

HEARING and SITE VISIT  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 )  
Amendment to Application for ) Docket No.  
Certification for the ) 98-AFC-1C  
Los Medanos Energy Center )  
(Calpine Corporation) )  

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DELTA DIABLO SANITATION DISTRICT  
BOARD ROOM  
2500 PITTSBURG-ANTIOCH HIGHWAY at ARCY LANE  
ANTIOCH, CALIFORNIA

THURSDAY, FEBRUARY 8, 2001

4:00 p.m.

Reported by:  
Scott King  
Contract No. 170-99-001

COMMITTEE MEMBERS PRESENT

Michal Moore, Commissioner, Presiding Member

Susan Gefter, Hearing Officer

Major Williams, Jr., Hearing Officer

STAFF PRESENT

David Mundstock, Senior Staff Counsel

Jeri Scott, Compliance Project Manager

PUBLIC ADVISER

Roberta Mendonca

Marya Krapcevich

APPLICANT

Jeffery D. Harris, Attorney,  
Ellison, Schneider and Harris

Susan Strachan, Environmental Project Manager  
Calpine

Bryan J. Bertacchi, Vice President  
Western Regional Operations  
Calpine

Dave Zeiger

Tony Rossi

Andy Remely

ALSO PRESENT

Garrett Evans, Director of Economic Development  
Chris Bekiaris, Associate Planner  
Avanindra Gangapuram, Associate Planner  
Joel Summerhill, Park Planner  
City of Pittsburgh

ALSO PRESENT

Mike Lengyel

William Glenn

Planning Commissioner, City of Pittsburgh  
Past President, Enron Power Plant Advisory  
Committee

Member, Calpine Power Plant Advisory Committee

Ben Johnson

Resident of Pittsburgh

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P R O C E E D I N G S

4:00 p.m.

PRESIDING MEMBER MOORE: Welcome. I'm

Michal Moore; I'm a Commissioner with the  
California Energy Commission and I'm the, I  
believe, Presiding Member on this case.

I'm here with Susan Gefter and Major  
Williams. First time I've had the privilege of  
having two Hearing Officers with me.

Let me describe for the record the fact  
that this is a public hearing on the Calpine  
relocation of the transition station for the  
underground/overhead transmission line that's  
associated with the Los Medanos Energy Center.

We certified, the California Energy

16 Commission certified the project in August 1999,  
17 and Calpine recently filed an amendment requesting  
18 approval of the new location for the transition  
19 station.

20 So that's our purpose here to discuss  
21 the proposed amendment. We are not here to  
22 reconsider the decision of the California Energy  
23 Commission to certify the project. That is not on  
24 the table, and frankly, none of my colleagues back  
25 in Sacramento believe that it will come back to

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2

1 the table.

2 Before I begin I'm going to ask everyone  
3 to introduce themselves for benefit of those who  
4 are here in the audience. And then I'm going to  
5 come back and talk a little bit about the next  
6 steps. We're going to go on a tour, and then  
7 we'll come back and begin to talk about this.

8 So, Jeff, for Calpine, you have the  
9 floor.

10 MR. HARRIS: My name's Jeff Harris with  
11 Ellison, Schneider and Harris. I'm outside  
12 counsel to Calpine Corporation

13 MS. STRACHAN: I'm Susan Strachan,  
14 Environmental Project Manager.

15 MR. BERTACCHI: I'm Brian Bertacchi,  
16 Vice President, Western Region Gas-Fired  
17 Operations for Calpine Corporation.

18 PRESIDING MEMBER MOORE: Thank you.  
19 Anyone else on your team who's here in the  
20 audience, Jeff?

21 MR. HARRIS: Okay, we have Dave Zeiger  
22 whose title is Compliance Manager or something  
23 reasonably similar to that. Tony Rossi, as well,  
24 from the Engineering Group. And Andy Remely, also  
25 from the Engineering Group.

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1 PRESIDING MEMBER MOORE: Good, glad to  
2 have you.

3 And for staff, Mr. Mundstock.

4 MR. MUNDSTOCK: I'm David Mundstock,  
5 attorney for the California Energy Commission  
6 Staff.

7 MS. SCOTT: I'm Jeri Scott, the  
8 Compliance Project Manager for the Los Medanos  
9 project.

10 PRESIDING MEMBER MOORE: And anyone here  
11 from the City of Pittsburg? Why don't you stand  
12 and introduce yourself. I'm sure we'll be able to

13 hear you from there. Oh, sorry, you've got to  
14 come to the microphone. Come on up and introduce  
15 yourself.

16 MR. BEKIARIS: My name is Chris  
17 Bekiaris, Associate Planner, City of Pittsburg.  
18 It's spelled B, as in boy, e-k-i-a-r-i-s.

19 MR. GANGAPURAM: My name is Avan  
20 Gangapuram, City of Pittsburg. A-v-a-n  
21 G-a-n-g-a-p-u-r-a-m.

22 MR. SUMMERHILL: I'm Joel Summerhill,  
23 Park Planner, City of Pittsburg. That's  
24 S-u-m-m-e-r-h-i-l-l.

25 PRESIDING MEMBER MOORE: Anyone else

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1 here from a public agency who'd like to introduce  
2 themselves for the record?

3 We have members of the California Energy  
4 Commission Staff who are here who might want to  
5 introduce themselves for the record. From the  
6 Public Adviser's Office, especially. Ms.  
7 Mendonca.

8 MS. MENDONCA: Good afternoon. I'm  
9 Roberta Mendonca, M-e-n-d-o-n-c-a, and I'm the  
10 Public Adviser. I have with me today my newest  
11 member of my staff, Marya Krapcevich, and I know I

12 didn't do that right, but she did spell it for the  
13 reporter earlier. Thank you.

14 PRESIDING MEMBER MOORE: Yeah, Marya,  
15 everyone on the dais yesterday was having trouble  
16 understanding the --

17 MS. MENDONCA: I can't understand why?

18 (Laughter.)

19 PRESIDING MEMBER MOORE: We knew it was  
20 from somewhere east of here, but that was about as  
21 good as we could do.

22 Any members of the public who are  
23 involved in this who would like to introduce  
24 themselves to us? There's no requirement that you  
25 do that, but we'd be happy to have you on our --

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1 MR. JOHNSON: My name is Ben Johnson and  
2 I'm just a citizen of Pittsburg.

3 PRESIDING MEMBER MOORE: Good, thanks.

4 MR. JOHNSON: And I'll give this to you  
5 now or --

6 PRESIDING MEMBER MOORE: Oh, sure,  
7 although I'm not sure that we'll get to you except  
8 after the tour.

9 MR. JOHNSON: That's fine.

10 PRESIDING MEMBER MOORE: Anyone else?  
11 All right. What we're going to do is we're going  
12 to have a little presentation, short presentation  
13 by the applicant. We'll get some familiarization  
14 by that group, and find out what we're going to  
15 look at. Then we'll call time out and take a tour  
16 of the site. And come back here and convene the  
17 formal process where we'll have a record that we  
18 make of this.

19 So, Mr. Harris, I'm going to turn back  
20 to you -- or Bryan.

21 MR. HARRIS: We're going to let Mr.  
22 Bertacchi do the presentation.

23 PRESIDING MEMBER MOORE: Yes, okay. You  
24 have the floor.

25 MR. BERTACCHI: I thought it might be

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1 helpful for everyone just real quick and short  
2 order to kind of revisit where we're going today,  
3 what we're going to see, to kind of orientate  
4 everybody where we're going.

5 Right now the transition station  
6 location we're going to go look at is down --  
7 we're going to be traveling down A Street where  
8 the underground 115 and 230 kV for Delta Energy is

9 buried, and hit the transition station area which  
10 is down here right adjacent to the Delta-Diablo  
11 Pumping Station, Delta-Diablo Sewage Treatment  
12 Pumping Station.

13 Also adjacent to southern property down  
14 here and Herb White Way over here, and the school  
15 over here.

16 PRESIDING MEMBER MOORE: Bryan, for the  
17 record, why don't you just state what a transition  
18 station actually does.

19 MR. BERTACCHI: The transition station  
20 is the physical structure that's used to  
21 transition from the underground cable to the  
22 overhead cable for the transmission line which  
23 takes the power out of the Los Medanos Energy  
24 Center and places it on the grid.

25 So this underground cable is coming from

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1 the Los Medanos Energy Center which is somewhere  
2 over here, down these underground cables, through  
3 this area over to PG&E's switchyards which are  
4 located over here. That's where they actually  
5 supply power into the grid.

6 The other locations on here, this is the

7 current location of the transition station which  
8 is essentially 100 foot wide by about 40 foot wide  
9 physical area. And this was the original licensed  
10 location over here on the northwest corner. So  
11 it's currently sort of on the northeast side of  
12 the Delta-Diablo Pumping Station.

13 And so it's underground to the point of  
14 this transition structure, and then it's overhead  
15 cable through here, overhead transmission line  
16 into the switchyard.

17 This just gets us a little closer to the  
18 location. This is looking north going that way.  
19 This is the Delta-Diablo Pumping Station right  
20 here. And this outline here is the easement that  
21 we asked the City for. And this is where the  
22 transition station currently is located as we go  
23 down there.

24 This shot, just real quickly, shows the  
25 original 40-foot wide easement in the light

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1 turquoise color; and then the blue shows the  
2 easement that we've asked the City for. This  
3 extra blue here, there's nothing physical in that  
4 easement, that's just a setback required by PG&E  
5 that we asked the City for.

6 MR. JOHNSON: Can you back up on that,  
7 the purple is what?

8 MR. BERTACCHI: The turquoise, this  
9 light green color here, this is the original 40-  
10 foot wide easement that the project had for the  
11 underground cable, and the transition station was  
12 going to be located about right here.

