SITE VISIT AND INFORMATIONAL HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for Certification	)	Docket No.
for the Pio Pico Energy Center	)	11-AFC-1
	)	

SOUTHWESTERN COLLEGE

HIGHER EDUCATION CENTER AT OTAY MESA

8100 GIGANTIC STREET

OTAY MESA, CALIFORNIA

MONDAY, MAY 16, 2011

4:18 P.M.

Reported and by:
Martha L. Nelson, CERT

APPEARANCES

COMMITTEE MEMBERS

Carla Peterman, Commissioner and Presiding Member

HEARING OFFICER AND ADVISORS

Raoul Renaud, Hearing Officer

Galen Lemei, Advisor to Commissioner Douglas

Saul Gomez, Advisor to Commissioner Peterman

STAFF, CONSULTANTS AND STAFF WITNESSES

Eric Solorio, Project Manager

Kevin Bell, Senior Staff Counsel

Lynn Sadler, Public Advisor

APPLICANT

David Jenkins, APEX Power Group, LLC

Melissa Foster, Stoel Rives, LLP

PUBLIC SPEAKERS:

Brandon Reed, City of Chula Vista

Michael King, APEX Power Group, LLC

Steve Hill, Sierra Research

John Markin, AIMS Corporation

David Wick

PROCEEDINGS

4:18 P.M.

COMMISSIONER PETERMAN: Hello. Good afternoon, and welcome back from the site visit. This hearing is being held in connection with the application for certification for the Pio Pico Energy Center.

I'm Commissioner Carla Peterman with the Energy Commission. I'm a presiding member on this project. And the associate member is Commissioner Karen Douglas who is not with us today, but we are joined by her Adviser, Galen Lemei, to the far right. To my left we have my Adviser, Saul Gomez. And to my immediate right we have our Hearing Officer, Raoul Renaud.

Welcome everyone here. We're going to have everyone introduce themselves in one second. But also, I'd like I say thank you very much to the public who is here, as well as representatives from the city and local area. And we'll ask that you introduce yourselves, as well. Also, thank you to Southwestern College for being our host here and for use of this lovely facility.

And with that, let me turn first to the applicant to the left and ask you to introduce yourselves.

MR. JENKINS: Thank you. My name is Dave Jenkins. I'm with APEX Power Group.

MS. FOSTER: Melissa Foster with Stoel Rives.

COMMISSIONER PETERMAN: Energy Commission staff?

MR. SOLORIO: Yes. Eric Solorio, Project Manager for the Energy Commission

COMMISSIONER PETERMAN: To the back we have our Public Adviser, Lynn Sadler. Please raise your hand. If you have any questions and want to participate in this hearing of future hearings on this project please contact her in her office.

And do we have any representatives from the city or local areas? Would you like to come up and introduce yourself?

MR. REED: Sure. My name is Brendan Reed. I'm with the City of Chula Vista.

COMMISSIONER PETERMAN: Thank you very much for being here.

Before I turn the hearing over to the hearing officer, I just wanted to say a couple of words about our process in case this is your first time participating in one of our power plant siting hearings.

The committee, myself and Commissioner Douglas, our advisers, and the hearing officer, we work as a somewhat quasi-judicial body in that we hear evidence about the site and about the proposed project. We hear that evidence from the applicant, as well as the Energy Commission staff. However, all of our communications with both the applicant

and the staff are a part of the public record. We do not interact and discuss this case with staff outside of this environment, and the same with the applicant.

We use the record, including the public comment on the record, to help us come to a decision on this case. And we use that and not opinions or newspaper articles or anything like that. And we take this role very seriously. So I look forward to your participation and for the input you add and for the information we'll start hearing today and going forward.

And with that let me turn it over to Hearing Officer Renaud.

HEARING OFFICER RENAUD: Thank you, Commissioner Peterman.

Well, we're pretty much sticking to the agenda. So we've accomplished a 3:00 p.m. site visit, which you can see up there on those giant screens to your right. And we're now into the 4:15 presentations and discussions. As the hearing adviser, I will just give you a brief overview of the siting proceeding before we turn to the presentation from the applicant.

And one thing I want to check before I do that is to ask if there's anyone participating by telephone who would like to introduce themselves?

Lynn, do we have anybody?

MS. SADLER: Two.

HEARING OFFICER RENAUD: You don't have to, but if you'd like to now would be the time to speak up.

(No response)

HEARING OFFICER RENAUD: Okay. Thank you.

If I could have the next slide please.

So the -- the Energy Commission has permitting authority granted by state law over thermal power plants that are 50 megawatts or greater. So that obviously applies to this 300 megawatt proposed project. The commission is considered the lead state agency for California Environmental Quality Act review in ongoing clients, as well. You may have heard of CEQA. That's what California Environmental Quality Act is.

There are five members of the Energy Commission. And in a power plant siting case the commission appoints two commissioners to constitute a committee to oversee the review of the application for certification and to prepare a proposed decision, which would then be voted on by the full commissioner -- in this case by the full commission. Excuse me. In this case Commissioner Peterman has been appointed the presiding member of the committee, and Commissioner Douglas is the associate committee member.

Eventually the committee will, at the end of a long analysis and hearing process, issue a presiding members

proposed decision, or PMPD, which will make a recommendation to the full commission whether or not to approve, reject or amend the proposed project.

If I could have the next slide.

Now the purpose of this proceeding is to provide members of the public with an opportunity to learn about the site and to -- and to learn about the project by coming here. The Energy Commission's licensing process is a very open process. We want it to be completely open and transparent and available to the public. So we provide notice of these hearings well in advance of the hearings. We try to get the word out as best we can throughout the community.

