do that right  
11 now. The Committee is directing both parties to  
12 present direct testimony in answer to your  
13 questions.

14 MR. POWERS: Okay.

15 HEARING OFFICER GEFTER: And if they  
16 don't do that sufficiently, you will have the  
17 opportunity to cross-examination them.

18 MR. POWERS: Thank you.

19 HEARING OFFICER GEFTER: And you know,  
20 by that, they then control how much time it will  
21 take you to cross-examine them.

22 MR. POWERS: Very good.

23 MR. MILLER: Ms. Gefter, typically if  
24 there is a question and a point that the party  
25 wants to make. In addition to Prehearing

1 Conference, they would simply include it in their  
2 pre-file testimony.

3 And so I don't want us to be in a  
4 position of sort of, bring me a rock, like we  
5 think we know what he's interested in. And we're  
6 happy to address it and we're not declining to do  
7 so. But I would like to have him address it,  
8 since he's raising the issue in pre-file testimony  
9 as well.

10 HEARING OFFICER GEFTER: Okay.

11 MR. MILLER: And maybe it already has  
12 been in his, in what he's just handed us.

13 HEARING OFFICER GEFTER: Mr. Powers have  
14 you addressed those questions in the testimony  
15 that you submitted?

16 MR. POWERS: Yes, I don't anticipate any  
17 new fronts outside of the written testimony that I  
18 provided.

19 HEARING OFFICER GEFTER: There you go.

20 MR. MILLER: Okay, well if it's there  
21 it's fine. But didn't want to rely just on the  
22 comments today to try to respond. I'd like him to  
23 make his case.

24 HEARING OFFICER GEFTER: Thank you, all  
25 right. We're going to move on now.

1 Socioeconomic, staff has submitted an analysis of  
2 environmental justice as part of the socioeconomic  
3 analysis. And as far as I'm aware, there is no  
4 dispute with that analysis?

5 MR. MILLER: No, no dispute on that.

6 HEARING OFFICER GEFTER: And so we're  
7 going to accept that by declaration. Traffic and  
8 transportation. Apparently there is no dispute on  
9 that topic. Transmission line safety and  
10 nuisance. If there's no transmission line issue  
11 we'll accept that by declaration.

12 On transmission system engineering, I  
13 have a question for the applicant and perhaps this  
14 can be addressed either by additional supplemental  
15 testimony. You may not need to bring in a  
16 witness. The question is regarding the suspension  
17 of the Valley Rainbow 500 KV Transmission  
18 Interconnect. Apparently that's not going to  
19 occur. It's in suspension at this point. And I  
20 want to know how that effects the detailed  
21 facility study that was submitted by SDG&E and  
22 whether that will effect the system impact study,  
23 which was filed originally with the AFC as I  
24 understand.

25 MR. MILLER: Correct.

1 HEARING OFFICER GEFTER: Okay. Is there  
2 a change? Now I know that staff addressed certain  
3 areas in the FSA regarding the presence or the  
4 absence of the Valley Rainbow Transmission  
5 Interconnect, but we're beyond that right now.  
6 And I am wondering if there is going to be any  
7 other changes?

8 MR. MILLER: I'd like Mr. Rowley to  
9 respond to that.

10 MR. ROWLEY: The Valley Rainbow Project,  
11 both with and without both alternatives were  
12 addressed in the detailed facility study. So a  
13 scenario without Valley Rainbow is already on the  
14 record. And in fact, it shows the transmission  
15 grid performs actually better without Valley  
16 Rainbow than with.

17 HEARING OFFICER GEFTER: Right. Rather  
18 than requiring a live witness on that, you'll be  
19 at the hearing on that in any event. Perhaps you  
20 can address that for us, either in your written  
21 testimony on TSE or you can talk to us about in  
22 the project description.

23 I would need that information in the  
24 record if you can point me to where in the  
25 detailed facility study that that conclusion is

1 drawn that would be helpful.

2 MR. ELLER: I can do that.

3 HEARING OFFICER GEFTER: And as I  
4 understand from staff the proposed conditions of  
5 certification would cover any mitigation required.  
6 Is that staff's intent? That the proposed  
7 conditions of certifications on TSE would cover  
8 any mitigation required with or without the Valley  
9 Rainbow Transmission Interconnect?

10 MR. KRAMER: That's right, isn't it?

11 MR. ELLER: I believe staff found no  
12 impact in either case, so yes.

13 HEARING OFFICER GEFTER: All right. So  
14 there's no necessity to have a witness on this,  
15 the written testimony is sufficient?

16 MR. ELLER: Staff --.

17 HEARING OFFICER GEFTER: Yes, okay. So  
18 I've just asked for amplification from the  
19 applicant and that will be sufficient. And we  
20 won't need to have a witness other than Mr.  
21 Rowley. All right. On visual resources, next  
22 topic. I understand that from Mr. Powers issue  
23 regarding dry cooling, there are some visual  
24 impacts that he wishes to address as part of your  
25 presentation, is that right?

1           MR. POWERS: Yes. This is a kind of a  
2 transition issue, but the AFC includes key  
3 observation points. And there was one included, I  
4 think it's KOP3 that shows the cooling tower in  
5 the distance. And it's not a bad KOP, not a bad  
6 simulation, the problem is, there is a tree in the  
7 foreground that blocks virtually the entire view  
8 of the cooling tower.

9           And at the September, 2002 Workshop that  
10 we had here in Escondido, I did request of the  
11 visual resources staff member that given that this  
12 tower will have a plume during some hours of, or  
13 hour a day, whatever the average might be during  
14 wet weather, wintertime conditions, that it would  
15 be helpful to see this tower with a plume so that  
16 we have an understanding of the worst case visual  
17 impact of the tower.

18           And the staff member did agree verbally,  
19 not in writing to prepare that. And when the FSA  
20 was produce there was no photo with a plume.  
21 There was simply a statement that we modeled it  
22 and determined that the plume would occur  
23 infrequently enough that it was below our  
24 significance threshold and therefore we didn't do  
25 it.

1 HEARING OFFICER GEFTER: Uh huh.

2 MR. POWERS: That may be the case but I  
3 think the, it's important to see it. I'll provide  
4 a slide of a generic tower with a plume, a plume  
5 abatement tower and I'll get that to all parties.

6 But I think that if the staff make a  
7 commitment, verbal or otherwise such that you're  
8 anticipating seeing something in the document  
9 that's very relevant to our height discussion on  
10 cooling alternatives, it's important to either do  
11 it or to inform the person that requested that you  
12 do it that you will not be doing it.

13 HEARING OFFICER GEFTER: Okay, so --

14 MR. POWERS: And not wait until they  
15 review the FSA to find out it didn't happen and  
16 we're back to square one.

17 HEARING OFFICER GEFTER: I'm sorry to  
18 interrupt you Mr. Powers, but what your looking  
19 for is a photosimulation of a cooling tower plume  
20 from KOP3?

21 MR. POWERS: Correct.

22 HEARING OFFICER GEFTER: All right.

23 MR. POWERS: The other part of that  
24 request is to remove the tree so that we can  
25 actually see the facility.

1 HEARING OFFICER GEFTER: Okay.

2 MR. POWERS: The other component of that  
3 request, and this is I presume up in the air and I  
4 would understand this, is that the intent of that  
5 request was to compare the visual impact of a  
6 worst case plume abated tower with plume to an  
7 optimized height air cooled condenser. And it  
8 would be wonderful if that could be included so  
9 that we could see the relative effect of those two  
10 alternatives.

11 And the reason for that is that in the  
12 cooling analysis that is done in the FSA and this  
13 is very common, it is pointed out that the height  
14 of the air cooler option is considerably higher  
15 than the tower. And that that is a reason for its  
16 infeasibility.

17 No attempt is made to optimize that  
18 height and that is an important issue. And again,  
19 it's a transition issue, it could follow into  
20 visual resources or into alternatives or to soil  
21 and water, whatever area we choose to work on it.  
22 I will be providing photographs of optimized  
23 height air cooled condensers and plume abated  
24 towers with plumes. But it would be nice to see  
25 it in this particular site since this is -- we're

1 talking about Escondido, California as opposed to  
2 a generic.

3 (Thereupon a brief discussion was held  
4 off the record.)

5 HEARING OFFICER GEFTER: Okay, well one  
6 thing is that I'm not sure the relevance of a  
7 photosimulation of a cooling tower with the plume.  
8 We're talking about this cooling tower in this  
9 location and whether this particular cooling tower  
10 will be emitting plumes on a regular basis so as  
11 to cause a significant impact. So I don't know  
12 that it would be of any use to the Committee to  
13 see a generic tower with a plume.