13 MR. JOHNSON: And where is it now?

14 MR. BERTACCHI: It's actually physically  
15 right here.

16 MR. JOHNSON: And it was going to be  
17 where before?

18 MR. BERTACCHI: Right here.

19 MR. JOHNSON: There, okay.

20 MR. BERTACCHI: To give you an idea,  
21 about 240 feet away.

22 HEARING OFFICER GEFTER: Excuse me. Off  
23 the record.

24 (Off the record.)

25 HEARING OFFICER GEFTER: Back on the

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1 record.

2 MR. JOHNSON: My name is Ben Johnson,  
3 the question I asked is where the line is now and

4 where it was going to be -- where it was first and  
5 then where they moved it to. That was my  
6 question.

7 MR. BERTACCHI: Do I need to respond  
8 again to that?

9 PRESIDING MEMBER MOORE: Yes.

10 MR. BERTACCHI: Okay. The response,  
11 again, is the original line location, the original  
12 plan was there was a 40-foot wide easement that's  
13 in the light green color here. That was the  
14 original easement that came with the project.

15 And the easement that we requested from  
16 the City is this easement in the darker purple  
17 color here. And the transition station now is  
18 located right here in this box right here, which  
19 I'll show you a little bit more detail to in just  
20 a second.

21 And the original planned location was  
22 right here on the northwest corner of the Delta-  
23 Diablo Pumping Station.

24 Why don't you back up one for a second,  
25 go back up. One more.

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1 Two other points I wanted to show you  
2 was as part of the -- these are key observation

3 points, KOP7 and KOP10, so --

4 HEARING OFFICER GEFTER: Mr. Bertacchi,  
5 the picture we see right now is exhibit 1 in the  
6 filings, is that correct?

7 MR. BERTACCHI: Yes.

8 HEARING OFFICER GEFTER: Thank you.

9 MR. BERTACCHI: So these are two key  
10 observations points. Go ahead and flip down one  
11 more, one more after that. One more after that.

12 I just wanted to point out these were  
13 some of the simulations of what the observation  
14 would look from those key observation points that  
15 we denoted.

16 So, when we go out there I just want to  
17 kind of point out these locations to you here  
18 before we go out.

19 Go on back up one. This is the Rev1,  
20 you know, plan, with LaRocca, as far as what the  
21 visual mitigation will be to try and hide the  
22 transition station structure. Here is the  
23 original --

24 HEARING OFFICER GEFTER: I'm sorry,  
25 LaRocca?

1 MR. BERTACCHI: LaRocca, excuse me.

2 HEARING OFFICER GEFTER: LaRocca is who?

3 MR. BERTACCHI: The landscape architect  
4 company that's working on this, the landscaping  
5 engineering company.

6 So this section here was the original  
7 mitigation that was part of the original licensed  
8 project. So what we worked with the City was to  
9 enhance that visual mitigation to include all this  
10 visual mitigation around the transition structure.  
11 I'm outlining it right there, that's the box of  
12 the transition structure.

13 So, essentially the existing -- this is  
14 all existing berm that you'll see out there when  
15 we walk out there. What we'd be doing is  
16 extending this berm slightly down here with  
17 existing material we have over there, and adding  
18 all these tree plantings that Joel Summerhill  
19 spoke to during our City meeting where the City  
20 voted to approve this five to zero.

21 I thought it might be helpful to kind of  
22 look at a little detail here quickly. You know,  
23 the issue here today is why is the transition  
24 station not the location where we originally had  
25 it licensed to be.

1           And there was sound engineering reasons  
2           for why it's not in that location. One of the  
3           issues is, and I'd like you to take a look at this  
4           cable, please be careful. This cable is 20 pounds  
5           per foot, so this four-foot piece of cable weighs  
6           80 pounds. And as you can see from this cable  
7           it's extremely hard to bend.

8           So when you're going to install this  
9           cable, when this cable is in a conduit it requires  
10          a 100-foot turning radius to make a corner. So  
11          if you looked at that original 40-foot easement  
12          that made a right turn right around the side of  
13          the Delta-Diablo Pumping Station here, it was  
14          impossible to make that right angle with that  
15          required 100-foot bending radius turn.

16          And to give you an idea of what the  
17          issues were when we tried to locate it, I took  
18          this overhead and what I did for you is I matched  
19          up right here, there's where the transition  
20          station currently is located. And if we had tried  
21          to relocate it where it was intended to be,  
22          according to the license, was in this area right  
23          here.

24          And you can see two things. One thing  
25          is that this is the berm location of the City's

1 existing berm where the dredgings from the harbor  
2 are stored. And this is the Delta-Diablo Pumping  
3 Station with the tank and there's other ancillary  
4 equipment and pipes inside this area over here.

5 And not only is it difficult to make the  
6 turn, which I'll show you in a minute, but these  
7 cables being difficult to bend, there's 12 of  
8 these cables that come into this transition  
9 structure that you'll see today.

10 And when you try to get them to connect  
11 in this transition structure, they have to fan out  
12 out of the trench to get into this transition  
13 structure. And some of them even pass through and  
14 come back around the other side.

15 So when you look at this location it  
16 requires more square footage than just this  
17 transition structure to attach the cables to this  
18 transition station. And that's what I wanted to  
19 show you today.

20 Here's also, to give you an idea of the  
21 100 foot bending radius for the turn, what the  
22 difficulties were. For instance, if the  
23 transition station is located in where it was  
24 planned to be, I would have had to try and make a

25 turn here.

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1 And as you see, this would have impacted  
2 the Delta-Diablo Pumping Station tank, and  
3 undermined the tank foundation. If we had tried  
4 to move it farther off to make this corner of  
5 Delta-Diablo's property here, try and make this  
6 turn here, we would have impacted the berm area  
7 that's already in existence.

8 And other solutions that we have looked  
9 at, we looked to try to move it here to stay in  
10 the original 40-foot wide easement, going north  
11 and south, that would have placed it all the way  
12 through the berm into the dredging pond. It would  
13 have placed the transition station somewhere out  
14 here in the other side of that bermed area.

15 So those were the challenges that I  
16 wanted to walk you through before we took the trip  
17 out to the site.

18 Any questions before we go? Okay, thank  
19 you.

20 PRESIDING MEMBER MOORE: No.

21 HEARING OFFICER GEFTER: Thank you.

22 PRESIDING MEMBER MOORE: All right,  
23 let's then adjourn this temporarily. And we

24 will -- there are buses outside, right?

25 AUDIENCE SPEAKER: Yes.

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1 PRESIDING MEMBER MOORE: And we can go  
2 out through this side door and go to the buses.  
3 We'll reconvene back here. Thank you.

4 HEARING OFFICER GEFTER: Off the record.

5 (Site tour.)

6 PRESIDING MEMBER MOORE: For anyone who  
7 has just arrived, let me reintroduce myself, I'm  
8 Michal Moore, and I am a Commissioner with the  
9 California Energy Commission. I'm the Presiding  
10 Member of the Committee that's assigned to hear  
11 this case.

12 The case, for the record, is the Los  
13 Medanos Energy Center Transition Station, which is  
14 what we're concerned with tonight.

15 And we have testimony by declaration  
16 regarding the transition station from both the  
17 applicant and our own staff. And I understand  
18 that copies of all of that are available in the  
19 back of the room for anyone who would like to have  
20 them.

21 The parties have, at this point, waived

22 cross-examination, although this Committee may  
23 have questions as we proceed. And, of course,  
24 we'll feel free to ask them at the time.

25 In terms of trying to make this

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1 intelligible to all of us, what I'm going to do is  
2 ask Calpine to describe the amendment and the  
3 proposed mitigation for the record.

4 At some point I understand we will have  
5 a representative of the City here who will  
6 describe for us the action that the City has or  
7 will take on the easement. And so when that  
8 happens -- I understand they may be under a time  
9 constraint so we'll probably try and interrupt  
10 whoever is speaking if it doesn't come at a break  
11 point, and ask them to describe that.

12 I'm going to then turn to -- so, I'm  
13 going to ask the applicant to describe the  
14 amendment that's sought. And then I'm going to  
15 turn to staff and ask for their formal reaction  
16 and presentation.

17 And then I'm going to ask the public if  
18 they have any questions and/or comments that  
19 they'd like to make, and we'll entertain those.

20 At the end of all of that we'll take the

21 issues under advisement and a decision will be  
22 forthcoming out of this Committee in a very short  
23 period of time, a reasonable period of time  
24 considering the workload. And I know that's a  
25 fuzzy word -- that's like fuzzy logic, but our

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1 staff is under a tremendous load these days. Each  
2 one of them has a great caseload that they're  
3 responsible for. So I'll say we'll do it as  
4 rapidly as we can.

5 So, with that, let me turn to Calpine  
6 and ask them if they would formally introduce the  
7 topic. And, Bryan, if you'd make the presentation  
8 about the amendments. You have the floor.

9 MR. BERTACCHI: Thank you, Commissioner.  
10 I'd like to speak tonight to a few different  
11 topics. One is the history of the transition  
12 station locatio; the relocation of why it was  
13 relocated; the construction schedules that  
14 potentially would be impacted if it doesn't remain  
15 in its current location; and touch on the  
16 agreement with the City and talk about the  
17 highlights of the agreement that we have currently  
18 with the City.

19                   And, again, as you stated, hopefully  
20                   someone from the City will be here to also discuss  
21                   that.

22                   And also just to talk about the specific  
23                   obligations in that agreement that we have with  
24                   the City.

25                   As far as the history of the transition

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1                   station location, Los Medanos was developed by  
2                   Enron Corporation as the Pittsburg District Energy  
3                   Facility. It was called PDEF.