Every hearing that we hold provides an opportunity for members of the public to address the commissioners, and we will do so in this case starting at 5:15.

The process also involves -- provides members of the public with an opportunity to participate as a legal party in the case, and we'll learn more about that in just a little while. In this case currently there are two parties, and they basically are the applicant and the Energy Commission staff. But there could be further parties, known as interveners, by -- if they file a petition to intervene.

If you are a member of the public and want to speak during the public comment period, please see the

public adviser in the back of the room and fill out a blue card. And that will -- those blue cards will then come up here, and then we'll be able to call you in turn.

At this point I will turn the -- turn the mike over to Eric Solorio who is the Energy Commission staff project manager to discuss the issues of local, state and federal coordination. Thank you.

MR. SOLORIO: Thank you, Raoul.

HEARING OFFICER RENAUD: Thank you.

MR. SOLORIO: The Energy Commission has in-lieu permitting authority. And essentially what that means is that when an applicant wants to develop a power plant they come to us for all of their local and state and regional permits, whereas outside of the Energy Commission a developer would normally need to go see the local county or city, Department of Fish and Game, Regional Water Quality Board, etcetera.

So although we have an in-lieu permitting authority we make every effort to work very closely with local, regional, state, and federal agencies to make sure that the project complies with the laws, ordinance, regulations and standards that we refer to as LORS. And we work with those agencies to also incorporate the requirements that they would otherwise impose on the project had they had authority over it.

The next slide please.

HEARING OFFICER RENAUD: All right. Before -- hit the -- hit the switch right here. I think that's it. All right.

Before we turn to the applicant's presentation there's one thing I wanted to point out. We alluded to this earlier. But this -- we now have a court reporter present in the room. And so everything that's said in here is being taken down and will be put into the form of a written transcript which will be available to the public. So just so you know that whatever you say will become part of the record in this case.

And this is -- this is why we said earlier that if you have a comment or something you want to say to the commissioners concerning the case the time to do it would be in this room where it will then become part of the public record. All right. Thank you.

I think now we can turn to a presentation by the Pio Pico Energy Center, LLC.

MR. JENKINS: Thank you. Presiding Member Peterman, Advisers, Staff, on behalf of the Pio Pico Energy Center project I'm pleased that the building process is now underway. What I'd like to do over the next few minutes is give you an overview of the project. And I presume that we will hold questions and answers until the 5:15 time period,

is that correct, or will we entertain questions as my presentation unfolds?

HEARING OFFICER RENAUD: I think it would be fine to have questions during it. But at 5:15 or after we have to have a public comment period; and that will provide people the noticed opportunity to speak.

MR. JENKINS: Very good. Thank you. First slide please.

Well, an underlying question that folks often ask is how did this project come about. Well, as a result of California Public Utilities Commission and SDG&E studies recently it’s come to be known that there’s a deficit for peaking power needs in this area. And this arises not only from just the overall natural growth and demand, but also in the continuing increase in renewable power resources.

As far as how the project shaped up to be what it is technology-wise, the ability to meet peaking power demand and load-following capabilities is best approached through the use of a readily available fuel, a clean burning fuel, in this case natural gas. And gas turbines in turn tend to be the most efficient mechanism for using that fuel. So hence the technology, which I’ll talk about here in a moment.

With this combination of the latest combustion turbines we’re able to present a project to the grid that is

about ten percent on average higher efficiency than prior generations of gas turbine technology.

Getting a little bit more into the specifics of the project, as it's been mentioned, this will be a 300 megawatt combustion turbine project. It consists of three 100 megawatt LMS100 units as provided by General Electric. They will be licensed to run up to 4,000 hours per year per unit. And an important point we get often asked is the CAISO and SDG&E in some spirit of cooperation will actually dispatch these units. We, as operators, will not. And the agreement that we have with SDG&E to provide is through a long-term, that being a 20-year, power purchase agreement. So it gives the project a long-term financial viability.

Another aspect about this technology in this project in particular is the unit's ability for a very quick startup and for very responsive load-following capability, which again is very important for the load changes and to support swings in renewable power resources.

Another question we get often asked is why this particular site. Well, as I noted a little bit on the tour this particular site is near a high-density customer demand base. It's also near existing natural gas infrastructure nearby 230K V electrical lines. And also we have existing sewer and water resources available adjacent to the site. And last but not least, the project site is heavy

industrial.

This next slide presents the project milestones, and I'd like to work from the bottom up in this case. Under our power purchase agreement with SDG&E this project shall be online by May of 2014. And so working back from that, with an approximate 16 month to 2 year construction phase, we'd like to start construction around the 4th quarter of 2012. In advance of that, a financial closing around 3rd quarter of 2012. And then working yet in advance of that we would need final government approvals around the 2nd quarter of 2012.

Next slide please.

As far as some of the salient environmental attributes of this project, this project will efficiently use water through the use of a hybrid wet/dry cooling technology. And we will primarily target recycled water for this purpose, not only for cooling but for process water. As I think Eric will discuss as one of the issues here momentarily, we do plan, if needed, to use potable water in the interim whereby recycled water may not be available as construction and initial operations commence.

Another important environmental attribute of this project has to do with emission reduction credits. I think it's important to know that all of our emission reduction credits come from locally generated sources, not some source

in distant counties or air sheds.

Another attribute is that the plant by nature of its design and engineering is it will have very low noise levels. And I think as I noted on the tour, given the existing infrastructure we will have very minimal linears for electric, gas, water, sewer, etcetera.