14 MR. POWERS: Well --

15 HEARING OFFICER GEFTER: I understand  
16 that the applicant has done some photosimulations.  
17 I'm not sure if you did those with potential  
18 plumes, are there any?

19 MR. MILLER: No.

20 HEARING OFFICER GEFTER: Okay. And I'm  
21 not sure whether the applicant or the staff would  
22 be, it would be necessary for them to do that if  
23 their finding is that there is no significant  
24 impact.

25 MR. POWERS: That's a perfectly

1 legitimate answer.

2 HEARING OFFICER GEFTER: Yes.

3 MR. POWERS: I mean I realize that I was  
4 stretching it to request that. If that does not  
5 happen that is perfectly all right on the air  
6 cooled condenser issue. I think the plume, seeing  
7 the tower with a plume is important. Beyond that  
8 I understand your perspective.

9 HEARING OFFICER GEFTER: So what you  
10 still would like to see is a photosimulation of  
11 this particular tower with the potential plume  
12 during a particular climatological condition,  
13 where it might have a plume?

14 MR. POWERS: Well, it's not quite so  
15 arcane as that. This tower -- what the applicant  
16 has indicated is that five percent of the daylight  
17 hours, cloud free daylight hours in the  
18 wintertime, we could potentially see a 40-foot  
19 high plume on the tower.

20 That works out to one hour a day every  
21 couple of days. For people who live nearby, they  
22 will see a plume frequently. It's not an  
23 abstraction. The CEC has determined that we may  
24 see plumes ten percent of the time, daylight hours  
25 in the wintertime. I think that works out to

1 nearly an hour a day.

2           So, it isn't quite an abstraction. And  
3 I'm not clear on what the significance criteria is  
4 to indicate that it is not significant. That you  
5 will be looking at this plume potentially on a  
6 daily basis for a period of time, but rest assured  
7 it isn't significant. There may be very  
8 legitimate criteria for that, but they were not  
9 included in the FSA.

10           HEARING OFFICER GEFTER: As I remember,  
11 the staff did talk about, what is it ten percent  
12 day/night, no fog no rain.

13           UNIDENTIFIED: And during the something  
14 season, I'd have to read it out of to get the --

15           HEARING OFFICER GEFTER: I think the  
16 staff does indicate what it's standard is in the  
17 FSA.

18           MR. POWERS: And my question is, what is  
19 the basis of, I mean how do you determine that  
20 seeing this plume one hour a day in the wintertime  
21 is insignificant. What is the basis of that.

22           HEARING OFFICER GEFTER: So your  
23 question to staff would be how did you develop  
24 your standard?

25           MR. POWERS: Right.

1 HEARING OFFICER GEFTER: And in terms of  
2 a photosimulation, I'm still not sure what the  
3 importance of that simulation would be.

4 MR. POWERS: Well, the importance of the  
5 simulation is that the simulation that is included  
6 and many times pictures speak as thousand words.  
7 If I look at KOP3 and I see a cooling tower with  
8 no plume, then as a reviewer of that document I  
9 presume that this is the way it will look.

10 If as a resident I then find that on a  
11 daily basis in wintertime, at least for a portion  
12 of that day I'm looking at a 40-foot high plume in  
13 addition to that tower, that is in fact the worst  
14 case scenario. This is not the way that facility  
15 will always look.

16 HEARING OFFICER GEFTER: Okay.

17 MR. POWERS: And that's the relevance of  
18 that.

19 HEARING OFFICER GEFTER: Okay, does  
20 staff have -- I'm sorry, does the applicant have  
21 an objection to providing that photosimulation?

22 MR. MILLER: Yes we do. We feel that  
23 the staff has concluded it's an insignificant  
24 impact. And that that should be sufficient. And  
25 we further would just note that it's good to keep

1 in mind, I think that as your Committee order  
2 stated some months ago, the standard of review for  
3 this whole issue of dry cooling is whether there  
4 is a significant impact from wet cooling as  
5 proposed.

6 And I just want to not let the day end  
7 without noting that in some sense, we're not  
8 obligated to go into dry cooling at all. Because  
9 we have a conclusion there's no significant impact  
10 from wet cooling. We're doing that to create a  
11 more complete record, but at some point it becomes  
12 excessive we feel to go too far into looking at an  
13 alternative that we don't believe the Commission  
14 would be likely to, or perhaps even allowed to  
15 impose in the absence of a significant impact.

16 So it was just sort of rule of reason I  
17 guess we're arguing and we just don't feel it's  
18 necessary. And incidentally I think the staff  
19 agreed with our modeling there was a five percent,  
20 not ten percent. The standard is ten percent, but  
21 the actual results were five percent.

22 HEARING OFFICER GEFTER: All right.

23 PRESIDING MEMBER GEESMAN: Thank you for  
24 reminding us of that. And I would say from my  
25 standpoint I can't see that it's helpful to have

1 the photosimulation.

2 MR. POWERS: I can't quite hear.

3 PRESIDING MEMBER GEESMAN: If you  
4 question the staff as to the origin of their  
5 significant standard, but I don't see how a  
6 photosimulation is really going to help us in  
7 developing this record.

8 HEARING OFFICER GEFTER: All right. So  
9 what we can do is staff can provide testimony  
10 regarding the basis for your standard.

11 MR. KRAMER: We will do that.

12 HEARING OFFICER GEFTER: All right. And  
13 to that extent I think that they won't need any  
14 other testimony regarding visual resources.  
15 Because I think that's the only issue that remains  
16 disputed. Unless you have another issue regarding  
17 visual resources?

18 MR. POWERS: The other issue, I think  
19 would fall into the alternatives analysis  
20 category. Which is the relative height of the two  
21 technologies.

22 HEARING OFFICER GEFTER: Okay. I'm  
23 going to move on real quickly because we're  
24 getting close to four O'clock and I want to have  
25 time for members of the public to address us. On

1 waste management there is no disputed issue so we  
2 will take that by declaration.

3 Worker safety and fire protection, as I  
4 understand there are no disputed issues and we'll  
5 take that by declaration.

6 And then there is soil and water. All  
7 right. We're going to be taking testimony on soil  
8 and water. And I -- unless there is anything in  
9 addition to the issues raised by Mr. Powers, I  
10 think you submitted your issues and everyone has  
11 had an opportunity to read them and to consider  
12 them and so we will ask for the parties to put on  
13 direct testimony.

14 You can put on your witnesses and  
15 everyone will have an opportunity to cross-  
16 examination each others witnesses. Do you have  
17 any additional issues that you want to raise?

18 MR. POWERS: Additional issues beyond  
19 what is in this testimony?

20 HEARING OFFICER GEFTER: Yes.

21 MR. POWERS: No.

22 HEARING OFFICER GEFTER: Okay, good.

23 Now, I envision this in terms of the way the  
24 parties would present the their testimony, is  
25 we're going to do it topic by topic rather than

1 one big overlapping topic. We need to keep the  
2 topics separated because in the final decision,  
3 each topic has to be analyzed thoroughly.

4 So, what we'll do, is we will take  
5 testimony on the following topics, and I'm going  
6 to list them again so that everybody is aware.  
7 Air quality alternatives with respect to dry  
8 cooling option. And let's see, public health and  
9 visual and soil and water, again with respect to  
10 the dry cooling.

11 We have some other questions regarding  
12 air quality we've already discussed. And also  
13 public health with respect to the dry cooling  
14 issue. And also with respect to the District's  
15 analysis. Do you have a question Mr. Powers?

16 MR. POWERS: Just one final comment.  
17 This sheet that I handed out earlier, the  
18 supplement, or the -- there is one additional  
19 witness that we would probably want to call that  
20 isn't on that sheet. And that is the City of  
21 Escondido Utilities Department.

22 HEARING OFFICER GEFTER: In which topic?

23 MR. POWERS: That would be water  
24 resources.

25 HEARING OFFICER GEFTER: Okay. So who

1 from the Utilities Department?

2 MR. POWERS: John Hoagland.

3 HEARING OFFICER GEFTER: The individual  
4 who is here today?

5 MR. MILLER: That individual is also our  
6 witness.

7 HEARING OFFICER GEFTER: All right.

8 MR. MILLER: We were intending to  
9 provide him as part of our direct case on water,  
10 soil and water resources.

11 MR. POWERS: We can cross-examination in  
12 that case.

13 MR. MILLER: Yes. He is going to be  
14 available.

15 HEARING OFFICER GEFTER: All right.  
16 Well, then if you, you can cross-examination the  
17 witness because he'll be there in any event.