4                   Enron originally proposed an overhead  
5                   115 kV transmission line which would interconnect  
6                   with the PG&E's existing 115 kV transmission line  
7                   called the Columbia Steel transmission line. So  
8                   effectively initially there was no underground  
9                   line down A Street. They were going to use an  
10                  existing transmission line and existing corridor  
11                  and reconductoring.

12                  However, during the licensing of the  
13                  project the transmission line route and  
14                  interconnection was modified. The modified route  
15                  exited the facility, the Los Medanos Energy Center  
16                  now, on the northwest side of the switchyard and  
17                  headed west along A Street.

18                   The transmission line along A Street  
19           would be placed underground. At the west end of A  
20           Street the line continued underground traveling  
21           west along a previous railroad right-of-way until  
22           it reached the southwest corner of the DDSD  
23           Pumping Station, that was the pumping station that  
24           we went and visited today.

25                   At this point a transition structure was

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1           going to be located to transition the line from  
2           the underground to the overhead, just like we  
3           looked at, the large transition structure.

4                   The overhead line then continued north  
5           along the west side of that DDSD Pumping Station  
6           to the PG&E substation.

7                   This new route conflicted with existing  
8           and proposed water lines connected to the DDSD  
9           Pumping Station. There's some discharge and  
10          suction lines for that pumping station.

11                   In addition, CEC Staff concluded that  
12          the transition structure at this location would  
13          result in a significant visual impact to residents  
14          at the corner of west A Street and Beacon Street.

15                   To address that issue the transition

16 structure location was moved to immediately north  
17 of the northwest corner of the DDS D Pumping  
18 Station. That was the location that we had staked  
19 out and looked at over there to show where it was  
20 intended to go.

21 The route of the underground  
22 transmission line was modified to now travel along  
23 the west and northwest sides of the DDS D Pumping  
24 Station. That was the 40-foot wide easement we  
25 talked about.

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1 CEC required that landscaping be  
2 installed behind the hoses on west A Street to act  
3 as a buffer between the transition structure and  
4 the residences.

5 Why was the transition station  
6 relocated? Calpine purchased the PDEF project  
7 from Enron in September of 1999. The project  
8 included a 40-foot wide transition easement  
9 granted by the City of Pittsburg. A specific  
10 easement was not identified for the 90-foot by 50-  
11 foot footprint of the transition structure  
12 approved by the CEC.

13 There was insufficient area available in  
14 the approved location to accommodate the

15 structure. As we visited today to show you that  
16 there was insufficient space. The site was  
17 constrained by the DDSD Pumping Station on the  
18 south side, and the toe of the City of Pittsburgh  
19 large earthen berm to the north. That's the  
20 location we visited to show you where there was a  
21 limited amount of space down that right-of-way  
22 where the berm went up, you know, on the north  
23 side, and on the south side we have the DDSD  
24 Pumping Station and tank.

25 There was insufficient area available in

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21

1 the approved location to accommodate the  
2 structure. The site was constrained by the DDSD  
3 Pumping Station on the south and the toe of the  
4 City of Pittsburgh's large earthen berm to the  
5 north.

6 A distance of 40 feet lies between the  
7 DDSD Pumping Station fence and the City's berm. A  
8 90-foot, or 100-foot wide in actuality width was  
9 needed for the transition structure. Thus, this  
10 90-foot wide transition station would not fit  
11 within the 40-foot wide area.

12 The transmission line route leading up

13 to the transition structure was also not viable.  
14 The dielectric cable and the duct banks which  
15 house the underground transmission lines could not  
16 be constructed to make the sharp, 90-degree turn  
17 at the northeast corner of the DDS D Pumping  
18 Station.

19 So after identifying these constraints  
20 Calpine's project engineers determined that the  
21 best engineering solution which would pose the  
22 least impact to the City of Pittsburg, DDS D and to  
23 the environment was to relocate the transition  
24 structure approximately 240 feet to the east and  
25 southeast of its original location.

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1 Calpine's project engineers believed  
2 incorrectly that the relocation of the transition  
3 structure was an insignificant change which did  
4 not require an amendment.

5 When it became apparent that the change  
6 was not insignificant, Calpine immediately  
7 contacted the Commission and worked cooperative  
8 with the Commission Staff to resolve this issue.

9 This was a good faith yet improper  
10 relocation of the transition structure. The  
11 amendment submitted by Calpine on December 7,

12 2000, was prepared to correct that oversight.

13 It's called amendment number 6.

14 Calpine is eager to have this issue  
15 resolved because the transition structure affects  
16 potential online date for two projects, not just  
17 one.

18 Availability of this transition line  
19 plays a crucial role in insuring that the LMEC  
20 project will be online the summer of 2001.

21 Because of the interrelated transmission  
22 routing issues the resolution of this issue is  
23 also important to maintaining the schedule of the  
24 Delta Energy Center Project which is scheduled to  
25 be online in 2002.

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1 For the Los Medanos Project, the  
2 transition structure and the 150 kV systems are  
3 essential to backfeeding power from the PG&E  
4 substation to the Los Medanos Energy Center  
5 Facility.

6 And why is that important? It's  
7 essential to the startup and testing of the Los  
8 Medanos Energy Center's project essential systems.  
9 We're starting up transformers, starting up the

10 combustion turbines, the boiler feedwater pumps,  
11 water treatment facilities, and a host of other  
12 vital project components that are required to make  
13 the COD date of this project and deliver energy to  
14 California.

15 For the DEC project the Los Medanos  
16 Energy Center transition structure and the 115 kV  
17 system will allow USS Posco UPI to receive energy  
18 from PG&E through the Los Medanos Energy Center  
19 substation. At that time USS Posco's separate  
20 existing 115 kV PG&E system will then be taken out  
21 of service, totally dismantled, and replaced with  
22 the 230 kV system required for the Delta Energy  
23 Center facility to interconnect to the PG&E  
24 substation.

25 With regard to schedules on the project,

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1 when it was discovered that the transition  
2 structure was relocated, a stop-work order was  
3 issued by the City of Pittsburg on November 7,  
4 2000.

5 At that time construction of the  
6 transition structure was 95 percent complete. The  
7 CEC agreed that the stop-work order could be  
8 lifted after Calpine voluntarily agreed to pay a

9 fine for its good faith error.

10 The City of Pittsburgh lifted the stop-  
11 work order on December 12, 2000, granting Calpine  
12 a temporary encroachment permit.

13 Calpine also worked diligently and  
14 cooperatively with the City of Pittsburgh to  
15 develop the appropriate mitigation measures for  
16 the relocation of the transition structure. Based  
17 upon these cooperative agreements and interaction,  
18 construction of the transition structure was then  
19 completed on December 19, 2000, and the 115 kV  
20 transmission line and the transition structure  
21 were energized on December 30, 2000.

22 Los Medanos is now undergoing project  
23 commissioning and the commercial online date is  
24 scheduled for July 8, 2001.

25 Calpine and its contractors are working

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1 very hard to expedite this date so that the  
2 project may come on sooner than originally  
3 scheduled providing relief in the current energy  
4 crisis.

5 If the transition structure remains in  
6 the current location Calpine will soon be able to

7 deliver power to USS Posco. The delivery of power  
8 to USS Posco is a precondition to removal of the  
9 115 kV transmission line, PG&E's transmission  
10 line, currently serving USS Posco.

11 The removal of this 115 kV line in turn  
12 opens the transmission corridor described in the  
13 Delta Energy Center decision, thus enabling Delta  
14 Energy Center to construct its transmission line  
15 in support of its 2002 commercial operation date.

16 While the Delta Energy Center Project is  
17 currently scheduled to begin commercial operations  
18 in June 2002, Calpine and Bechtel, our partner in  
19 the Delta Energy Center project, have committed  
20 additional resources in an attempt to accelerate  
21 that commercial online date.

22 Currently Delta Energy Center is two  
23 months ahead of schedule. Resolving this issue of  
24 the transition structure will allow the DEC  
25 project to maintain its current two-month

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1 accelerated commercial operations date.

2 With regard to the agreement with the  
3 City of Pittsburg, on January 16, 2001, the  
4 Pittsburg City Council voted five to zero to  
5 approve a resolution granting an extension of the

6 encroachment permit for the transition structure  
7 and the transmission line as constructed.

8 A larger easement was required for the  
9 transmission line because the dielectric cable and  
10 duct banks could not be constructed to make the 90  
11 degree turn at the southeast corner of the DDSD  
12 Pumping Station and remain within the 40-foot  
13 easement originally granted by the City.

14 The new easements for the structure and  
15 the transmission line limited the City's ability  
16 to develop a small portion of the land for housing  
17 immediately adjacent to the transition structure.  
18 Additionally, the City recently adopted a policy  
19 requiring 150-foot setback from transmission lines  
20 and structures for new housing units. With this  
21 setback the relocation of the transition structure  
22 and the additional easement required for the  
23 transmission line resulted in the loss of some  
24 housing units which were to be developed on city  
25 property.

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1 This resolution between Calpine and the  
2 City deals partly with compensating the City for  
3 precluding the City from developing the land.

4 Calpine's obligation under the agreement are  
5 contingent upon CEC approval of the amendment,  
6 since the mitigation measures and compensation to  
7 the City are based upon the transition structure  
8 and its relocated position.

9 And I think next I was going to talk a  
10 little bit about the obligations of the agreement,  
11 but since Garrett Evans is here from the City of  
12 Pittsburg, I propose that, as you suggested --

13 PRESIDING MEMBER MOORE: That's a good  
14 break point. I have some questions, as well, when  
15 you're done. So, let's invite the City to come up  
16 and make a statement for the record.

17 If you'd like to come up to the  
18 microphone, identify yourself, spell your last  
19 name for our scribe, and we'll entertain your  
20 comments.