This final slide, I would like to note some of the more significant community benefits as we see them. During the 16 month or so construction period we will have an average construction worker load of about 148 workers, and that will peak at about 248. They're fairly significant numbers. During operations, the 20-year cycle, we will employee 12 full-time jobs. What I have not noted here is the operations will require commodities from local sources, and that will present other jobs, as well, which were not captured here.

Another community benefit, we -- the project will provide property and sales tax revenue, something I think the county commerce can certainly appreciate. It will also go to support the East Otay Mesa Community Funding District for primarily sheriff protection, and also for fire protection.

And the last bullet I have here -- it's hard to characterize the order of these but this is significant -- this project will promote local, I want to stress local, but

also to some extent regional grid reliability and power quality.

And with that I'll turn it back over to -- to you, Raoul, unless we have questions at this point.

HEARING OFFICER RENAUD: Any questions? Any questions from members of the audience concerning the applicant's presentation?

Commissioner?

COMMISSIONER PETERMAN: I have a question.

HEARING OFFICER RENAUD: Sure.

COMMISSIONER PETERMAN: Thank you. I have a few follow-up questions, starting with the point about local reliability. What's the heat rate on this plant?

MR. JENKINS: I'm going to look to our head engineer, Mr. Mike King.

MR. KING: Okay. Heat rates can be expressed in a lot of different ways. But on --

COMMISSIONER PETERMAN: Can you use the microphone?

HEARING OFFICER RENAUD: You need to go over to a microphone.

COMMISSIONER PETERMAN: Could you identify yourself, as well --

MR. KING: Yes.

COMMISSIONER PETERMAN: -- for the record? Thank

you.

MR. KING: Yes. I'm Mike King with --

(Feedback from microphone.)

HEARING OFFICER RENAUD: We're going to have to do something about the -- we're going to need to do something about the setup for the conference call.

MR. JENKINS: Mike, you can -- you can share this mike.

HEARING OFFICER RENAUD: Yes.

MR. KING: That's a good idea.

MR. JENKINS: You might turn the mike on if you want to start up again.

MR. KING: Yes. I'm Mike King with APEX Power Group and the Pio Pico Energy Center. And heat rates can be expressed in a lot of different ways.

In our application we quoted and provided a heat balance on a lower heating value basis, which is basically the same basis that they sell combustion turbines. So I actually -- I actually don't have it memorized in that same methodology, but basically it's about a 9,000 btu per kilowatt hour net heat rate, and that's on a higher heating value basis. And that -- when Dave made the comment that it's ten percent more efficient than traditional peaker units, the best traditional peaker units, a comparable number would be 10,000 btu per kilowatt hour for those that

are existing, and this is going to be closer to 9,000.

COMMISSIONER PETERMAN: Thank you. I was just trying to get a sense. Because I know one of the concerns with local reliability is having plants that provide inertia, and I'm just trying to get a sense of how this plant compares. Because even though it's more efficient, that can also be a negative in terms of providing that -- some of that local reliability.

MR. KING: Okay.

COMMISSIONER PETERMAN: And so is this the best -- so my second question -- you might as well stay up there because you'll probably be the one to answer it. Is this the best available simply-cycle technology?

MR. KING: It's absolutely the best available simple-cycle technology.

COMMISSIONER PETERMAN: And my third question, I don't recall if the slide said it will be operating up to 4,000 hours or expected 4,000 hours. So I think it was 4,000 hours; right?

MR. KING: That's correct.

COMMISSIONER PETERMAN: Missing almost 50 percent, which seems a fairly high capacity factor for a peaker, could you comment on that?

MR. KING: Yeah. Again, this is a highly efficient peaker. And it's anticipated, as SDG&E tries to

incorporate more renewables into their mix, when the wind stops blowing or the sun stops shining these units are available to start and run.

So I don't think we or SDG&E know for sure that it will dispatch that high. We anticipate in early years it might be somewhat less than that. And then we could go that high somewhere in the 20-year period.

COMMISSIONER PETERMAN: Okay. And then just one final question, which I think might be for you, but you made the point on one of the slides that in terms of the environmental condition there are no nearby neighbors. And did you check for sensitive receptors in other countries?

MR. JENKINS: No, we did not.

COMMISSIONER PETERMAN: I would venture to say that's -- I'm interested generally in all sensitive receptors, and so something to explore going forward. And those are all my questions.

HEARING OFFICER RENAUD: Any other questions? Okay. Thank you very much. And so now we'll turn to a presentation by --

COMMISSIONER PETERMAN: He has a question.

MR. REED: I have a question.

HEARING OFFICER RENAUD: Oh, I'm sorry. Excuse me. Yeah. Go ahead, Brendan, please. Just come on up here and grab one of these mikes. Identify yourself.

MR. REED: Sure. Again, my name is Brendan Reed. I'm with the City of Chula Vista. We are the neighboring jurisdiction just north of the project site.

I had just wanted a little more clarification. The project proponents talked about local emission reduction credits. I was wondering, you know, what are -- what is considered local? Is that just being in San Diego County?

MR. JENKINS: Yes.

HEARING OFFICER RENAUD: All right. Any further questions from the applicant -- or for the applicant? Okay. Thank you.

Then let's move on to the staff presentation, Eric.

MR. SOLORIO: Thank you.

HEARING OFFICER RENAUD: You're on slide seven.

MR. SOLORIO: I'm going to go ahead and provide an overview of the Energy Commission's licensing process. As the hearing officer mentioned earlier, it is a judicatory process where essentially staff is presenting evidence and testimony. And the far majority of that is included in the final staff assessment which is an environmental document.