18 MR. KRAMER: May I ask a question?

19 HEARING OFFICER GEFTER: Yes.

20 MR. KRAMER: When you mention soil and  
21 water for the last time, you said only as to the  
22 dry cooling related issues. And I wanted to  
23 clarify that because that may allow us to bring a  
24 sub-set of our witnesses who, and eliminate those  
25 who would talk about flooding for instance, is

1 that acceptable?

2 HEARING OFFICER GEFTER: That's right,  
3 yes.

4 MR. KRAMER: Okay, thank you.

5 HEARING OFFICER GEFTER: And also with  
6 respect to -- I have one other issue, which you  
7 probably can answer with Mr. Hoagland. The status  
8 of the new treatment plant under soil and water,  
9 they -- apparently there is a second treatment  
10 plant that is going to be ready to go on line in  
11 the next few months.

12 MR. MILLER: I think we may still have a  
13 confusion. I tried to respond to your question in  
14 our Prehearing Conference statement. There is one  
15 plant, within that plant there are potential two,  
16 I'll call them modules, I'm not sure if they're  
17 really called that, but, for tertiary water  
18 treatment. Each of those is roughly nine million  
19 gallons in its design.

20 At one time there was going to be both  
21 constructed, this goes back within the -- this has  
22 all be in development since 1991 or so, or  
23 probably before and Mr. Hoagland can respond in  
24 our testimony, but I guess, just to shorten this.  
25 The first nine million has been constructed and is

1 ready to go on line. It's in its final testing.

2 The second unit was found not to be,  
3 there's not sufficient demand to justify  
4 constructing that. And so that has gone through  
5 environmental review and is available to be  
6 constructed should the demand increase, but there  
7 is no present plan to do that. So that's, I think  
8 the story and I hope that's clear.

9 HEARING OFFICER GEFTER: Okay, and  
10 that's different than what the FSA says. Because  
11 the FSA says that it will be going on line April  
12 of 2003, in a month.

13 MR. MILLER: Well, it is going to be  
14 this summer.

15 HEARING OFFICER GEFTER: All right.

16 MR. MILLER: It's already -- and I don't  
17 guess we can call Mr. Hoagland unless you'd like  
18 to --

19 HEARING OFFICER GEFTER: No.

20 MR. MILLER: And you can get it directly  
21 from him right now.

22 HEARING OFFICER GEFTER: No, but we can  
23 get an update from Mr. Hoagland is he is going to  
24 be your witness on soil and water with respect to  
25 dry cooling at the evidentiary hearing, perhaps he

1 can also address that one very small question for  
2 us at that time.

3 MR. MILLER: Right, okay, correct.

4 HEARING OFFICER GEFTER: Because then  
5 we'll have a more updated response in any event.

6 MR. MILLER: That will be fine.

7 HEARING OFFICER GEFTER: Mr. Powers, did  
8 you have a question? No, all right. Also, to  
9 finish up the topics that we are going to request  
10 to have direct testimony I ask for information on  
11 biology, land use and another project description  
12 overview, so those would be the other topics.

13 All of this will be presented in a  
14 hearing order. You know, where I will reiterate  
15 the areas that we will be hearing testimony. And  
16 we'll talk about the hearing order later on in  
17 this proceeding. But we're getting close to four  
18 O'Clock and I want to give members of the public  
19 an opportunity to address us right on time. And  
20 so we're going to move to that session right now.

21 What I wanted to do first, is ask, I  
22 guess it's Mr. Delargy from the Escondido Chamber  
23 of Commerce, are you still here? You wanted to  
24 address us, would you begin and then we'll start  
25 calling the other people up. Thank you.

1           MR. ABED: Good evening. Thank you for  
2 the opportunity to comment on the project here.  
3 And welcome to Escondido, it's not as bad of a  
4 city as you thought it was, you know. A little  
5 bit more power, a few more jobs, we'll be just  
6 fine.

7           I am the immediate past Chairman of the  
8 Escondido Chamber of Commerce. We have 7200  
9 businesses in Escondido, the Chamber represents  
10 800 of them. The Board of Directors have been  
11 working closely with Mr. Rowley and SDG&E on the  
12 project and we do support them and the power  
13 plant.

14           The Board of Directors has voted  
15 unanimously to support this project. The Chamber  
16 motivation is twofold, one is to address the  
17 demand and supply issue of the energy. That's  
18 basically a big need for the business community  
19 here and the region. Second, is economic benefit.  
20 There is a tremendous need for Escondido to  
21 prosper.

22           Escondido is strong on retail base, but  
23 we do have a deficiency in our need and income in  
24 the job qualities here. The 4000 jobs provided by  
25 the ERTC is very critical to the future economic

1 strength, stability and prosperity of the  
2 Escondido businesses and community.

3 We understand that this is a very  
4 challenging project for any developer. I think  
5 having the package of the power plant and the  
6 business park would be financially feasible. We  
7 understand there are some environmental issues,  
8 but the benefit to the Escondido community  
9 overweighs these issues. Thank you.

10 HEARING OFFICER GEFTER: Thank you very  
11 much Mr. Delargy. Do you have a business card  
12 from the Chamber of Commerce.

13 MR. ABED: Yes.

14 HEARING OFFICER GEFTER: Could we have a  
15 copy of that please, or just bring a card up to  
16 our reporter to that he can have your name spelled  
17 correctly in the record. There, thank you very  
18 much.

19 All right, we have a number of people  
20 who wish to address us. I'm going to ask Mark  
21 Rodriguez to come forward first. Mr. Rodriguez  
22 has submitted a letter to us and has also been  
23 sending various comments to us via e-mail and by  
24 letter. And I'm glad to meet you finally Mr.  
25 Rodriguez. I know you by e-mail.

1           MR. RODRIGUEZ: Thank you very much.  
2   Basically, I am a resident here in Escondido. And  
3   first I'd like to thank the CE Staff for their  
4   professionalism and their efforts to make this  
5   project a quality project.

6           HEARING OFFICER GEFTER: Thank you.

7           MR. RODRIGUEZ: Unfortunately I feel  
8   they are under pressure to have generating  
9   facilities built and may look the other way on  
10  issues to get this process accomplished.

11           For the public record, the applicant has  
12  stated that the ERTC will not be built unless the  
13  Palomar Energy Project is. This ties both  
14  projects together and attempts to isolate  
15  decisions based strictly on one project, does not  
16  take into account impacts that otherwise would  
17  require mitigation or technologies to overcome  
18  impacts. The facade of presenting a second option  
19  in the planning area one is ridiculous.

20           Okay, I moved to this area, to the  
21  neighborhood adjacent on the western boundary  
22  about three years ago, unfortunately without the  
23  benefit of disclosure. Since then I've been  
24  heavily involved in all the projects in the  
25  vicinity after just two weeks of moving in when I

1 got the first notice of the proposed rock quarry  
2 they we're going to be putting in there.

3           The majority of the City Council has  
4 been set on getting these 200 acres associated  
5 with this project developed at any cost. In fact,  
6 trying to get the previous project accomplished  
7 without an EIR.

8           The neighborhood decided to speak with  
9 Sempra in an attempt to address our concerns and  
10 get guarantees that hopefully would avoid local  
11 politics. I've even had Sempra officials in my  
12 home for talks to establish these guarantees.

13           Since then, promises have been made and  
14 broken and we have found out that Sempra is even  
15 much more proficient in the political arena to get  
16 what they want.

17           I recently spoke with the Mayor about  
18 the possibility of some of the date being  
19 incorrect and misleading. And got the response  
20 that she would leave that up to the experts from  
21 the CEC, which only emphasizes the lack of concern  
22 and responsibility of our public officials.

23           The manipulation of the facts leaves  
24 holes in information that this Committee is  
25 attempting to base its decision on. Some of the

1 facts, reclaimed water that is being used in the  
2 cooling towers is consistently violating the lower  
3 standard for ammonia concentrations.

4 That would in affect create higher  
5 concentrations of ammonia and result in a direct  
6 increase of PM10 emissions. The ARB ambient air  
7 quality PM10 standard currently is being exceeded  
8 by fifty percent in Escondido, which call  
9 attention to the fact that standards are not being  
10 followed. This standard was incorrectly  
11 documented initially and was brought to the  
12 attention of the CEC by myself.