21 MR. EVANS: Garrett Evans, Director of  
22 Economic Development. Last name E-v-a-n-s. With  
23 the City of Pittsburg.

24 I guess I'm here to sort of acknowledge  
25 that the City of Pittsburg has reviewed the Los

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1 Medanos Energy Center's transition structure  
2 encroachment. On January 16, 2001, the City

3 Council approved unanimously and authorized the  
4 execution of a transition station and easement  
5 agreement by and between the City of Pittsburg and  
6 Los Medanos Energy Center.

7 The Los Medanos Energy Center's  
8 obligations to the City under the agreement are  
9 contingent upon the California Energy Commission's  
10 approval of the petition before you and the  
11 relocation of the transition station, the 115 kV  
12 transmission line.

13 And I'll be glad to answer any kind of  
14 questions.

15 PRESIDING MEMBER MOORE: I have one  
16 question, and that is your City Council Members,  
17 when they voted for this, were fully aware of the  
18 fact that this was going to impact the housing  
19 availability in the City and debated that  
20 question, and concluded in the end that the  
21 tradeoff was worthwhile in terms of whatever the  
22 housing element of the City general plan was, and  
23 this addition to the City, if you will?

24 MR. EVANS: We discussed this not only  
25 in the open session, but in subsequent closed

1 sessions, talking about the negotiations to make  
2 sure that the impacts to the residential  
3 developments or other residential developments  
4 were addressed.

5 The City Council did express some  
6 unpleasantness because of the situation, but  
7 realized that the project and the mitigation  
8 efforts that Calpine and the City have worked out  
9 were appropriate to move forward.

10 PRESIDING MEMBER MOORE: Okay, I just  
11 wanted to make sure for our record that this was  
12 taken into account, as well as all of the other  
13 mitigation measures that have been proposed in the  
14 decision made by the California Energy Commission  
15 with regard to the project.

16 MR. EVANS: Yes, sir, it was.

17 PRESIDING MEMBER MOORE: Good, I  
18 appreciate that very much.

19 HEARING OFFICER GEFTER: Question with  
20 respect to the agreement for the easement between  
21 the City and Calpine. I understand there is a  
22 copy of that here today. And what is the date on  
23 that?

24 MR. BERTACCHI: I think the agreement  
25 was executed yesterday, the final signatures were

1       executed yesterday.

2                   HEARING OFFICER GEFTER: All right.

3                   HEARING OFFICER WILLIAMS: We'll enter  
4       it into our record then.

5                   HEARING OFFICER GEFTER: And it will be  
6       docketed at the Energy Commission. Yes?

7                   PRESIDING MEMBER MOORE: Mr. Evans,  
8       thank you for your trip over. We appreciate your  
9       comments.

10                  MR. EVANS: Thank you. Thank you for  
11       all your help.

12                  PRESIDING MEMBER MOORE: Thanks. Mr.  
13       Bertacchi, we return to you.

14                  MR. BERTACCHI: Thank you. Some of the  
15       key components of Calpine's obligation under the  
16       agreement are listed as follows. I'll walk you  
17       through them:

18                  Number one, Calpine will provide visual  
19       mitigation for the transition station pursuant to  
20       the schematic screening plan from LaRocca. This  
21       includes reshaping the existing berm located  
22       northerly of the DDS D Pumping Station, as outlined  
23       in that plan, to enhance the contours of the  
24       southern area of the existing berm to provide  
25       additional visual mitigation.

1 Relocating any excess soil including  
2 stockpiled dirt or berm material to areas within  
3 the setback for the 115 kV transmission line at  
4 the direction of the City and in accordance with  
5 the City engineering division standards and  
6 specifications.

7 And installing landscaping and  
8 irrigation lines. The landscape plan has been  
9 submitted to the CEC for its review and approval.

10 Calpine will extend the existing  
11 underground storm drain beneath A Street from just  
12 west of Herb White Way, which is formerly the  
13 Montezuma Street, to the boundary between the City  
14 and Contra Costa County, approximately 740 feet  
15 towards the west.

16 Calpine will construct an L-shaped  
17 eight-foot soundwall approximately 600 feet in  
18 length east of the transition station along the  
19 rear property line of the residential lots to be  
20 developed facing A Street and Herb White Way.

21 Calpine will pay the City \$1.35 million  
22 as compensation for the impact to the City  
23 property line which might otherwise have been  
24 developed for residential use.

25

Calpine will use its best efforts in

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1 coordination with the City to entice a company  
2 which will employ 50 or more people to locate  
3 within the City of Pittsburg.

4 If a new company does not locate in the  
5 City in two years, Calpine will pay the City  
6 \$1.118 million as additional compensation for lost  
7 revenues and bonding capacity resulting from  
8 impacts to the land that might otherwise have been  
9 developed for residential use.

10 Also, Calpine has agreed to put up, out  
11 of that \$1.118 million, a \$500,000 fund to help  
12 the City entice a new business into the City. So  
13 that, for instance, if a new company does come in  
14 we will have expended that \$500,000 to help them  
15 bring that new company into the City. But it  
16 would be part of the \$1.18 million.

17 PRESIDING MEMBER MOORE: Not in addition  
18 to it?

19 MR. BERTACCHI: Right, not in addition.

20 In conclusion, Calpine regrets that the  
21 proper procedures were not followed in support of  
22 this good faith effort to minimize impacts of the  
23 transition station.

24                   Although the final staff analysis of the  
25           proposed transition station is not yet available,

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1           it is Calpine's understanding that with the  
2           mitigation measures proposed and developed through  
3           the cooperative efforts of interested parties,  
4           that the transition station will have no  
5           significant impacts.

6                   Thank you.

7                   PRESIDING MEMBER MOORE: Thank you. Mr.  
8           Bertacchi, let me ask you a couple of questions to  
9           frame this.

10                   The site on which the transition station  
11           is located is part of a parcel that is  
12           approximately how many acres?

13                   MR. BERTACCHI: Fourteen acres. The  
14           City, that is all City property over in that  
15           location. It's a City parcel.

16                   PRESIDING MEMBER MOORE: And within that  
17           footprint of 14 acres, you had a certain amount of  
18           discretion with which to move lines around, create  
19           arcs and angles that would allow the lines to come  
20           in. You were then constrained by some other  
21           physical conditions, physical conditions which

22 constrained your movement within that 14-acre  
23 space.

24 Could you just describe those for the  
25 record?

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1 MR. BERTACCHI: Again, the primary  
2 constraints were the 100-foot bending radius of  
3 the cable within a duct bank. That was one of the  
4 primary constraints.

5 PRESIDING MEMBER MOORE: So, if I  
6 brought that back and tossed it back at you, I'd  
7 say within the parameters of an existing berm and  
8 a reclamation point just beyond the berm, water  
9 rights on an adjacent parcel owned by Southern,  
10 the existing water tank and the amount of space  
11 that was left, that working within those you felt  
12 that you had a limited ability to either reorient  
13 the footprint, the pad, if you will, of the  
14 transition station in order to accommodate that  
15 sweep of lines? And that's the reason that you  
16 oriented -- or your engineers in this case,  
17 oriented it exactly where they did?

18 MR. BERTACCHI: Yes, that's correct.  
19 Beyond the technical constraints of the cable,  
20 itself, as you mentioned, there were many other

21 constraints. Constraints included the berm that  
22 was existing that the City of Pittsburgh had this  
23 storage area for the spoils from dredging the  
24 harbor.

25 We have the DDSD Pumping Station which

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1 included not only you know, future expansions and  
2 existing equipment on the site, it had a large  
3 tank there on the northeast corner of the  
4 property.

5 So the constraint for that 100-foot  
6 bending radius, the berm, and then moving over to  
7 the Southern property, there's water lines,  
8 pipelines, other constraints, narrow width over  
9 there. And in addition, on the Southern side is  
10 the constraints of the DDSD discharge and suction  
11 lines for that sewage pumping station location.

12 PRESIDING MEMBER MOORE: And the reason  
13 that when this was presented to the Committee  
14 previously, prior to a decision, that the  
15 footprint was located in another location,  
16 subsequently changed by your engineers, is what?

17 MR. BERTACCHI: The reason that the  
18 transition station was relocated was --

19 PRESIDING MEMBER MOORE: No, no, I know  
20 why it was relocated. I've asked you why it was  
21 originally spotted in a farther corner where we  
22 were up just looking at it. Can you just explain  
23 for the record why when someone drew the  
24 topographic map and located it there, that they  
25 expected it to be acceptable, or they expected it

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1 to be changed subject to some engineering  
2 criteria?

3 MR. BERTACCHI: Yes.

4 PRESIDING MEMBER MOORE: Why was it  
5 originally spotted there and not somewhere else?

6 MR. BERTACCHI: At the time the  
7 transition station was located in the northeast  
8 corner of the DDS D Pumping Station, Calpine was  
9 not the owner of the project. Enron was the owner  
10 of the project with the City, and I can't respond  
11 for why Enron picked that location.

12 PRESIDING MEMBER MOORE: Thank you.  
13 With that, what I'm going to ask Mr. Mundstock to  
14 do is to present staff's --

15 HEARING OFFICER GEFTER: Before Mr.  
16 Mundstock speaks, --

17 PRESIDING MEMBER MOORE: I'm sorry, I

18 didn't realize you had a question.

19 HEARING OFFICER GEFTER: -- I have a  
20 question for -- right -- for Calpine. With  
21 respect to the list of mitigation measures that  
22 you just enumerated for us, where are those  
23 measures found with respect to any agreement with  
24 the City?

25 MR. BERTACCHI: They are detailed

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1 somewhat in the agreement, and the basic LaRocca  
2 plan is referenced in the agreement. So that's  
3 the basis of the agreement. And it's also an  
4 attachment to the agreement. And it's also in the  
5 amendment.