So our process begins with the point that we receive an application for certification, and we'll commonly refer to that as an AFC. And the staff takes that AFC and does a data adequacy review. And that review essentially

looks for whether or not the AFC has -- meets the minimum requirements to accept as complete. Those requirements are established in Title 20 of California Code and Regulations.

Once the applicant -- the application is determined to be complete -- well, let me also note, that determination is actually made by the -- the full commission at a business meeting. And that was made at the April 20th business meeting where the commission found the application to be complete.

So from that day forward staff enters a discovery period which is 180 days. So in the discovery period we start with an issues identification report which we generated and filed. We'll go over those issues today. Those issues are essentially what staff notes at the outset as potentially requiring an extraordinary amount of attention or some extra effort to solve or things that can possibly affect the schedule. So the issues we've identified so far are the ones we've seen now, but we may find more issues going forward. So we have filed the issues ID report.

And the next thing that staff will be filing are data requests. So essentially the applicant has met the minimum threshold. However, staff is going to need more information in different technical areas and disciplines in order to conduct their engineering and environmental review.

During the discovery period we will notice and hold public workshops. The reason we do that is to give the public access to the process. And also, as noted earlier, it is an adjudicatory process and staff can not engage the applicant or the committee on substantive matters unless it's done in a public forum. So we'll notice a workshop.

We'll show up to a place like this or council chambers or whatever the venue happens to be, and we'll engage in discussions. It could be anything from clarifying or trying to understand engineering issues or environmental impacts, to negotiating or discussing mitigation measures. During those workshops there -- there are always multiple times on the agenda for the public to make comments or ask questions of staff or the applicant.

Once staff has obtained enough information and completed its environmental analysis we then issue a preliminary staff assessment, and we make that available for public comment. The preliminary staff assessment, as well as the final staff assessment, are the equivalent of an environmental impact report under CEQA. The Energy Commission is a certified regulatory program, and this is our equivalent document.

So generally we allow about 30 days for public comments. Any public comments that staff receives, written public comments on the PSA, are then addressed in writing in

the final staff assessment.

Whenever staff publishes a document like the preliminary staff assessment or the final assessment it is submitted to our docket unit, logged in the official files, if you will. And later when we enter the next item on the slide above, evidentiary hearing process, staff then submits documents from the docket log as evidence.

So during the evidentiary hearing decision process the committee will hold evidentiary hearings. And essentially the applicant is free to agree with staff's conclusions in the document or disagree and make their own case. For example, staff may conclude in the staff assessment that there are significant impacts to water resources. The applicant may disagree. And we both have an opportunity during these hearings to make our case to the committee. And the committee will then take that evidence and testimony under consideration and they will issue what's called a presiding members proposed decision. We also refer to it as a PMPD. That decision document is published, made available to the public, and public comments are solicited.

Following the PMPD -- the PMPD will go to the full commission for a decision. The full commission is free to adopt the PMPD as is or modify it or reject it.

The next slide please.

So here is essentially a flowchart of the process

that I just described. On the left you will see parties that are involved and at what stage we are. You see the dotted line across the screen. The AFC has been accepted. Discovery has started. We're in the that second ink bar. And we've -- we've filed the issues ID report. And we will be filing our data request this week, which will be our first round to request information from the applicant. So being that I've just walked through this process, we'll move to the next slide.

One of the things that we do in the environmental document is to make sure that the project complies with laws, ordinances, regulations and standards, which we refer to as LORS. The project must comply with LORS at the end of the day. So we will be sure to condition it or modify the project to the point where it does comply.

In the engineering and environmental analysis the core to that process is to identify environmental impacts and mitigation measures that can reduce those impacts to levels that are less than significant. That process also includes evaluating alternatives to the proposed project that can also avoid or lessen environmental impacts. It's a key requirement of CEQA that the decision makers are presented with feasible alternatives to what's being proposed in front of them.

And through our process, the Energy Commission,

our mitigation measures essentially are what we call conditions of certification. So in the environmental document generally each technical section will have its own list of conditions that either mitigate the impacts from staff's point of view or will bring the project into compliance with LORS.

Facilitate public and agency participation. I mentioned earlier, we work closely with local, state, regional, and federal agencies to ensure that we have a consistent review. The air district, for example, will issue their own permit, but our staff works closely with them to evaluate impacts on air quality.

Lastly, in the final staff assessment staff also generally makes a recommendation to the committee whether or not we think the project should be approved as proposed or approved with modifications or the project should be denied. It's important to point out that whatever recommendation staff makes it is just that, a recommendation. At the end of the day the committee makes the decisions, and the full commission following them. And that also goes with -- that goes for the final staff assessment. We may determine that there's an impact or a mitigation measure is proper, but the committee is free to reach their own conclusion.

Next slide please.

So this is -- once again, this slide talks about

the evidentiary hearing and decision process. We do conduct hearings. The PMPD is issued. The PMPD is mandated to contain certain findings, and those findings are just highlighted on this slide here, the environmental impacts, impacts to public health, and compliance on the engineering side, compliance with LORS. And the most important thing is -- well, one of the most important things is the committee -- the PMPD recommends whether or not the project should be approved. That's followed by the final decision.

And if the project is approved and it goes to construction, then the Energy Commission monitors the project through its compliance unit. And there's a pretty arduous process to comply with all the conditions of certification. And then we monitor the project through the life of the project and do regular site visits.

HEARING OFFICER RENAUD: If I may here, I'll step in. I'll just give you a little more detail about what the hearing process is like. As the hearing officer, I participate in these hearings along with one or both commissioners. They're about the closest thing to court that we have. It's not court. It's an administrative law proceeding. But we have witnesses. We have people sworn in under oath. We have stenographic reporting. And we have lawyers asking questions and cross-examining witnesses. And all of this is designed to get all the evidence into the

record, the applicant's evidence, as well as staff's and any interveners, it all gets put into the record through the evidentiary hearing process.