13 The non-attainment stand as workaround  
14 for no net increase will only bring air quality to  
15 a more serious status because of cumulative  
16 impacts not being taken into account.

17 CEQUA standards, Code, the CEQUA Public  
18 Resource Code 21083B and the California Code of  
19 Regulations, Title 1415065 and California Code of  
20 Regulations Title 1415130 must take into account  
21 affects of past, current and probable projects  
22 that are accumulative considerable and not  
23 necessarily identical to the proposed project and  
24 the cause related impacts. This also points to  
25 the seriousness of the problem and shows that the

1 comprehensive cumulative impacts analysis is  
2 needed for both mobil and stationary sources.

3           The CEC has required cumulative analysis  
4 from previous applicants that include sources  
5 other than new stationary power plant facilities.  
6 I've also found the initial ERC's, which we spoke  
7 about earlier have reduced in value. Certificate  
8 numbers have disappeared from the original  
9 documentation. And others date back almost ten  
10 years. None of which will have a direct effect on  
11 the offsets of the plants impacts on Escondido's  
12 air quality.

13           The region paid the highest interest,  
14 the highest rates in the nation during the  
15 electricity crisis. And is projected to be the  
16 highest statewide even without pending rate  
17 increases, putting Sempra in a position to  
18 increase the strangle hold because of the  
19 dependency on natural gas and it's control of the  
20 region is only asking for more problems,  
21 considering they are already under investigation  
22 for price gouging.

23           If this Committee isn't here to enforce  
24 laws and regulations then what are we doing here?  
25 Thank you.

1 HEARING OFFICER GEFTER: Thank you Mr.  
2 Rodriguez. The letter that you gave me, have you  
3 docketed this letter, or did you --

4 MR. RODRIGUEZ: Not yet.

5 HEARING OFFICER GEFTER: Are you  
6 planning to send it to the Public Advisor to have  
7 her docket it?

8 MR. RODRIGUEZ: Yes I am.

9 HEARING OFFICER GEFTER: Thank you very  
10 much. All right, next person that I'd like to  
11 call up is Shawn Delargy.

12 MR. DELARGY: Hello. I'd like to also  
13 thank the staff and CEC for letting me comment  
14 here today. I am a resident and my name is Shawn  
15 Delargy, again S-H-A-W-N D-E-L-A-R-G-Y. I'm a  
16 resident of Escondido and I've also worked in  
17 power plants for over 13 years. I currently work  
18 for AES Huntington Beach, which is a facility  
19 that's made reference to several times in this  
20 permitting process.

21 I'm the operations leader for unit  
22 three, which is one of the units that just was  
23 recently re-tooled under the CEC, or the permit  
24 was given for re-tool under the CEC's permitting  
25 process. And I am the operations trainer there at

1 Huntington Beach.

2 I'm here as a resident in support of the  
3 Palomar Energy Project. I've been following the  
4 Palomar Energy Project since it's proposal, both  
5 in newspapers and in e-mail as a subscriber on the  
6 CEC's website. I haven't quite read the entire  
7 final staff assessment but have gotten through a  
8 large portion of it and read most of what has come  
9 along before the final staff assessment.

10 Anyway, on the topic of air quality,  
11 from my experience the proposal is some of the  
12 cleanest emissions I've seen or worked with. I've  
13 also been certified by the Air Resources Board as  
14 a visible emissions evaluator, so it gives me some  
15 credentials I think on that.

16 As far as visible resources, I can see  
17 the proposed site from my backyard. I live in the  
18 Emerald Heights Community of Escondido and I don't  
19 mind seeing power plants. I see them as a, you  
20 know proof of our technological and engineering  
21 advances, you know that we've come to accept.

22 The plant I currently work at was built  
23 in the 50s and 60s, and you know, they've been  
24 retrofitted recently with SCR's for nobs control.  
25 But before then, before those technological

1 advances, they put out close to 100 ppm, which I  
2 believe is close to what the Encina and Duke  
3 generating stations, you know, locally here have  
4 put out before any of their retrofits.

5           So anyway, I can attest to the fact that  
6 these technologies work as I have experienced in  
7 working with them. One more reason I'm in support  
8 of the Palomar Energy Project is that it creates a  
9 local job opportunity for me. I currently, you  
10 know, commute 75 miles.

11           I've never had a close commute than one  
12 hour. And so, the PEP, you know would create at  
13 least the opportunity to work within three to four  
14 miles of where I currently reside. And my wife  
15 doesn't want to move from this area.

16           Anyway, I think that falls under the  
17 socioeconomic of -- somewhere. And speaking of  
18 which, in the final staff assessment, in the  
19 definition for the Proposed Condition of  
20 Certification, socio one, in the definition part,  
21 it says that a one time payment will be paid to  
22 local schools, I think and then -- I don't have it  
23 with me, but in the neighborhood of like, \$5,000.  
24 But earlier in that -- under that topic of socio  
25 economics it mentions that the company would also

1 be required to, you know, draw from the local work  
2 force. But in the definition towards the bottom  
3 of that section it doesn't state that. It only  
4 states the one time payment. I have a question  
5 about that.

6 MR. ELLER: On behalf of staff, I think  
7 the intent is for, when available to look always  
8 to the local area for services, so I think that  
9 was intended there. It's not necessarily  
10 something we're going to put in the condition.

11 MR. DELARGY: All right. Anyway, that's  
12 about it. Thank you for the opportunity to voice  
13 my opinion. Most of the people that come to these  
14 are usually against the power plant and I'm for  
15 it, so thank you.

16 HEARING OFFICER GEFTER: Thank you. All  
17 right, next Cathy DeSilva. Ms. DeSilva are you  
18 here?

19 (Thereupon a brief discussion was had  
20 off the record.)

21 HEARING OFFICER GEFTER: Did she already  
22 leave? Cathy DeSilva, she left, okay. Dan  
23 Perkins.

24 MR. POWERS: It doesn't appear that Dan  
25 is here. He did e-mail me a statement if you

1 would like me to provide that to you?

2 HEARING OFFICER GEFTER: All right, okay  
3 I'll take his statement.

4 MR. POWERS: Okay.

5 HEARING OFFICER GEFTER: And we'll have  
6 to docket that as well.

7 MR. POWERS: Would you like me to read  
8 it?

9 HEARING OFFICER GEFTER: Let me see.

10 MR. POWERS: It's one sentence long.

11 HEARING OFFICER GEFTER: He has one  
12 sentence. Okay and Dan Perkins, he's a -- do you  
13 know Mr. Perkins, Mr. Powers?

14 MR. POWERS: Mr. Perkins is the Chair of  
15 the Energy Committee of the San Diego Chapter of  
16 the Sierra Club.

17 HEARING OFFICER GEFTER: All right. And  
18 his comment is the long term commitment to use  
19 wastewater for cooling, the Palomar Energy Project  
20 limits the opportunity for future recycling of the  
21 wastewater taken from the Hale Avenue Resource  
22 Recovery Facility. San Diego is facing a water  
23 crisis in the very near future and this could be a  
24 valuable resource. Please use dry cooling.

25 All right, thank you. Okay, so that's

1 Mr. Perkins and he is not here. And again, Cathy  
2 DeSilva already left. Steve Lu Russo? Thank you.

3 MR. LU RUSSO: Good afternoon. I'd like  
4 to briefly recite, just a little history about  
5 Quail Hills. We, as Mr. Rodriguez mentioned the  
6 concerned neighbors of Quail Hills. I was at one  
7 time the president of that organization. We  
8 organized it to keep a rock quarry out of being  
9 built in Quail Hills that would have crushed rock  
10 in our neighborhood for 12 years.

11 My biggest fear is that if the Sempra  
12 Project went away we'd have a rock quarry back in  
13 our neighborhood for 12 years. I support the  
14 project. I've looked into the details. I think  
15 there are some subjective questions that I'm sure  
16 the experts will work out. But as a neighbor, I  
17 will tell you that I've met with Quail Hills a  
18 number of times. All the issues that were brought  
19 up they've addressed.

20 Some of the things that we brought up,  
21 they've made great modifications to make it a  
22 better project for our community. I will make one  
23 comment to Mr. Powers. You know, I hear mention  
24 of the air cooling. I'm an executive recruiter  
25 for livelihood and one of the attractions of

1 Southern California is for people to go outside  
2 and enjoy an environment.

3           And as I understand air cooling and  
4 maybe you can correct me if I'm wrong, it's quite  
5 loud. And it's not exactly creates a sonic  
6 environment that would be very pleasurable for  
7 people that work there and I'm sure Mr. Abed from  
8 the Chamber of Commerce would agree that we want  
9 the best type jobs we can get. So we want to  
10 create a great environment.