6 If you'd like to hear more about the  
7 details of that, Joe Summerhill is here from the  
8 City and could respond to that.

9 HEARING OFFICER GEFTER: No. What I  
10 want to know is how would they be enforceable.

11 MR. BERTACCHI: Yeah, it's actually part  
12 of the agreement, that plan is part of the  
13 agreement with the City.

14 HEARING OFFICER GEFTER: And the  
15 agreement you're referring to is the easement

16 agreement?

17 HEARING OFFICER GEFTER: Okay, that was  
18 just signed yesterday.

19 MR. BERTACCHI: Right. The transition  
20 station agreement executed February 7th.

21 HEARING OFFICER GEFTER: February 7,  
22 2001. All right. Which will become part of our  
23 record. And therefore the City, then, would have  
24 the responsibility to enforce it in case Calpine  
25 doesn't follow through on those mitigation

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1 measures.

2 MR. BERTACCHI: Yes. And that agreement  
3 will be docketed with the Energy Commission.

4 PRESIDING MEMBER MOORE: Major, did you  
5 have any questions?

6 HEARING OFFICER WILLIAMS: No.

7 PRESIDING MEMBER MOORE: Mr. Mundstock.

8 MR. MUNDSTOCK: The Energy Commission  
9 Staff believes that Calpine has acted in good  
10 faith to correct the errors caused by its  
11 inadvertent relocation of the transition structure  
12 in violation of the decision and the Commission  
13 regulations.

14 And once the fine was paid, the

15 amendment filed, we have analyzed this as a normal  
16 amendment and applied the normal standards of the  
17 statutory procedures for amendments.

18 And you have before you staff testimony  
19 in the two areas of visual resources and land use,  
20 which find that the amendment meets all the  
21 conditions necessary for Commission approval.

22 A key decision here was the City Council  
23 of Pittsburg's decision to grant the enlarged  
24 easement, because that is essential to the project  
25 being legally constructed in its current location.

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1 And in reliance upon that and the  
2 mitigation proposed by Calpine staff recommends  
3 that the amendment be approved in accordance with  
4 Commission regulations.

5 PRESIDING MEMBER MOORE: Thank you, Mr.  
6 Mundstock. Can you elaborate on just one point,  
7 and that is the fact that there was a fine and it  
8 got paid.

9 MR. MUNDSTOCK: Yes, our statute allows  
10 a fine of up to \$75,000. And Calpine agreed to  
11 pay this fine and did, in fact, pay it.

12 PRESIDING MEMBER MOORE: So, there was a

13 violation and it was acknowledged by both sides.

14 And subsequent action was taken pursuant to our  
15 own regulations?

16 MR. MUNDSTOCK: Yes. Calpine never  
17 contested the violation.

18 PRESIDING MEMBER MOORE: Understand  
19 that. I just want to make sure for the public  
20 record that everyone understands that there's been  
21 no attempt to, nor in fact any action that would  
22 cause them to escape from the existing  
23 regulations.

24 MR. MUNDSTOCK: That's correct.

25 PRESIDING MEMBER MOORE: Good.

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1 HEARING OFFICER GEFTER: And the  
2 proposed conditions in staff's testimony, do they  
3 reflect the mitigation measures that Calpine has  
4 described today?

5 MR. MUNDSTOCK: Yes, they do. The land  
6 use testimony includes a condition of  
7 certification regarding the easement; and the  
8 visual testimony describes the visual mitigation  
9 and attempts to combine -- the mitigation is  
10 really in two parts.

11 There's mitigation proposed as part of

12 the original amendment and the mitigation added as  
13 part of the easement, so that we hopefully have it  
14 correctly described at this point.

15 HEARING OFFICER GEFTER: And, again, the  
16 easement agreement includes a series of mitigation  
17 measures that would then be incorporated into the  
18 new land use condition?

19 MR. MUNDSTOCK: The intention is that  
20 you would have a package that incorporates all of  
21 the mitigation measures that Calpine has proposed  
22 to both the City and to the Energy Commission.

23 Now, whether we have this perfectly done  
24 right now, I would not be able to testify, but it  
25 will end up being perfectly done before it's

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1 finished.

2 HEARING OFFICER GEFTER: Thank you.  
3 And, Mr. Harris, does Calpine agree with the  
4 proposed conditions that staff has presented in  
5 its testimony?

6 MR. HARRIS: Let me deal with the easy  
7 one first. The land use one, I think, is fine as  
8 written.

9 The VIS9 I think needs clarification.

10 It might be as simple as referencing the LaRocca  
11 plan that we've all talked about. I think that's  
12 a very good plan. And that would help us  
13 understand.

14 There's a lot of confusion about what's  
15 north of the transition station. I think what  
16 we're talking about in that case is as depicted on  
17 the LaRocca plan, there is a portion north of the  
18 transition station that is landscaped.

19 And so instead of trying to -- and I  
20 appreciate Gary's effort to put together all the  
21 language about north and south and east and other  
22 locations here. It might be simpler to revise the  
23 language simply to reference the LaRocca plan, and  
24 then maybe attach that, as well.

25 PRESIDING MEMBER MOORE: And that

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1 LaRocca plan that you're referring to is the one  
2 that we have in a visual document that's on the  
3 dais. Mr. Mundstock, do you have a copy of that,  
4 as well?

5 MR. MUNDSTOCK: Yes, we've had a copy of  
6 it.

7 PRESIDING MEMBER MOORE: It seems to me  
8 that's probably a reasonable reference point. And

9 I hope that we can use it --

10 MR. MUNDSTOCK: Yes. We expected that  
11 there would be further clarification probably in  
12 visual to get the language exactly right. And  
13 that that would happen prior to the Commission  
14 decision.

15 There's no dispute of any kind. But  
16 it's a little complicated, and it also has  
17 changed.

18 HEARING OFFICER GEFTER: Two things I  
19 wanted to mention. One is that the LaRocca plan  
20 that we've referred to will be docketed in the  
21 record.

22 And number two, we would like to see  
23 agreed-upon language for amending the condition  
24 VIS9 prior to a proposed decision coming from this  
25 Committee.

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1 So we would like to see that as soon as  
2 possible.

3 PRESIDING MEMBER MOORE: Right. And it  
4 sounds to me as though where Mr. Mundstock's  
5 referring to a change, Mr. Harris obviously has  
6 changes in mind, the reference. So I'm assuming

7 that there'll be a caucus in very short order and  
8 those will be forthcoming to Ms. Gefter's office.

9 MR. HARRIS: Yes, I agree with Mr.  
10 Mundstock's characterization. There's no  
11 disagreement on the intent to implement the  
12 LaRocca plan, but we need to get the words  
13 together so we can all understand what we're  
14 talking about.

15 PRESIDING MEMBER MOORE: Other  
16 questions?

17 No. Okay. We have a procedure, I'm  
18 going to turn now to the public, unless, Jerry,  
19 did you have something you wanted to add?

20 MS. SCOTT: No, thank you.

21 PRESIDING MEMBER MOORE: We have a  
22 procedure in the Commission whereby we ask people  
23 to submit a blue card with their name on it if  
24 they'd like to speak. It doesn't mean that you  
25 can't speak if you haven't submitted a blue card.

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1 But just makes it easier for us to organize up  
2 here and to kind of keep track of who'd like to  
3 address us.

4 So, I have three that were submitted  
5 already. And I'm going to ask those folks to come

6 up and identify themselves for the record, and  
7 offer your comments.

8 So, I'm going to start with Mike  
9 Lengyel.

10 HEARING OFFICER GEFTER: Come to the  
11 microphone here, Mr. Lengyel, and spell your name  
12 for the reporter.

13 MR. LENGYEL: Good evening,  
14 Commissioners. I'm Mike Lengyel, L-e-n-g-y-e-l.,  
15 Lengyel.

16 I live in the Central Addition. I'm  
17 here tonight to ask you to add, as a mitigation to  
18 the misplacement of this tower, a \$200,000 grant  
19 to the Los Banos Community Health Care District to  
20 purchase a computer server and to initiate a long-  
21 term study of the health effects of the Los Banos  
22 Energy Center and related projects that have come  
23 to Pittsburg as a result of your conduct and the  
24 conduct of the City of Pittsburg.

25 The reason that I suggest this as a good

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1 idea rather than creating mitigations to only to  
2 the City of Pittsburg, the City of Pittsburg  
3 already has profited from its involvement in power

4 deals to \$15.6 million, \$6 million out of which  
5 they're going to use to finance an auto mall; \$1.2  
6 million of which went to consultants that were on  
7 the City payroll. I thought they were working for  
8 Enron, I thought Allan Thompson was working for  
9 Enron when he did such a magnificent job in  
10 getting this approved by your Commission. But it  
11 turned out he was actually working for the City of  
12 Pittsburg, which really surprised me.

13           There's a basic flaw and basic problem  
14 with this entire procedure in that there was an  
15 alliance agreement and a transaction fund in which  
16 moneys were paid to the City of Pittsburg  
17 employees to work on this project. So, they did  
18 not, when I dealt with these employees they were  
19 not wearing a hat that said "I'm working for  
20 Enron" or they were not wearing a hat that said  
21 "I'm working for you." I had to guess at any one  
22 moment who these City employees were working for.

23           And there are a couple of these City  
24 employees who are now ex-City employees. Although  
25 they say they were working for the City some of

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1 the time and that they were working for the power  
2 plants some of the time, I think they were

3 actually working all of the time for the power  
4 plants. And that there was a degree of  
5 concealment bordering on bad faith demonstrated by  
6 the City Staff of the City of Pittsburg.