A lot of this environmental analysis, of course, is done by scientists and so some of the scientists become the witnesses. And the scientists go to court and can be questioned and cross-examined. And we make sure the evidence is fully tested and everyone has a full opportunity to explore the opinions of the -- that are set forth in the -- in the various evidentiary documents.

So as a result of the evidentiary hearing process we wind up with an extensive record. And the record is set forth in the docket, which is contained at the Energy Commission and can be viewed either there or on the commissioner website. It's typically hundreds of documents. It can run to thousands of documents.

The decision, the PMPD that's issued by the committee is based on that record and only on that record. It can not be based on anything that's not in the record.

And in connection with that we have a rule which is called the ex parte rule. And what it requires, again, is that all discussion about the project involving the decision makers take place on the record in a public forum, such as this one, so that -- so that's in the record and can become part of the decision, if needed. So we require thus

that any communications with the committee, that is with the decision maker, be done in a public setting or public forum or recorded in a document and placed in the docket. That way we make sure that there is no question that the entire hearing and evidentiary process has been open, above board, transparent, and so forth.

The process, as Eric said, the timeline is a 12-month process. Often there are delays in getting information and so on, which can end up with the process taking longer than 12 months. In other cases, if everything goes smoothly it's 12 months or less. At any rate, the outcome is the presiding members proposed decision, which then is released to the public and there's a comment period. And then we hold another hearing which members of the public can come and question and discuss the PMPD with the commissioners.

So I think now we have a presentation from the Energy Commission Public Adviser, represented today by Lynn Sadler, who will describe the ways that the public can participate in our process.

MS. SADLER: Next slide. Next. Next.

MR. SOLORIO: It's not working.

MS. SADLER: Testing.

MR. SOLORIO: Once again.

MS. SADLER: Test. There we go. Okay.

I'm Lynn Sadler. I'm the assistant public adviser. And the public adviser at the Energy Commission is an independently appointed attorney whose job is to help the public understand this process. You've just heard a little bit about it and it's -- it could be sort of overwhelming if you wanted to participate. And the public adviser also recommends the best ways to become involved, and also then assist the public during this process in being successful in the proceedings.

Next slide please.

So to start with one of the things that the public adviser does is outreach to the public. We send notices to city and county officials from the area, Native American governments, and then broad categories of civic leaders and schools and hospitals, leaders in the community that might care about this.

We also purchased advertisements in English and in Spanish in this particular case but in other neighborhoods it might be just in English or it might be in English and some other language. And we also request public service announcements on websites from different groups. And we also contact local television and radio, as we have here today, and we do that in both English and Spanish in this particular case.

Next slide please.

So there are two ways that the public can get involved. The first level is the easiest, and that's just going what's called public comment. And that is verbal comments at public meetings. And if you want to make a comment there's blue cards in the back, and we ask you just to fill that out and we give it to the hearing officer, and then you make your -- they'll call you up to make your comments, or you can provide written comments or statements that are sent to the dockets unit. You can also send them to the public adviser's office and we'll send them to the docket's unit, if you like.

Public comment is considered by the commissioners and it's part of the record, but it's not considered evidence and it can't be the sole basis of a decision. So if you would like to become more involved -- next slide please -- you might want to go to the second level of participation which is called intervening. And if you would like to intervene you file a petition to the commission asking permission to intervene, and if you're approved you become a party to this proceeding. And that word, party, has a lot of really fun meanings.

In this particular case what it means is that you have as an intervener the same rights and responsibilities as staff and the applicant. You become a peer in this process. You do not need to be or have an attorney to

intervene, but it is helpful to have the public adviser's office, the public adviser specifically who is an attorney, help you with this process because it is a little bit confusing if you've never done it before.

And one of the things that the public adviser's office encourages folks to do is intervene as early in the case as possible. So if you're interested in intervening and you think you might want to do that, please let me know on your way out. I won't hold you to it, but it just gives us a sense of how to proceed.

Next slide please.

So the things that you can do are sign up to receive notice of upcoming events. If you signed in on the back table and gave us your email we'll sign you up on the list serve for you so that you'll get information as it becomes available, or you can go to the website and sign up yourself. You could submit written comments, provide oral comments. You can attend public events like this. You can do that in person, by WebEx, or by conference call. Non-English speaking participants are welcome. And we also make special accommodations for people with disabilities. We work very hard to make sure as many people as possible that want to can participate.

So the most important thing to know is that is the website. That's what it looks like. Over on the left side

there's a quick link called Public Adviser's Office, and under that you can find all kinds of information. You can find a guide that's on paper, it's this thick, and it tells you every step of the way and has samples of -- of forms that you would need if you were an intervener. I think if you really felt like it you could probably find any information you needed about participating. Or you can simply find our phone number or email address and notify us.

Next please.

So if you'll notice on this particular page, over on the right it says List Serve. And that's the most important little section of that web page where -- you know, that's where you sign up so that you can get notice when documents become available and you can read them, and it also lets you know when hearings are scheduled, the address for listing in a WebEx, conference calls, whichever.

Next slide please.

(Conference call telephone rings.)

MS. SADLER: That's not a good sign, I don't think.

So Jennifer Jennings is the public adviser. I'm the assistant public adviser. We're there to help you, and please give us a call. Thank you.

HEARING OFFICER RENAUD: All right. Thank you. Are there any questions of the public adviser? All right.