11           So once again as a neighbor of Quail  
12 Hills, I totally support this project. Thank you.

13           HEARING OFFICER GEFTER: Thank you. Mr.  
14 Powers?

15           MR. POWERS: Since I was addressed  
16 directly may I respond to that in 30 seconds just  
17 informationally?

18           HEARING OFFICER GEFTER:  
19 Informationally.

20           MR. POWERS: During the evidentiary  
21 hearings we both show a very brief documentary  
22 film of the sound level of an air cooled  
23 condenser. And you will be able to make your own  
24 determination of that sound level. Also, the  
25 group that I represent is not against this power

1 plant. We are simply addressing the cooling  
2 system that is being used on the plant.

3 HEARING OFFICER GEFTER: Okay, thank you  
4 Mr. Powers. Mr. Morrill?

5 MR. MILLER: Ms. Gefter, I'm not sure  
6 this is a big deal, but I note that Mr. Morrill is  
7 one of Mr. Powers witnesses. And I just question  
8 whether it's appropriate for public comment to be  
9 made by a perspective witness, other than at the  
10 hearing?

11 HEARING OFFICER GEFTER: I think that in  
12 this case, Mr. Morrill is a resident of the area  
13 and he is not going to be testifying as an expert  
14 witness.

15 MR. MILLER: Okay, just wanted to raise  
16 the issue.

17 HEARING OFFICER GEFTER: Okay, Mr.  
18 Morrill.

19 MR. MORRILL: Thank you. I am Greg  
20 Morrill, I live on Allenwood Lane, which is the  
21 street which is the western most end of the  
22 project. And as such, I think that the people,  
23 those of us on that street are going to be some of  
24 the most highly effected by the power plant and by  
25 the rest of the project.

1           People ask me all the time when I tell  
2 them that they're going to build a power plant  
3 next to my home, how could they do that? And, I  
4 don't know how they could do that. It's about,  
5 it's going to be about a quarter of a mile from my  
6 home. And my wife and my children are always  
7 grilling me and their main question is how can  
8 City Officials, how can State Officials allow a  
9 power plant with all the questionable things that  
10 it brings so close to residents? And I really  
11 don't have an answer for them.

12           When we look at the other power plants  
13 that I know of, none of them are as close, or are  
14 going to be as close to residents as this one is.  
15 I -- in a perfect world I wouldn't live next to a  
16 power plant. My street wouldn't be the street on  
17 which that happens.

18           When we moved here 14 years ago, going  
19 to be 15 in May, we weren't told that a power  
20 plant was going to be built that close to us. We  
21 were told it was going to be an industrial park.  
22 And that was bothersome enough.

23           To then have to deal with all of the  
24 stuff that I hear you guys talking about really  
25 scares me. It scares my wife, it scares my wife,

1 it scares my two daughters. I have a 14-year-old  
2 and a 23-year-old and they're scared. They think  
3 that their lives are going to be endangered  
4 because of pollution.

5 They're worried about noise. They're  
6 worried about our property values, which is what  
7 our testimony is going to be about eventually.  
8 And as a property owner, I am extremely concern,  
9 this is my life investment we're talking here.

10 And when you talk about putting a power  
11 plant that close, it is very scary. And I guess  
12 if it's going to go in, because I've tried to move  
13 and really I can't get what I've got now. I have  
14 a wonderful place and when I compare it to the  
15 other properties that I look at, they're going to  
16 cost so much that I can't afford them.

17 So I'm kind of stuck there. And so I  
18 guess my point would be to make this thing be the  
19 most efficient, quite, pollution free, friendly  
20 project that it could possibly be. Because it  
21 really, I don't know if you guys know that it  
22 scares everybody as much as it does. When you're  
23 going to live, literally I could hit a golf ball  
24 there. I'm a golfer and if I catch one, I know I  
25 could hit a golf ball, hit that plant from where I

1 live.

2           And the one thing I guess, that as  
3 residents we want you to do is represent us and  
4 make this thing be according to law. Don't let  
5 the levels get higher than they should be. Right  
6 now my understanding is that there is a lot of  
7 stuff that is going on in Escondido that's  
8 unfriendly to us as residents.

9           Pollution levels that are being not  
10 monitored as closely as they could be. And to  
11 think that on top of that we could add a power  
12 plant really is scary. To think that the  
13 pollution that something like that could bring to  
14 our home, a stones through away, that it's going  
15 to be unregulated or that people's feet aren't  
16 going to be put to the fire is extremely  
17 disturbing to us.

18           So if the project is going to go  
19 forward. And like I say, in a perfect world, I  
20 don't think anyone says, yes, put a power plant  
21 next to my house. But if it's going to go there,  
22 and I don't have a choice economically, I mean I'm  
23 going to stay there.

24           The one thing I think I want to ask you  
25 guys to do for us is to help us. Make it be what

1 Mr. Rowley and Sempra says it's going to be. Make  
2 it be the best it can be and have some sort of  
3 monitoring systems in place to assure the  
4 residents that the pollution levels don't go  
5 higher than the laws allows.

6 Don't let them dump into our creek and  
7 into our ocean pollution that this power plant  
8 could generate beyond what the law allows. So if  
9 I want to sum up, I guess I would say please do  
10 what, I guess they put you here to do as  
11 Commissioners, to make sure that this thing works  
12 for the residents that are going to be subjected  
13 to all of the stuff that it brings with it,  
14 including the good things.

15 I understand that we need power, so  
16 that's the good part. But other part really  
17 scares the heck out of us as residents. And I  
18 guess we're counting on you guys to make it work  
19 for us. Thank you very much.

20 HEARING OFFICER GEFTER: Uh --

21 PRESIDING MEMBER GEESMAN: I think  
22 you're entitled to nothing less than that. And I  
23 certainly intend to carry that out. And I know  
24 Chairmen Keese does as well. And I believe if you  
25 look at the record of the California Energy

1 Commission when it comes to power plant siting,  
2 and I should tell you, we are often criticized for  
3 this, you will find no more stringent agency  
4 anywhere in the world as it relates to enforcing  
5 the law. And in many instances going beyond the  
6 law in requirements that we impose as Conditions  
7 of Certification.

8 MR. MORRILL: One of the things that I  
9 guess scares me as an Escondido resident is that  
10 I've been exposed to the City Council and how it  
11 functions. And how people aren't always made to  
12 obey the law and structures aren't always adhered  
13 to. And it appears that they're so anxious to put  
14 in power plants and industrial parks that they're  
15 willing to let a lot of stuff go.

16 And so I don't know whose going to have  
17 the oversight to this, but if it's up to our local  
18 elected officials, it scares the heck out of me.  
19 Because they're not very good at it.

20 ASSOCIATE COMMITTEE MEMBER KEESE: Let  
21 me tell you that once we get it, it's life to  
22 death. We have staff who monitor this project  
23 every hour that it runs and who monitor it when  
24 it's torn down, until the site is restored to  
25 exactly where it was before it started.

1           We have a full staff that monitors every  
2 plant we have approved. And all the conditions  
3 that are in there are required to be met by our,  
4 all by our staff. And if they're not met, the  
5 plant shuts down. I would suggest, you could look  
6 at our website and read what the rules are,  
7 they're absolute.

8           MR. MORRILL: That's good to know. It's  
9 good to know that as residents we have somebody on  
10 our side that is going to make -- hold their feet  
11 to the fire if you will. And make sure that our  
12 property values are maintained and that our health  
13 is not put at risk and that our children are not  
14 put at risk by this thing. Because I think that's  
15 the fear of a lot of us. I really do.

16           And I don't know if you guys are used to  
17 putting power plants this close to people or not,  
18 but can anyone address that?

19           ASSOCIATE COMMITTEE MEMBER KEESE: I've  
20 got several ongoing cases right now where the  
21 sites are equally close. So this is not unusual  
22 at all.

23           MR. MORRILL: Okay, well it is for me  
24 because I live here I suppose and I'm going to  
25 be the one next to it. But anything you can do to

1 help it would certainly be appreciated.

2 HEARING OFFICER GEFTER: Of course. Mr.  
3 Morrill have you looked at the staff's assessment?  
4 It's a big thick document, but in the staff  
5 assessment at the end of every chapter is a list  
6 of conditions that Sempra is required to  
7 implement. And if you look at those conditions  
8 that will give you some sense of how the staff is  
9 going to oversee, the Energy Commission staff is  
10 going to oversee this project.