7           And this concealment included concealing  
8 things from your Commission in consideration of  
9 this project. One of the major concealments was  
10 the existing of an alternative route for the  
11 industrial truck route which is running near my  
12 home. This alternative route was approved by the  
13 steel plant. And the City -- it was for a  
14 hydrogen truck route. It did not jump the  
15 railroad tracks. This was in 1997. The City did  
16 not let your Commission know that this route  
17 existed. Instead it steered your Commission back  
18 to a 1991 EIR prepared by Santana Thompson. It  
19 steered your Commission back to alternative B as  
20 the alterative. This alternative B was too  
21 expensive in 1991, and it turned out it was still  
22 too expensive in 1999. That's concealment  
23 bordering on bad faith.

24           On May 26, 1999, in this very Board room  
25 I submitted a document to you on the dangers of

1 diesel exhaust, which was declared a toxic air  
2 contaminant in 1998 by the California Air  
3 Resources Board.

4 PRESIDING MEMBER MOORE: I'm sorry,  
5 could you -- the dangers of using what?

6 MR. LENGYEL: Pardon?

7 PRESIDING MEMBER MOORE: The dangers of?

8 MR. LENGYEL: Diesel exhaust  
9 particulates.

10 PRESIDING MEMBER MOORE: Diesel exhaust,  
11 I'm sorry.

12 MR. LENGYEL: Diesel exhaust. You see  
13 there are three ancillary projects that came  
14 forward under the wing of your Commission which  
15 are really detrimental to the neighborhood.

16 It's kind of a 12-foot problem. The  
17 nature of this 12-foot problem is the distance.  
18 Twelve feet from the curb of this industrial truck  
19 route, which I hope you had a chance to see it  
20 because your Commission was instrumental in is  
21 being built, I think you may have gone by there  
22 when you went out to Marina Walk.

23 But the 12-foot problem is the 12-foot  
24 distance between the curb of this industrial truck  
25 road and the wall of St. Dionysus' Greek Orthodox

1 Church at Santa Fe and Harbor Streets. And there  
2 are going to be about a thousand truck trips a day  
3 taking that hairpin turn up that grade  
4 accelerating.

5 Right now they're basically coke trucks  
6 and ammonia trucks for the power plant. But in  
7 the near future there will be six more domes  
8 there, and there's a cement facility that is to go  
9 in there. And an agreement to lift a 160-truck  
10 limit on that Pittsburg Marine Terminal was  
11 ratified by the Pittsburg City Council on  
12 September 17, 1999, at 3:30 in the afternoon.

13 They did not let you know that this was  
14 in the works that would place 300 additional truck  
15 traffic on the road. This is concealment that  
16 borders on bad faith by the staff of the City of  
17 Pittsburg.

18 The City Planning Commission on  
19 September 14, 1999, had a discussion of the truck  
20 bypass road, and the planning manager told the  
21 planning commission that the matter was already  
22 approved on August 3, 1999, by the City Council  
23 vote. So it was already approved he told the  
24 Commission. And he further told the Commission  
25 that it was a capital improvement project and it

1 was out of their jurisdiction.

2 And he further told the Commission that  
3 the item was on the agenda as a discussion item,  
4 and if they wanted to take action on it they would  
5 have to reschedule it.

6 But what the Planning Manager, Randy  
7 Jerome, did not tell the Pittsburg Planning  
8 Commission and myself, I was in the audience at  
9 the time, he did not tell the Pittsburg Planning  
10 Commission and the public that on Friday,  
11 September 17th, that was three days hence, the  
12 City Council was going to meet at 3:30 in the  
13 afternoon with the two principals that were  
14 responsible for both the power plant and for the  
15 ancillary -- the City Attorney, Mike Woods, ex-  
16 City Manager Jeff Coleman, he did not advise the  
17 Commission that they were going to meet and deal  
18 with an update on the truck bypass road in the  
19 environmental impact report that they were going  
20 to ratify an agreement with Isle Capital that  
21 would lead to the listing of the 160 truck limit  
22 on the Pittsburg Marine Terminal and the payment  
23 of \$175,000 to the City in exchange for right-of-  
24 way to 3rd Street, in exchange for right-of-way

25 access to the power plant site.

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1 And he did not tell -- what the  
2 Commissioner at this same meeting there was going  
3 to be an agreement with Diablo Sanitary  
4 District --

5 PRESIDING MEMBER MOORE: Mr. Lengyel,  
6 I'm allowing you to go on because I know that  
7 you're vitally interested in this topic. But I  
8 should remind you that the question before us is  
9 not the plant, or our relationship to the bypass  
10 road. But, in fact, the transition station.

11 So, although I know that many of the  
12 members here are interested, and perhaps even some  
13 people are frustrated by what happened at the  
14 City, I need you to focus on the transition  
15 station if you can.

16 MR. LENGYEL: Well, I have seen that you  
17 were placing mitigations for this -- fine; it was  
18 a news story that Calpine had unofficial  
19 authorization or consultation with ex-City  
20 Attorney Mike Wood, and ex-City Manager Jeff  
21 Coleman to locate this transition station in the  
22 alternative location which it's now located.

23 So, I'm saying that the conduct of the

24 City borders on bad faith with the public, would  
25 lead to a request for mitigation to deal with

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1 health issues which were left unresolved. And I  
2 just mention that the Delta-Diablo uses reclaimed  
3 sewage water on the park and in your cooling  
4 towers, which there is a gentleman here in this  
5 audience who says this is not going to work. I  
6 hope he does express himself on that.

7 But, if it does not work, I'm saying  
8 that this project is back before you, and there is  
9 a problem here and a mitigation required. And I'm  
10 saying that when you mitigate this problem, there  
11 are electromagnetic fields possible from this  
12 line; that there are health concerns there.

13 There's a report that in California 259  
14 people die early deaths from particulate pollution  
15 from power plants. I'm saying there are seven  
16 power plants in this health care district that are  
17 either operating, and that's in Pittsburg and Bay  
18 Point, there are seven power plants.

19 PRESIDING MEMBER MOORE: Okay, so let me  
20 see if I understand what you're saying. You're  
21 suggesting to us that as a result of should we

22 approve this change in the future, that you're  
23 suggesting that we add an additional mitigation  
24 measure to any such approval that would create a  
25 fund, a \$200,000 fund for the community

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1 healthcare --

2 MR. LENGYEL: District.

3 PRESIDING MEMBER MOORE: District,

4 and that --

5 MR. LENGYEL: Yes.

6 PRESIDING MEMBER MOORE: -- they use  
7 that money to study either electromagnetic effects  
8 of nearby or proximate power plants and/or  
9 particulate matter that might be coming out of  
10 such power plants. That's your request?

11 MR. LENGYEL: That is not completely my  
12 request. It's that they would do a baseline study  
13 of health conditions within a two-mile radius of  
14 this power plant and that this is a long-term  
15 study that would update.

16 The reason this is kind of pressing for  
17 me is there's a Reverend Timmons who write a sort  
18 of provocative column. On Tuesday he happened to  
19 write a column about something that happened to  
20 his daughter who was walking on Railroad Avenue

21           which is in downtown Pittsburg. And she collapsed  
22           and was taken to a hospital.

23                         And it turned out that she had a brain  
24           tumor. And this brain tumor left his family --  
25           she didn't have health insurance -- left his

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1           family with a bill of \$200,000, which they're  
2           still facing.

3                         Now, did this brain tumor come from  
4           hexavalent chromium from a cooling tower? Did it  
5           come from diesel exhaust particulate. I cannot  
6           say that it did. But your Commission cannot tell  
7           me that it did not.

8                         And I've seen that you are doing  
9           dangerous things here, you're using reclaimed  
10          sewage water -- there's a gentleman in the  
11          audience who says he does not know where this is  
12          ever used before in a power plant. Reclaimed  
13          sewage water. He says it's not going to work, and  
14          pretty soon they're going to be using city water.  
15          I hope he expresses that himself.

16                         But there are health problems from the  
17          use of reclaimed on a park in a greenbelt. And I  
18          know Bryan Bertacchi of Calpine said you could

19 swim in it. Well, fine, I will give it to him,  
20 there's 150,000 gallons a day of reclaimed water  
21 that Delta-Diablo had reserved for the City of  
22 Pittsburg to put on this park. And they're doing  
23 it, they say that this is your program that's  
24 approved that reclaimed water, the location of  
25 truck route, the location of a park on the --

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1 they're saying they're doing it on your dime.  
2 They're saying that you approved this, you  
3 approved this environmentally. And the three  
4 resolutions they adopted on September 17th.

5 So you have a responsibility in that  
6 regard. And I urge you to do a health study as  
7 requested. Thank you very much.

8 PRESIDING MEMBER MOORE: I appreciate  
9 your comments.

10 MR. LENGYEL: And I'll give you a  
11 printed copy.

12 PRESIDING MEMBER MOORE: Good, thank  
13 you. Maybe you can just bring it right up here.  
14 We're not totally that formal. We have no force  
15 field that keeps you from coming right up here.

16 (Laughter.)

17 HEARING OFFICER GEFTER: Thank you.

18 PRESIDING MEMBER MOORE: Thank you very  
19 much.

20 William Glenn. Good evening.

21 MR. GLENN: Good evening, sir,  
22 Commissioners. My name is Bill Glenn. I am  
23 currently a City of Pittsburg Planning  
24 Commissioner as of July of this last year, 2000.

25 However, I am also the Past President of

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1 the Enron Power Plant Advisory Committee. And a  
2 current serving member of the Calpine PPAC, as  
3 well. So, I guess I could say I've more or less  
4 been in this from the start.