Before we hold one of these informational hearings we ask the committee asks the staff to prepare an issues identification report, which is a document giving kind of staff's first impressions from review of the AFC, what issues the staff sees might become controversial. It's by no means limiting, but this is kind of the first impression. So I'll turn it over to Eric to describe the issues identification report.

MR. SOLORIO: Thank you, Raoul. I actually have similar information, some of it similar, some of it different than what Lynn just went over. But that precedes the issue ID slides that I'll -- that I'll get to. So I'm going to just elaborate a bit on the public participation and sources of info.

So again, the public process is open. One of the primary venues for participation is workshops and hearings like this hearing today. Those hearings are typically noticed. We try to notice about 14 days in advance. The regulations require a minimum of ten days. We also have mailing lists. You can add your name to the mailing list and get notified of any notice that goes out, or the list server that's noted on the slide, as well.

I'd like to also just mention that there are hard copies of the PowerPoint presentation in the back on the table. So all the contact information is there.

The application for certification is available at the libraries listed on the slide. Essentially, they are all the libraries we could find in the area, San Diego, Otay Mesa, Nestor Branch, Lincoln Acres Branch, Eastlake Branch, Civic Center Branch in Chula Vista, South Chula Vista Library, and Bonita Sunnyside Branch.

The project documents are available on the project web page in the Energy Commission's website. And also at the docket's unit, they have every document that's filed in the case. You can contact them directly. I will make every effort to post all of the documents that are filed with the docket unit on our project website.

Next slide please.

This is the page for the Pio Pico Energy Center. One of the slides I think the public adviser showed you was generally the power plant program slide. But if you select this project it will take you to this page. On the top left where you see the gray column, the gray tabs on the left, Project Proceeding, one of those tabs in the middle says Documents and Reports. If you click on that tab that will take you to a bunch of links to the PDFs of all the documents in this case.

Go to the next slide.

So the public participation methods are to submit a written comment, either on the AFC that's been filed or

the process, anything you may be concerned with. Become a formal cooperating agency; that's really for other agencies, not necessarily members of the public. But as the public adviser mentioned, you can provide oral comments at public meetings. I'll kind of skip to the last bullet.

I recommend if you really want to make your voice heard file a written comment on the staff documents, either the PSA or the FSA, that's -- that would be the final staff assessment. If you file a written comment on the preliminary staff assessment we're required to address your comment in writing in the final staff assessment. So it may make you feel like your comment was actually heard and addressed if you submit it in writing.

Participation at public workshops, again, you can, you know, step up to the microphone during these workshops and ask whatever questions you want.

The intervener process, the public adviser already addressed that.

Next slide please.

So staff's issues identification report, the hearing officer just spoke of that, it's to inform stakeholders of potentially significant issues that staff believes we're likely to encounter in the project. And it's also meant to provide early focus for stakeholders to address those issues, as well as the applicant, of course,

trying to get ahead of them. The issues identification report is not limiting. Staff and other cooperating agencies, sister agencies that we were working with, or stakeholders may identify other additional significant issues as the process moves forward.

Generally the criteria that we use to establish whether that issue needs to be identified as significant is whether or not it results in an impact that may be difficult to mitigate, whether or not it -- the project may not comply with one of the LORS I mentioned earlier, and then, additionally, conflicts that may arise between parties about the appropriate finding for conditions. We may just have a disagreement from the very start on a conclusion of whether it's an impact or a mitigation measure. And these are the kind of things we want to point out to not just stakeholders, but also to the committee that's presiding over the case.

The next slide please.

So this project so far has been relatively clean, so to speak, in that we only have two issues that we've identified after reviewing the application for certification. Those two issues are in the areas of water resource and transmission system engineering.

Next slide.

So with water resources staff's concern is

essentially the timing of the Otay Water District being able to install the recycled water pipeline that the project is proposing to get their recycled water from. So we wanted to point that out now because it does bring a certain level of uncertainty into the process in our review. We have contacted the water district and we are in the process of setting up some conference calls and meeting with them to start addressing that issue agency to agency.

Next slide.

Transmission system engineering. I want to note that this issue has been resolved since the issues ID report was filed, but I'll go ahead and -- since we're here, and the report has been docketed and posted to the web, I'll address it. So when the application for certification came in it did not include a copy of the Phase 1 study. And generally, for members of the public, that study looks at the additional load this power plant would add to the transmission grid and impacts to the network that would result from that, and not just impacts but what upgrades are required to address those impacts. So that information is contained in the Phase 1 study. I understand that Phase 2 is underway right now.

In order for staff to do a proper CEQA analysis it's important for us to know if there's going to be a need to add new transmission towers somewhere on the grid or a

re-conductor somewhere, etcetera, in order for us to address those environmental impacts that might arise from those improvements. The applicant has since filed comments on staff's issues ID report, and they plan to file the Phase 1 study next week with an application for confidentiality. So the issue has been resolved from our standpoint.

Next slide.

So this is staff's proposed schedule. And again, we are following our 12-month permitting process. You can see the schedule begins with the AFC being determined to be data adequate on April 20th, which took place at the business meeting. And this takes us essentially through two rounds of data requests and a workshop or two. And then we'll be publishing our preliminary document and the final document. And I have confirmed with the San Diego Air Pollution Control District and they have provided us with the preliminary determination of compliance, as well as the final, according to these timelines.

The to-be-determined items 16 through 20 are left that way because those are out of staff's control and up to the hearing officer and the committee to decide.

But that's it for the schedule.

HEARING OFFICER RENAUD: Yeah. And as I indicated, we came for 12 months or less, which would get us into next April. And assuming staff and the applicant can

hold to that schedule that's what we would do.