11 And you can look at those conditions and  
12 read them, and if you have questions, you can call  
13 our Public Advisor, you can call Mr. Eller. And  
14 he'd be very happy to explain those to you.

15 MR. MORRILL: You know what's scary  
16 though, is when I hear Mr. Powers for instance  
17 talk about Legionella. And I hear about ammonia  
18 levels that this thing could create. Particulate  
19 matter, that in other instances has gone beyond  
20 what's legal, it's scary.

21 HEARING OFFICER GEFTER: Is your --

22 MR. MORRILL: I think he brings up good  
23 points. I'll be very interested to hear his  
24 points as time goes on, as the testimony comes  
25 out. But I think that it's one thing to say that

1 this thing works.

2           It's another to listen to the people who  
3 challenge those figures, or who want to make it  
4 work tell us that there are instances when it  
5 doesn't work. Or, that there is pollutants which  
6 are allowed when they are not suppose to be. And  
7 I hear you guys saying that you'll shut it down,  
8 but there is apparently another side to this  
9 thing. And I'm very anxious to hear it and have  
10 the truth come out.

11           ASSOCIATE COMMITTEE MEMBER KEESE:

12 You'll have that opportunity in our evidentiary  
13 hearings.

14           MR. MORRILL: Thank you very much.

15           HEARING OFFICER GEFTER: Thank you. I  
16 think we have one more speaker, Ms. Hoffingraph,  
17 Mid Hoffingraph.

18           UNIDENTIFIED SPEAKER: She had to leave.

19           HEARING OFFICER GEFTER: She is gone?  
20 Oh, she already left, all right. Are there any  
21 other speakers who didn't give me blue cards who  
22 would like to come forward? All right. Again I  
23 would suggest that Mr. Morrill look at the staff  
24 assessment and read the conditions that are  
25 included. I think that would be helpful to you

1 and to your neighbors.

2           What is next on the agenda, is we're  
3 going to discuss the schedule for the evidentiary  
4 hearing. And the staff and applicant have  
5 proposed some dates for hearings. I haven't heard  
6 from Mr. Powers on that. But if the applicant  
7 would like to go over those dates with us again.

8           I must let everyone know that these  
9 dates are subject to the availability both, of our  
10 Commissioners and also of the witnesses. And some  
11 of those dates don't coincide. So, let's talk  
12 about available dates for the applicants witnesses  
13 and then we'll ask staff.

14           PRESIDING MEMBER GEESMAN: Maybe I can  
15 cut this a bit short because I have reviewed the  
16 dates that both the applicant and staff submitted  
17 in their Prehearing Conference statements.

18           HEARING OFFICER GEFTER: All right.

19           PRESIDING MEMBER GEESMAN: And let me  
20 simply run through several of them to determine  
21 the availability of witnesses. And Mr. Powers  
22 please speak up if any of these dates present a  
23 problem for you. April 8th.

24           MR. MILLER: April 8th is okay for us,  
25 for the applicant for the record. Commissioner

1 Geesman, I'm going to say these dates and if  
2 someone in the back of the room says, well, wait a  
3 minute, I'll be advised, but I'm not aware of a  
4 problem.

5 PRESIDING MEMBER GEESMAN: Okay.

6 MR. BRIGGS: Wait a minute. Are you  
7 going to propose dates within that week?

8 PRESIDING MEMBER GEESMAN: Yes I'm going  
9 to go through that week and I've got four dates  
10 that week to raise. And I understand that Mr.  
11 Hoagland may not be available for at least a  
12 portion of one of the days.

13 MR. BRIGGS: Can I ask whether there are  
14 any whether there are any dates that might work  
15 the following week, or just jump ahead?

16 HEARING OFFICER GEFTER: We're going to  
17 go through -- we'll go through the dates.

18 PRESIDING MEMBER GEESMAN: Yes, we'll go  
19 through that.

20 HEARING OFFICER GEFTER: And then we'll  
21 see.

22 MR. BRIGGS: That date is not  
23 convenient.

24 HEARING OFFICER GEFTER: Okay.

25 PRESIDING MEMBER GEESMAN: Okay.

1 HEARING OFFICER GEFTER: Are you saying  
2 that week is not convenient?

3 MR. BRIGGS: I could do the end of that  
4 week.

5 PRESIDING MEMBER GEESMAN: I think Mr.  
6 Kramer, you had earlier said, no earlier than  
7 April 8th, which is why it's the one that I'm  
8 raising initially.

9 MR. KRAMER: Right and then we had a,  
10 let's see, our biologist has got a conflict on the  
11 9th and the 10th. One of the water guys is okay.  
12 I have to go through the list one by one. Yes, I  
13 think it's 9th and 10th on the water guy.

14 HEARING OFFICER GEFTER: Is not  
15 available?

16 MR. KRAMER: Right.

17 HEARING OFFICER GEFTER: Okay.

18 PRESIDING MEMBER GEESMAN: Now, your  
19 Prehearing Conference said --

20 MR. KRAMER: No, I think it was bio I  
21 said, didn't I?

22 PRESIDING MEMBER GEESMAN: Yes.

23 MR. KRAMER: Bruce Barnett is bio, yes,  
24 not water.

25 PRESIDING MEMBER GEESMAN: You said he

1 is not available on the 9th?

2 MR. KRAMER: Ninth and tenth is bad, but  
3 he is the biology guy, so I'm not sure, we may be  
4 able to get by with just the applicants --

5 HEARING OFFICER GEFTER: I asked them to  
6 bring it up --

7 MR. KRAMER: -- witness on that. Since  
8 they've been -- we're mostly just, I think  
9 clarifying rather than settling any disputes.

10 HEARING OFFICER GEFTER: Right, it was  
11 more the applicants witness on biology.

12 MR. MILLER: And we're okay.

13 HEARING OFFICER GEFTER: Okay, well  
14 let's --

15 PRESIDING MEMBER GEESMAN: Your okay on  
16 the ninth?

17 MR. KRAMER: Yes.

18 HEARING OFFICER GEFTER: But apparently  
19 they're not.

20 MR. MILLER: No, the eighth and ninth  
21 are not good.

22 PRESIDING MEMBER GEESMAN: The tenth?

23 MR. BRIGGS: The tenth is okay.

24 PRESIDING MEMBER GEESMAN: Now, Mr.

25 Hoagland has a problem on, I think the morning of

1 the tenth?

2 MR. Miller: Yes and I may be jumping  
3 ahead before you want to go, but my anticipation  
4 was, I guess, was that we might have one hearing  
5 in Sacramento on non-contested. And then a second  
6 here on dry cooling, basically. And Mr. Hoagland  
7 would only relate to the dry cooling issues, and  
8 so, therefore his will be on Thursday. Thursday  
9 mornings he has another board meeting he does  
10 every week, so that's the problem with him. But I  
11 don't think that it would present a problem for  
12 the un-contested issues, if that's your intention.

13 MR. KRAMER: Now I don't have before me  
14 Mr. Speer's schedule, so maybe he should go to the  
15 microphone because I think he's an important  
16 player.

17 MR. SPEER: All that week for me is  
18 fine.

19 PRESIDING MEMBER GEESMAN: Okay.

20 MR. SPEER: The next week however, would  
21 be difficult for me.

22 MR. BRIGGS: The same with me and I  
23 believe Mr. Kramer has indicated in his Prehearing  
24 Conference statement that the following week would  
25 be a difficult one.

1 HEARING OFFICER GEFTER: What about the  
2 following?

3 MR. BRIGGS: What about April 11th?

4 MR. MILLER: I'm going to tell you that  
5 I just made a mistake, the eighth and ninth are  
6 the okay days, it's the tenth and eleventh that  
7 are not. Sorry.

8 PRESIDING MEMBER GEESMAN: Okay.

9 MR. MILLER: I'm learning to use this  
10 device.

11 PRESIDING MEMBER GEESMAN: My wife gave  
12 me one of those once and I couldn't use it.

13 MR. MILLER: I'm going to give mine back  
14 to her.

15 PRESIDING MEMBER GEESMAN: Well, I think  
16 that Mr. Miller makes a good suggestion that it  
17 would be productive if we held the hearing on  
18 contested issues, which are basically the dry  
19 cooling and it's cross-cutting ramifications down  
20 here on a particular day.

21 HEARING OFFICER GEFTER: Right.

22 PRESIDING MEMBER GEESMAN: And then did  
23 the other one in Sacramento. And it sounds like  
24 the critical center of gravity relates to the  
25 contested hearing down here.