5 I want to point out a couple of things  
6 in Mr. Bertacchi's testimony that may need some  
7 elaboration.

8 One is, and we've heard this recently  
9 from your representatives, Ms. Scott and some of  
10 the others, that the plans, as submitted by Enron,  
11 were conceptual in nature and did not include what  
12 I would call definitive detailed engineering  
13 drawings indicating all existing potential  
14 impediments to installation of the power lines and  
15 their specific route and where it was to come up.

16                   Basically the Enron PPAC lobbied very  
17                   hard and long to bury the cable all the way.  
18                   There were many obstacles to overcome in doing  
19                   that, notwithstanding the expense. And there was  
20                   some litigation involved and some problems  
21                   associated with acquiring the requisite land in  
22                   order to be able to accomplish that, particularly  
23                   with the railroad and others that were still at  
24                   issue at the point in time that the application  
25                   was submitted.

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1                   In addition to that, once Calpine  
2                   purchased the plant we had already gone through  
3                   the issue, which I'm sure you may remember, some  
4                   of you that were on the Committee or have  
5                   knowledge of it, we had reversed the smoke stack  
6                   so that they were further away from the City; we  
7                   had reduced their heights; we had gone through  
8                   several evaluations of the existing turbine  
9                   generators and how and when they were going to be  
10                  installed and which resulted subsequently in an  
11                  upgraded recent amendment that we talked about,  
12                  that under cold weather conditions we could  
13                  therefore increase the power, and 500 megawatts  
14                  estimate was nominal, et cetera, et cetera. And

15           there was an awful lot of details.

16                         In addition to that, Calpine, when they  
17           acquired the land, and also then had a contract to  
18           prove with Dow, I also serve on the Dow Committee  
19           Advisory Panel, had decided to replace the  
20           existing power plant on Dow right now with a brand  
21           new one, the DEC.

22                         And so basically then they had two  
23           projects concurrently going through CEC, one  
24           already had approval of the type and they were  
25           completing all of the engineering drawings. And

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1           then they brought in their own design for the DEC.

2                         Well, you know, it's basic laws of  
3           physics that two things can't occupy the same  
4           place at the same time. So if you think about  
5           this, one of the issues that came up because of  
6           the sequencing of how those power plants were to  
7           be built was we were going to tear up A Street all  
8           the way to put in one transmission line. And then  
9           we were going to come right back about six months  
10          later and tear it up again to put the other one in  
11          because we were at issue on how that was going to  
12          be done.

13                    Since Calpine was both the owner of both  
14                    of these plants at this point in time, we said,  
15                    hey, why don't you just tear up A Street one time,  
16                    do your thing, and be done with it. Which they  
17                    acceded to readily because it saved them money.  
18                    It satisfied a whole host of requirements of  
19                    nondisruption of the seafood festival and other  
20                    things with regard to traffic in town, et cetera,  
21                    et cetera.

22                    In addition to that, they went the extra  
23                    mile, tore up the Pittsburg-Antioch Highway to put  
24                    in all of the purple pipe that's been installed  
25                    all over town for distribution of recycled water

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1                    for the cooling towers of both plants, and for the  
2                    parkway along the truck drive, et cetera, et  
3                    cetera, et cetera.

4                    I would have to characterize Calpine's  
5                    cooperation in terms of meeting all of the  
6                    requirements as outstanding, and as a result of,  
7                    for lack of a better term, piggy-backing on the  
8                    LMEC or the PDEF as it was originally called, how  
9                    shall we say, experience with the CEC application  
10                    process they were able to in two ways gain a  
11                    considerable, how shall we say, operational

12 advantage in terms of construction and process  
13 procedure and everything like that.

14 So that they're now two months ahead of  
15 schedule, which I might add since the Governor  
16 just this very day decided to reduce the schedule  
17 from a year to six months to now it's down to  
18 three weeks. I'd like to see somebody put up a  
19 power plant in three weeks, but that's okay.

20 In any event, we've gained, plus the  
21 blessing of good weather, we've been able to step  
22 around an awful lot of problems.

23 Now, it comes to my mind that you've got  
24 four-inch cable, two power plants that basically  
25 have to go to the same place at the same time.

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1 And I would remind you that DEC was not on the  
2 table at the point in time that Calpine purchased  
3 the PDEF from Enron.

4 That location was a conception of where  
5 they thought it ought to go based on information  
6 provided by PG&E. Issues that they were dealing  
7 with with regard to land acquisition from the  
8 railroad. Issues with the City of Pittsburg. And  
9 it was, in fact, conceptual.

10 Well, when we finally got right down to  
11 it, where do you put 24, 12 for each of the  
12 plants, in the same place at the same time? The  
13 roadbed is consumed. So that issue around the  
14 pumping station, the tanks and all the rest of  
15 that, we tried to convince, when Enron, that they  
16 should bury the thing all the way. And they said  
17 there's no way, the oil tanks are in the way, the  
18 pumping station, et cetera, et cetera, et cetera  
19 for the same reason because of the curvature of  
20 the cable.

21 Now you've got 24 cables meeting in the  
22 same place at the same time and there's no way  
23 that that's going to happen.

24 We also had some issues about changes in  
25 the rules of the standoff distance from the

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1 nearest point of approach from an occupied  
2 building with the suspension towers. We had some  
3 issues about, okay, so where are you going to put  
4 the DEC transmission lines and acquisition of the  
5 right-of-way along the Pittsburg-Antioch Highway,  
6 et cetera, et cetera, et cetera.

7 I think they've done everything that  
8 they should do to cooperate with the City and do

9 all that they can do in order to get these plants  
10 on line as fast as they can. And they've been  
11 blessed, so to speak, with good weather. They got  
12 out of the ground on the DEC as fast as they  
13 could, and now they're able to proceed with  
14 construction.

15 My point is this: They didn't do what  
16 they should have done in terms of informing the  
17 public and submitting the requisite documents to  
18 say that they were going to change the location.  
19 Because as far as they were concerned, it was  
20 totally obvious to the casual observer that they  
21 couldn't bend the pipe through that massive stuff  
22 that was buried under the ground and above the  
23 ground, and fit 24 cables through that area which,  
24 because of the fact that they had to tear up A  
25 Street at the same time and put both of those

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1 things in concurrently, they said fine, we need to  
2 move it.

3 Okay. So on one fine morning after all  
4 the infrastructure to support that tower was in  
5 place, and it grew out of the ground, lo and  
6 behold, somebody recognized that it was in the

7 wrong place.

8 Now, personally, if it had been me, I  
9 would not have submitted any documents to CEC on  
10 December 7th for obvious reasons. But that was  
11 their decision. So it was a bad day.

12 In any event, it didn't work. So the  
13 point being is they paid the fine. They did all  
14 that they could do in order to resolve the matter  
15 with regard to violation of procedures and  
16 process, and attempted to enact appropriate and  
17 extraordinary public relations situations in order  
18 to inform the public on what was going on, and  
19 what it meant in terms of the schedule, et cetera,  
20 to be able to place them where they're at.

21 Now, the City has bent over backwards to  
22 do mitigation measures that would resolve the  
23 issue of the visual impact of that, landscaping  
24 and the berm. And we couldn't violate the berm on  
25 the area there that holds the dredging and that

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1 material from the harbor, which I might add we've  
2 been doing in the last couple years. So that was  
3 out of the question.

4 So the bottomline is you had to thread  
5 24 4-inch lines through a very small area that was

6 already committed. And in addition to that, in  
7 the middle of all of this nonsense, PG&E sold  
8 their operation. And now we were dealing with a  
9 different owner, Southern Utilities, which came  
10 with a different culture and added to it and  
11 everything like that. And we had to work our way  
12 through that.

13 All of that said, I don't see any reason  
14 at this point in time with the Governor's today  
15 enacting issues at hand that say we need to get  
16 power on line right here, right now, tearing this  
17 station out to put it back where it was supposed  
18 to go, which is an engineering impossibility, on  
19 the face of it, with all of us sitting around here  
20 at our hourly rate, seems ridiculous to me. But  
21 it's the process, nonetheless, that we have to go  
22 through.

23 So, my recommendation to you folks would  
24 be approve this thing as quickly as possible.

25 Let's get the power on line and get on with it.

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1 Thank you.

2 PRESIDING MEMBER MOORE: I appreciate  
3 your comments.

4 Mr. Johnson, Ben Johnson.

5 MR. JOHNSON: My name is Ben Johnson,  
6 J-o-h-n-s-o-n. I'm a resident of Pittsburgh. And  
7 I'm just an advocate of what goes on in the City.

8 My concerns with this project really  
9 started back at Enron. I was in favor of Enron  
10 originally because I lived, at that time, right in  
11 Central Addition, and I lived less than 300 feet  
12 away from the project to begin with.

13 The project has changed considerably  
14 from Enron to what it is today. I mean it has  
15 gone through the process and changed a lot. And  
16 they've gone through a lot of trials and  
17 tribulations.

18 To get to the point here is I guess my  
19 concerns are if you make mistakes, big mistakes  
20 like this, what other mistakes have you made on  
21 the project, itself? Those are concerning things  
22 to me, as an individual.

23 If you move something 300 feet or 125  
24 feet from where it's supposed to be and don't get  
25 approval to do that, what other things have you

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1 done in the situation to make things work for you,  
2 as a company, that we don't know about?

3 I guess that's really a concern of mine  
4 is when you do things that you don't get approval  
5 on before you do it and you know they're wrong,  
6 you know it doesn't go there and you make a change  
7 anyway, how do you go about -- and you go about  
8 fixing it after the fact, sure you can pay the  
9 fines. That's fine and dandy.

10 I mean they made \$319 million this year  
11 in net profit. You know, that's a lot of money.  
12 And we pay a lot of taxes. My PG&E bill this  
13 quarter was over \$300, it tripled from what it  
14 was.