I think Commissioner Peterman has some questions about issues in the case for applicant and for staff. So let's go back and discuss some of those.

COMMISSIONER PETERMAN: Thank you. One question pertaining to -- I noticed that there are some private prisons around the site. And to -- how are they considered in terms of sensitive receptors? Are they considered the equivalent to residential?

HEARING OFFICER RENAUD: Come forward, sir.

COMMISSIONER PETERMAN: Also, if staff has a response as well, that's fine.

MR. SOLORIO: Well, I just want to add some clarification, and that is that there are two state prisons nearby and one planned private prison that will come.

COMMISSIONER PETERMAN: Thank you for the clarification.

MR. JENKINS: I apologize, Commissioner. I'm not really quite sure how we considered the state and the local prison. I will say that we did not consider the to-be-planned prison because it's not in existence. That was the one that's planned for across, to the north.

MS. FOSTER: And I would like to add to that that the nearest sensitive receptors are the residences that are approximately a mile -- single-family or small residences

about a mile from the site. And the two prisons are further away from the proposed site than those residences.

HEARING OFFICER RENAUD: I noticed the gentleman back here in the yellow shirt -- I'm sorry, blue shirt, nodding vigorously in answer to the question. I -- did you -- would you care to speak up on this? Introduce yourself.

MR. HILL: Hi. My name is Steve Hill, and I'm with Sierra Research. We are the environmental consultants who prepared the risk assessment.

Let me clarify. The answer is a little bit more than just to consider a sensitive receptor or not. All residential receptors are considered to be sensitive receptors. We estimated the impact at the point of maximum impact, which is a bit distant from the facility actually. The residences -- the nearest residences were identified. The prisons were not included as nearest residences. And then the impacts were calculated at all of the -- all of the locations in the vicinity, including the prisons. So they've been treated as -- in the same way as any other residential receptor would be.

MR. JENKINS: Thank you, Steve.

COMMISSIONER PETERMAN: Thank you. That clarification helps. And again, just to reiterate my point earlier, I was interested in learning more about what

sensitive receptors there might be across the border but within three miles. Is that something staff will be looking at?

MR. BELL: I'm sorry, ma'am. Could you repeat that question?

COMMISSIONER PETERMAN: I'm interested in all sensitive receptors within our three miles. And so one question I have is if sensitive receptors across the border in Mexico would also be considered in your staff analysis?

MR. BELL: That's certainly something that staff is going to take a look at as the information becomes available, yes.

COMMISSIONER PETERMAN: Thank you.

HEARING OFFICER RENAUD: I'll just add, I think the question of impacts, environmental impacts, and particularly public health impacts within a three mile radius of the project are always of interest to the committee and to the full commission. And whether they are occurring in this country or in a neighboring country, they -- the committee will need -- will want to hear either if those impacts were considered or that there is some legal reason that they can not or should not be.

COMMISSIONER PETERMAN: Well said.

HEARING OFFICER RENAUD: All right. Thank you. Okay.

Well, it's -- it happens to be 5:15. I think we're -- oh, okay. Let me -- one more thing.

We -- of course, the proposed schedule is also something the committee asks the staff to prepare for this hearing. But we also asked the applicant to prepare a response to the issues identification and to the schedule. I'm wondering if the -- the applicant has -- wants to say anything in response to either or both copies.

MR. JENKINS: Well, regarding the issue number two on the transmission, I think Eric spoke very, very well the impact. We do plan to file that Phase 1 report under a confidential status next week, so I think that will resolve that.

In regard to the water, I want to make it clear that we don't know for sure that the recycled water will not be available. And I think that staff is likely looking at that as if we have planned for the potential if it's not. We're working very diligently with Otay Water District to get resolution around this and would recognize it as -- certainly as a legitimate concern.

As for schedule, I believe the schedule as presented by staff fits in very nicely, fits in at least adequately, I'd say nicely with the overall project milestone schedule that we have toward the target contract date of May 2014.

MR. SOLORIO: Can I just --

HEARING OFFICER RENAUD: Sure.

MR. SOLORIO: And with regard to the water issue, I just wanted to point out that the AFC proposes to use recycled water, but it notes that it will use -- the project will use potable water until recycled water is available. So the staff is faced with which do you analyze; do you analyze 20 years worth or potable water or, you know, 20 years worth of recycled, or both? So that's an issue.

In addition to that, the project -- this cooling system is a hybrid system, which means it has some wet-cooling cells. And the commission has dealt with wet cooling, with, we say, potable water being used for wet cooling with a lot of the solar projects that came through. And ultimately the solar projects converted to dry cooling and recycled water. So it's an issue from a policy standpoint, as well as the environmental analysis standpoint. Hopefully we get it resolved.

It really seems like more of a financing issue for the district at this point. My understanding is the district has completed its environmental review on the upgrades in terms of installing new water lines. They have construction drawings ready to go out to bid. Right now it's more the timing of financing.

And in terms of the schedule that staff has

proposed, there are two rounds of data requests there. And so I just want to note that, you know, according to the regs the applicant has 30 days to submit data responses for each data request. So as long as we have timely data responses we should be able to adhere to the schedule and have a final document published at the end of October.

HEARING OFFICER RENAUD: Yes. And I'll -- and I'll add to that that the schedule really is very important to the committee. We really do want to get the process done within the 12 months. So we do ask that the parties let us know immediately if there appears to be any problem that is resulting in slippage on that schedule and we'll see what we can do to help you get on track with that. Okay.

MR. JENKINS: Very good. Thank you.