1 HEARING OFFICER GEFTER: Exactly. And  
2 we had, perhaps this date is the one that you.

3 PRESIDING MEMBER GEESMAN: The 22nd is a  
4 problem for me, I think.

5 HEARING OFFICER GEFTER: Okay, we'll  
6 have to look. What we're going to have to do, is  
7 we're going to have to check the calendars when we  
8 get back to Sacramento, but right now we're just  
9 trying to find out dates that parties are  
10 available. For contested issues, the ones  
11 connected with the dry cooling issue, air quality,  
12 public health, visual, et cetera and land use  
13 we're going to have here as well because I'd like  
14 to hear from the City, and biology.

15 Those topics we'll have in San Diego in  
16 the Escondido area. We just need to pick a date  
17 when we can do that. And it will have to be, at  
18 least beginning the week of April 21st. But we're  
19 not sure what day after that.

20 MR. MILLER: Would this be beyond  
21 endurance to do the non-contested on the 8th and  
22 come down here that evening and do the contested  
23 the next day?

24 PRESIDING MEMBER GEESMAN: What's the  
25 problem with that?

1 HEARING OFFICER GEFTER: I think that  
2 it's too logistically too -- and also we're not  
3 going to have the water people available are we,  
4 or your people available?

5 MR. KRAMER: It was bio.

6 HEARING OFFICER GEFTER: Bio is not  
7 available. Do you -- are the water people  
8 available then or not?

9 MR. KRAMER: As far as we know.

10 HEARING OFFICER GEFTER: That was  
11 confusing. They are, okay, because I though you  
12 had said your water witness was not available.

13 MR. KRAMER: No, I corrected myself. I  
14 was flip flopping on you.

15 HEARING OFFICER GEFTER: All right, I'm  
16 sorry.

17 MR. KRAMER: But I'm going to settle on  
18 bio.

19 PRESIDING MEMBER GEESMAN: I guess, let  
20 me ask thematically, can we get both of them done  
21 sometime during the week of the 8th. I understand  
22 we're going to have to go back and pick the right  
23 dates to come down here and pick the right date to  
24 be in Sacramento.

25 HEARING OFFICER GEFTER: Right.

1           MR. MILLER: We would prefer that, of  
2 course.

3           ASSOCIATE COMMITTEE MEMBER KEESE: He's  
4 only available on the 8th and the 9th.

5           MR. BRIGGS: Eighth and ninth are okay,  
6 tenth and eleventh.

7           HEARING OFFICER GEFTER: Okay, and then  
8 what about --

9           MR. BRIGGS: How about the 7th?

10          ASSOCIATE COMMITTEE MEMBER KEESE: How  
11 long do you anticipate the first one going? It  
12 looks to me like that's about a three hour  
13 meeting?

14          HEARING OFFICER GEFTER: Yes, that would  
15 be the uncontested issues.

16          ASSOCIATE COMMITTEE MEMBER KEESE: The  
17 uncontested issues will be about a three hour  
18 meeting.

19          HEARING OFFICER GEFTER: Right. When  
20 are you available? Are you available the week of  
21 April 21?

22          MR. BRIGGS: Yes.

23          HEARING OFFICER GEFTER: That week your  
24 available?

25          MR. BRIGGS: Yes, that's for down here.

1 HEARING OFFICER GEFTER: Possibly down  
2 here. We don't know what the calendar looks like  
3 for Commissioner Geesman at that point.

4 MR. BRIGGS: If it's down here, the  
5 whole week is fine. If it's not, the afternoon of  
6 the 21st will not work, but the rest of the week  
7 is fine.

8 HEARING OFFICER GEFTER: Okay. I think  
9 we'll have to decide from Sacramento. And we will  
10 consult with everybody before we actually issue an  
11 order giving the dates. Okay. I'll be in touch  
12 with everyone probably by e-mail, all the parties.  
13 And we'll include the Air District to make sure  
14 that Mr. Speer and your team are available as  
15 well. And also Mr. Hoagland.

16 PRESIDING MEMBER GEESMAN: And let me  
17 just be certain, the intervenor wants to be  
18 involved in the non-contested issues as well as  
19 the contested issues?

20 MR. POWERS: I think that it's probably  
21 worth at least my being there, simply for the sake  
22 of continuity if we get to the contested.

23 PRESIDING MEMBER GEESMAN: That's fine,  
24 okay.

25 MR. MILLER: Forgive me for interjecting

1 this because it's not my role, but Mr. Briggs may  
2 not be aware that, of phone hook-up options  
3 that --

4 PRESIDING MEMBER GEESMAN: I was about  
5 to interject that.

6 MR. MILLER: In case that would help in  
7 terms of travel during this.

8 PRESIDING MEMBER GEESMAN: Yes, if you  
9 prefer to hook-up by phone to our proceeding on  
10 the non-contested issues in Sacramento, we quite  
11 commonly make that available.

12 MR. BRIGGS: That would actually be  
13 helpful. And if that were the case, April 11th,  
14 up to about 2:00 p.m. would then work for me.

15 PRESIDING MEMBER GEESMAN: Okay.

16 HEARING OFFICER GEFTER: At this point,  
17 I think we're going to check calendars and we'll  
18 get back in touch with everyone on dates. And  
19 then also, depending on the dates we choose for  
20 the hearings, we will then establish a briefing  
21 schedule for the parties to file briefs.

22 And we'll discuss the type of briefs at  
23 the conclusion of the evidentiary hearing what  
24 kind of briefs we're going to need. Because it  
25 depends on what actually occurs during the

1 hearings. All right, so, I wanted to mention one  
2 more topic.

3 MR. KRAMER: On that score, I would just  
4 ask for some consideration so that our -- because  
5 I'll be gone the last week of March, if the  
6 testimony comes it right at the start of my  
7 vacation and we're supposed to file a reply before  
8 I'm back, well that's going to be difficult. So  
9 any deadlines, you know, as far as the submission  
10 of the testimony, I'd like to consider that if  
11 they can.

12 HEARING OFFICER GEFTER: Okay, we'll  
13 talk about that as well in terms of, you know,  
14 when the testimony would be due. And that will  
15 also be depending on when we do start the  
16 hearings.

17 MR. KRAMER: Okay.

18 HEARING OFFICER GEFTER: So we'll talk  
19 about that in the next few days once we review the  
20 calendar. I want to take this opportunity to  
21 remind the parties about the ex parte rule.  
22 Commission regulations prohibit private contacts  
23 between the parties and members of the Committee.

24 And this prohibition is called the ex  
25 parte rule. All contacts between parties and the

1 committee regarding any substantive matter in this  
2 case must occur in the context of a public  
3 discussion such as today's event. Any other  
4 communication must be in the form of a written  
5 communication that is docketed and served on all  
6 the parties.

7           And any information regarding  
8 communications between the parties and  
9 governmental agencies, such as a meeting with the  
10 Air District would then be, also has to be  
11 summarized in written form and sent to dockets.  
12 The information regarding hearing dates and other  
13 procedural matters will be up on our website. And  
14 so as soon as we issue the hearing order and  
15 notice of evidentiary hearings that will be up on  
16 the website and available to the public.

17           We also have a mass mailing list.  
18 Members of the public who have recently -- who  
19 have spoken to us today, if you want to be on our  
20 mailing list, let us know. And then you'll get  
21 the notice mailed to you as well.

22           All right. After the end of evidentiary  
23 hearings, the Committee then will prepare a  
24 proposed decision, which will be submitted to the  
25 full Commission at the end of a 30-day comment

1 period. During the 30-day comment period, we  
2 would welcome comments from the public. You'll  
3 have an opportunity to read the decision, file  
4 your comments.

5           And then if there are no substantive  
6 changes that decision, along with the comments  
7 will go to the full Commission for consideration.  
8 And at this point we don't have a timeline because  
9 it all depends on when we start the evidentiary  
10 hearings.

11           It does take some time for us to review  
12 the record, it doesn't happen over night. And we  
13 do welcome your comments on the proposed decision  
14 once it's issues.

15           At this point, if the parties have no  
16 further questions we can conclude today's event.

17           MR. MILLER: I do have a couple of  
18 points I'd like to raise with you while we have  
19 the opportunity.

20           HEARING OFFICER GEFTER: Yes.

21           MR. MILLER: The first is, time required  
22 for the contested issues.

23           HEARING OFFICER GEFTER: Okay.

24           MR. MILLER: And Mr. Powers in his  
25 Prehearing Conference estimates, I think a total

1 of 11 hours all total. And we of course would  
2 suggest that that's more than needed, that we  
3 should be able to do the water part of that day in  
4 a half day, I would think.

5           And I guess one caution I would just  
6 make is that just because we have only one  
7 contested issue, does not necessarily mean we can  
8 expand that to fit the available time. So we feel  
9 that the dry cooling can be handled in a half day  
10 and that the supplemental testimony on the various  
11 topics you've mentioned today on air, for example  
12 bio, that we were going to put on the project  
13 description could certainly be done in another  
14 half day or probably less than that. So, just  
15 wanted to make that comment.

16           And I guess the other couple points I  
17 just wanted to make sure I made before we left is,  
18 we may want to identify one or two additional  
19 witnesses. We've seen Mr. Powers statement with  
20 regard to the air stripping. We may want to  
21 obtain a witness on that. And what we would, I  
22 just wanted to signal that in advance first. And  
23 indicate that of course that would be, with at  
24 least by the time our pre-file testimony is filed,  
25 but preferably that. So we will get the

1 individual qualified if that's acceptable?

2 HEARING OFFICER GEFTER: That would be,  
3 if there's no objection by any of the parties that  
4 would be fine, but we would need to see the  
5 prepared testimony of the witness.

6 MR. MILLER: Of course.

7 HEARING OFFICER GEFTER: Mr. Powers.

8 MR. POWERS: Just one comment on the  
9 timeline and that is that, and understandably the  
10 applicant would like to minimize the amount of  
11 time that we spend on this.

12 But I would like to point out and I want  
13 to thank the committee for giving me the  
14 opportunity to provide a workshop on cooling  
15 alternatives back in October, but I would like to  
16 say that I had to fight very hard to get the  
17 opportunity to do that. And that I had submitted  
18 numerous documents to that point that had not  
19 received any feedback of any kind from either the  
20 Air District or the District or the CEC.

21 I think that as a result of that, I  
22 think relatively little information has made it to  
23 the Commissioners. And that I'm very reticent to  
24 give up the time estimates in order to  
25 accommodate, you know a convenient flight schedule

1 or something to that effect when this will be the  
2 only opportunity to make this case.

3 HEARING OFFICER GEFTER: I understand  
4 your concern.

5 PRESIDING MEMBER GEESMAN: Let me say on  
6 that, that I have seen a number of documents from  
7 you that have been docketed. I can't tell you  
8 that I've seen them all, but I can tell you that I  
9 haven't. I can tell you they've been numerous.  
10 And that I have reviewed them. I'd also say  
11 you'll get a full opportunity in our evidentiary  
12 hearings to present your case.

13 And then I'll conclude by saying that in  
14 reviewing your resume I sense that you have quite  
15 a bit of experience in this type of proceeding, so  
16 that I know you understand the diminishing returns  
17 of duplicative and redundant testimony, and  
18 redundant and duplicative cross-examination. So I  
19 am confident that you won't indulge in that.

20 MR. POWERS: And I am very aware of the  
21 importance of getting the message across clearly  
22 and succinctly. My guess is, that it is the  
23 cross-examination phase that is difficult to  
24 predict. And that that maybe extensive. And the  
25 presentation of testimony on my part will be brief

1 and it won't take long. But we have a large  
2 unknown. It really depends on a variety of  
3 factors.

4 HEARING OFFICER GEFTER: Are you  
5 planning to present a video, you mentioned earlier  
6 that you had a videotape of a dry cooling  
7 facility?

8 MR. POWERS: Yes.

9 HEARING OFFICER GEFTER: Okay, and how  
10 long does that take?

11 MR. POWERS: Six minutes.

12 HEARING OFFICER GEFTER: And that would  
13 be part of your testimony?

14 MR. POWERS: Okay, we'll have to think  
15 about that. Because I'm not sure -- is it a video  
16 that you made?

17 MR. POWERS: Correct. It was actually  
18 prepared for a symposium a year ago.

19 HEARING OFFICER GEFTER: So it was part  
20 of a professional presentation.

21 HEARING OFFICER GEFTER: Okay, that's  
22 fine. It's a video that you prepared, is that  
23 correct?

24 MR. POWERS: Correct.

25 MR. KRAMER: Will we get an advanced

1 look at this video?

2 MR. POWERS: Yes, it's actually on the  
3 web and I'll also, I will indicate that in the  
4 documents. I'll send you a copy. I'll send Bob a  
5 copy on CD, which I think Bob already has, but  
6 I'll send another one on CD.

7 PRESIDING MEMBER GEESMAN: Do you have  
8 one?

9 MR. ELLER: I believe I do. And that's  
10 the version you'll be showing?

11 MR. POWERS: Yes. And it is, I mean,  
12 anyone in the room, if they were on line could  
13 look at it in two seconds. It's completely  
14 accessible.

15 MR. ELLER: Okay, as long as we can see  
16 it.

17 MR. MILLER: Ms. Gefter, one last point.  
18 Unless, are we done with this, or maybe not.

19 HEARING OFFICER GEFTER: Mr. Powers are  
20 you finished or do you have another comment?  
21 We're waiting for Mr. Powers to finish his  
22 comments.

23 MR. BRIGGS: I was just suggesting that  
24 perhaps we could provide this video ahead of time  
25 if it's something that people can review. You

1 can't really cross-examination a video. And we'll  
2 just put in that it's Mr. Powers video and then if  
3 there are questions about it, perhaps that will  
4 just move things along? Is that acceptable?

5 HEARING OFFICER GEFTER: That would be  
6 great. Are you going to submit it to us by CD or  
7 something. In what form would you submit it, by  
8 CD?

9 MR. BRIGGS: What format?

10 MR. POWERS: Right, I'll go ahead and  
11 submit it by CD.

12 HEARING OFFICER GEFTER: All right.

13 MR. POWERS: I'll also, I'll submit it  
14 on CD, but also indicate where it can be accessed  
15 on the web. Actually if you just punch in dry  
16 cooling symposium on any search engine, it's in  
17 section 6.

18 HEARING OFFICER GEFTER: All right, well  
19 you can let us know that. Mr. Taylor, I mean Mr.  
20 Miller.

21 MR. MILLER: That's all right, it  
22 happens all the time. I guess the symposium  
23 reference is helpful because what we don't want to  
24 do is rerun the whole day and a half of symposium.  
25 But the other thing I just wanted to signal in

1 advance and I would appreciate any guidance you  
2 want to give me on this.

3           There are a couple of topics that are  
4 included in Mr. Powers Prehearing Conference  
5 statement that I would question their relevancy.  
6 And I can either file a short objection in advance  
7 or just raise that at the time the testimony is  
8 introduced into evidence.

9           They would concern, for example, or  
10 primarily issues related to the background  
11 financing and cost of the tertiary treatment  
12 facility. I don't think that relates to the  
13 environmental impacts of using reclaimed water.

14           I'd also have a question about status of  
15 LORS compliance with that facility. I feel that  
16 that's an enforcement issue for the regional water  
17 quality control board. And not for the  
18 Commission. So, those are two primary issues I  
19 wanted to raise.

20           PRESIDING MEMBER GEESMAN: I think we'd  
21 benefit from knowing your thoughts in advance on  
22 that. So if you could file something with us  
23 sooner rather than later it would be helpful.

24           MR. MILLER: Okay, that would be fine.  
25 I'll do that.

1           MR. BRIGGS: I didn't hear, what kind of  
2 compliance Taylor, did you say?

3           MR. MILLER: Oh, that's CEC jargon, I  
4 apologize.

5           MR. BRIGGS: We just didn't hear the  
6 word.

7           MR. MILLER: LORS, L-O-R-S, Local  
8 Ordinances Regulation and Standards. That is to  
9 say that any local --

10          MR. BRIGGS: I didn't hear the word  
11 that's all.

12          MR. MILLER: Sorry.

13          HEARING OFFICER GEFTER: All right.  
14 Anything else from any of the parties?

15          PRESIDING MEMBER GEESMAN: I guess I  
16 want to ask one question. That picture that's  
17 been up there all afternoon has nothing whatsoever  
18 to do with this project does it?

19          MR. BRIGGS: Not if we can help it.

20          MR. SPEER: It just came from the  
21 project developer.

22          PRESIDING MEMBER GEESMAN: No other  
23 public comment? We'll be adjourned then.

24          (Whereupon, at 5:03 p.m., the Prehearing  
25 Conference was adjourned.)

## CERTIFICATE OF REPORTER

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

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, 2003

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