HEARING OFFICER RENAUD: All right. Well, the committee will issue a scheduling order within the next several days which will set forth the schedule. It will be in the form of an order. That is something that the committee is requiring that the parties abide by. I suspect it will mostly resemble the proposed schedule. And we'll continue to monitor progress towards the meeting of those milestones.

Unless there are any further questions from the commissioner or commissioners or advisers regarding these presentations, our -- we noticed the public comment period

to begin at 5:15. And so we're in pretty good shape for sticking with that time.

We ask the first of the -- Lynn, do we have any members of the public here who have filled out a blue card?

MS. SADLER: We do not.

HEARING OFFICER RENAUD: All right.

MS. SADLER: We have two people on the phone.

HEARING OFFICER RENAUD: All right. And we also have telephone participation in most of our hearings, including this one.

So let me ask those on the telephone, if you would like to speak now this is the public comment period, please state your name and go ahead.

(No response)

HEARING OFFICER RENAUD: Apparently not. Okay. You're certainly welcome to listen. We welcome members of the public listening in on our proceedings, as well, and we do provide that also as an opportunity for remote participation. In fact, we've had participants call in from Europe to comment on projects. So it really is a way to widen the involvement in the case.

So let me ask now if there's anyone who has not filled out a blue card, anyone here who would like to come up and say anything, government officials, representatives of the applicant, anyone else who's here? Please. Yes.

Brendan from the city. Why don't you just take this one from me.

MR. REED: Thank you. Again, my name is Brendan Reed, the City of Chula Vista. And thank you again to the California Energy Commission for coming down, and to the South Bay Area for this important hearing.

The city will be most likely filing a formal comment letter mainly dealing with visual and air quality impacts to the Otay Valley Regional Park, as well as our residential areas that will be sort of across the Otay Valley.

I think one of the key points, though, that we -- I did hear today is even though on the drive out to the site we passed a number of other power generating statements. And what's happening is a lot of time we're getting clusters of them in communities. And what's important to, I know, our residents, is that mitigation for those impacts happens locally. Even if it's done in San Diego County, having it done 55 miles away in Oceanside doesn't really benefit our local employees, our local residents that, again, are in South Bay and are dealing with the impacts directly every day.

COMMISSIONER PETERMAN: Thank you.

HEARING OFFICER RENAUD: Yes. Thank you for your comment.

Let me ask once again if we've got anyone on the phone who wishes to speak? Just go ahead and start if you do. No. Okay.

Anyone in the room change their mind and want to say something? All right. Yes, yes. Please come forward, sir.

COMMISSIONER PETERMAN: Please state your name as well.

MR. MARKIN: My name is John Markin, and I'm with the AIMS Corporation as one of the CBO offices in California. And I -- we worked on this Otay Mesa Power Plant over there. And just to mention, the exterior lighting at night partly was an issue that got resolved there. But the existing prisons, the lights from those prisons are much more brighter than anything else in the area. And with the sensitive receptors, I know it was at least two miles from that Otay Mesa Plant to the border, but you're talking three miles. But I'm just trying to help there. That was it.

HEARING OFFICER RENAUD: Great.

COMMISSIONER PETERMAN: Thank you very much.

HEARING OFFICER RENAUD: Great. Thank you for your comment.

Anyone else? Sir.

MR. WICK: My name is David Wick. I represent the

property owner on which the site is going to be built. And as you noticed in your field trip out there today, we're doing a lot of construction in the area. And I wanted to address the recycled water line that we chatted about a moment ago. That's a 24-inch line that goes from the top of O'Neal Canyon which is about a half mile north of the intersection of Calzada De La Fuente and Alta Road. We have just finished building that line, and we're in the process of getting it accepted by Otay Water District. We are in the process of entering into a reimbursement agreement with the Otay Water District to extend that line from that corner of Calzada De La Fuente and Alta Road further south a quarter-of-a-mile to Paseo De La Fuente. And so that will probably be done, built in the ground by February of 2012.

Now the rest of the line goes all the way to Sanyo Road (phonetic). It goes all the way down to Alta Road and Otay Mesa Road, then west to Sanyo Road, and then down Sanyo Road to Airway. That's the part that the Otay Water District currently forbids to award that contract.

I would hope that the applicant can work with Otay Water District. And I'm sure that they would be amenable to charging the line down to Paseo De La Fuente, pending the balance of the line being built since that portion has been built by us in the present time period. So the plant actually will physically have recycled pipe 24 inch in the

ground in front of it. It's just depending on the Otay Water District charging the line up to that point. So I just wanted to bring clarity to the issue.

COMMISSIONER PETERMAN: Thank you very much.

HEARING OFFICER RENAUD: Thank you very much. Anyone else? No more comments? All right.

Well, the final thing on our agenda would -- to see if Commissioner Peterman has any closing remarks.

COMMISSIONER PETERMAN: Thank you all for your participation and for your -- especially the public, for your comments. And we look forward to working with you throughout the schedule and through the next phases of this project and this hearing.

MR. LEMEI: And I just wanted to say briefly on behalf of Commissioner Douglas that she also looks forward to participating in this process and regrets not being able to be here today. We'll be working with this case attentively and look forward to engaging in all of it with all of you. Thank you.

HEARING OFFICER RENAUD: All right. Thank you. And this meeting is adjourned.

(Thereupon the California Energy Commission, Pio Pico Energy Center Informational Hearing Adjourned at 5:26 p.m.)

CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Informational Hearing; that I thereafter transcribed it into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 2011.

MARTHA L. NELSON – CERT 00367

CERTIFICATE OF TRANSCRIBER

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

May 18, 2011

MARTHA L. NELSON – CERT 00367