15 I know we need the electricity, but I  
16 guess my concern is we have to make sure that when  
17 people make mistakes they haven't made other  
18 mistakes, or they haven't told you about them. I  
19 mean I've been through this thing, a lot of things  
20 in here. And I'm not saying that they're a bad  
21 company, I know they're, you know, that they come  
22 across and they try to make things right.

23 But the bottom thing is after the fact  
24 you make mistakes, I mean that just really  
25 concerns me a great deal, that it happens, you

1 know, after the fact.

2           You know, when I first noticed the thing  
3 going in there, I knew it was in the wrong place.  
4 And I brought it to the City's attention right  
5 away. And I was really concerned because of the  
6 facts, you know, right, we were going to build 36  
7 houses there. I mean that's fine, it's a couple  
8 million dollars, plus tax revenues. I don't know  
9 that \$2.3 million is enough to cover the tax  
10 revenues over the period of time, because that's a  
11 one-time thing. And I don't know what over the  
12 term of a 20-year period that those houses are  
13 going to be there, how much is the tax revenue. I  
14 don't know if they calculated it or not. I just  
15 know that they threw a figure to them, the City  
16 maybe evaluated it, maybe didn't.

17           I was sick the day of the meeting and  
18 unfortunately I wasn't there on the 16th, so I  
19 didn't get all the facts at the 16th meeting when  
20 they approved it, five-0.

21           But, obviously I guess my concern is  
22 they didn't come to the City, they didn't come to  
23 you. And when they don't do that, it concerns me.  
24 I don't care who they are. They may be -- they're  
25 a large company and I'm just a low level

1 individual in the City. But when you don't do  
2 something right, it needs to be dealt with.

3 \$75,000, that's -- they'd love to pay  
4 that. I mean they could pay that all day long and  
5 not even worry about it. And as long as you guys  
6 come back and approve the project, doesn't make  
7 any difference to them. \$75,000 is part of doing  
8 business.

9 So, that's what really concerns me. I  
10 mean I went out there just like everybody else did  
11 here today, and I understand this. But one of the  
12 concerns I have is how long did they know about it  
13 before it happened? I mean my question is that  
14 tank over there on the side when they were going  
15 to put it right next to that tank, was the tank  
16 there to begin with? Sure it was. It's been  
17 there a long time.

18 That tank has been there a long time.  
19 The Delta water tank has been there a long time.  
20 They were putting it on their property. That's  
21 not the City's property. That's another issue.  
22 That wasn't on the City's property. They weren't  
23 going to put it on the City's property in the  
24 first place.

25 So, they're telling me that, you know,

1 that they couldn't do this. I mean I can see, I  
2 mean logic says obviously that big pipe they had  
3 here is pretty big. But obviously they have big  
4 tools, it's copper line, and copper bends. I know  
5 logically it will bend 90 degrees. I would almost  
6 say that that will bend 90 degrees no matter how  
7 you -- because you got the tools to do it, it'll  
8 bend, because copper bends.

9 But I guess, you know, I just think, you  
10 know, engineers are supposed to be able to  
11 engineer these things. And that's a -- it was a  
12 big mistake, it really was. They know it. You  
13 know it. Obviously it was a big mistake.

14 It's done and I have to say that they  
15 came back and did a hard job at looking at a way  
16 to put it, but they certainly left a lot of stuff  
17 above ground. They added two lines across there  
18 that they didn't have to begin with. They only  
19 had one line there. They added another pole. A  
20 whole different perspective than what it should  
21 have been.

22 I don't know how long they should have  
23 went back. I know that there was an issue in  
24 1999, if I look at this right, by the City

25           Manager, asked the question about mitigation

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1           issues.

2                       March 26, 1999, there was a response  
3           letter dated 26th of March regarding the zoning  
4           requirements for the purpose of conditions of  
5           certification. Well, that had to be part of the  
6           conditions of certification because you got to  
7           bring it to someplace. The transition line has to  
8           go there, so that was part of the issue in 1999.  
9           This was a problem in 1999 that wasn't addressed  
10          in '99. It wasn't addressed until December of  
11          2000, a year later, a year and three months later  
12          it was addressed. That's my concerns.

13                      Why did it take a year and three months  
14          to address this issue for approving this plant to  
15          be coming on line? Especially a main line like  
16          that where it connects into the PG&E line. That  
17          really concerns me.

18                      I mean this company knows. It's a big  
19          company. It hires lots of big engineers. It  
20          hires lots of people to do the job. And so that's  
21          my concern, is what else is happening that we  
22          don't know about. I mean I went through the whole  
23          scenario with all the other issues increasing.

24 I talked to their attorneys in regards  
25 to the issues of the added wattage, the 560 watts,

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1 and how it went about, you know. So that's not  
2 the issue today, but it all comes down to that  
3 point. Is they have had to come through for I  
4 don't know how many amendments now. I know it's  
5 been at least ten or 15 amendments that they've  
6 had to come back to you for to get approval.

7 And then the ones that they haven't, I  
8 don't know if they needed to come through or not.  
9 I know once it gets through to you and you approve  
10 the project, the City doesn't have a lot of  
11 control over it any more. I mean it comes to you  
12 every time. They send the amendments to you.  
13 Sometimes the City doesn't seem them. That's what  
14 happened, the City owned the land on this issue,  
15 or we may have never saw this, either, other than  
16 the poles being put up there. So that's my  
17 concern.

18 And I believe it should be everybody  
19 else's concern. I mean how things go about. I  
20 think if they're going to do something like that,  
21 \$75,000 is just nothing. Doesn't mean anything to

22       them.  If it was a million, \$4 million, \$5  
23       million, then they'd step and look at it because  
24       it costs them a lot of pennies to make that fuel  
25       come through there.

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1               And as far as this power going through,  
2       this power's really going to US Posco, eventually  
3       with the other plant it's Dow is getting the plant  
4       power from that.  And then we're conversing,  
5       whatever power they have left over, it's going to  
6       go out and be circulated.  They're making the  
7       profits.  We're not.  We don't get the profits in  
8       the City of Pittsburg for that.

9               We give them the right-of-ways, we got a  
10       fee for giving them the right-of-ways.  They put  
11       their lines through there.  They control their  
12       lines.  We don't get a profit for that.

13              Over the long run we will.  I mean we  
14       got something out of it originally for giving them  
15       the right-of-way.  But that's done.  Once that's  
16       paid and it's done, we're done.  They've paid off  
17       their debt and they're going.

18              So, anyway, I think in conclusion it's  
19       done, and really if you go back and change it,  
20       we're going to have a really mess, it'll be a

21 mess. And how to do it, that's another issue.

22 And, so, the dollars, I don't know if  
23 that's enough money over the long run. I assume  
24 the City took enough mitigation to figure that out  
25 between the two of them, and make sure that the

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1 \$2.13 million is enough money. Obviously the  
2 property was worth about \$1.6 million by itself.  
3 And if they're taking all the property, plus the  
4 mitigation over 20 years, I think it's worth more  
5 than \$2.1 million, myself.

6 That's my opinion. Thank you.

7 PRESIDING MEMBER MOORE: Thank you, sir.

8 We appreciate your comments.

9 Is there anyone else in the audience who  
10 didn't give us a blue card, who'd like to address  
11 us, make their concerns known?

12 All right, I don't see anyone. And with  
13 that I'm going to bring this back up to the dais.  
14 I have a couple of concluding comments, and then  
15 I'll tell you that we will take this matter under  
16 advisement. The Committee will entertain  
17 submittals back from the applicant and from staff.  
18 We'll take into consideration the comments that

19 have been made tonight.

20 And I want to say that this is an  
21 unfortunate spot to find any of us in, and I  
22 regret it very very much. I think in fairness,  
23 though, that the responsibility for much of this  
24 lies with me. And I think that's unfortunate, as  
25 well. I hate to have to take responsibility for

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1 things that go wrong.

2 But in this case I think the process  
3 could be tuned. And that there are questions that  
4 didn't get asked. I think that there's been a  
5 tendency on the part of past Committees and  
6 Commissioners to try and stick too narrowly to  
7 rules of procedure, and I think that's probably  
8 going to loosen up a little bit in the future, in  
9 that there's going to be a process that looks at  
10 things perhaps in a more -- in a process that is  
11 more familiar to you, like local government uses,  
12 which is not so narrowly constrained in what it  
13 can ask for, and the logic that it follows.

14 I think that there are going to be  
15 opportunities to look at things more closely. I  
16 don't know about the fine circumstances, I think  
17 given the procedures that we have and the rules

18 that we have, we've exercised the maximum amount  
19 of flexibility that we could in that arena.

20 And after that I guess what we're faced  
21 with is a situation that went awry. And a mistake  
22 was made. And I think that we are, every one of  
23 us, every actor in this room, is playing this out  
24 to the fullest extent that they can. And I think  
25 that above all that probably proves that this

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1 system is working, and that we are all playing  
2 responsible roles, from the public, to the  
3 applicant, to the staff, to the Commissioners, the  
4 Commission Staff.

5 So, for that, although the outcome may  
6 be imperfect and certainly the process in the  
7 middle is imperfect, by definition I think that  
8 the product in the end will be better. I have to  
9 say that I think the comments that have been  
10 advanced, especially by the public tonight, add to  
11 that. And certainly make us, as public officials,  
12 richer and better because we're going to take  
13 those into account and we can only try and do  
14 better next time. I can't even reinvent the last  
15 five minutes that we've been here. I can't cause

16 that to come back, that time is past.

17 So, all we can do is go forward. I  
18 promise you that we will. And we'll entertain the  
19 comments and we'll issue a report as rapidly as we  
20 can.

21 Ms. Gefter, do you have other remarks  
22 you'd like to make?

23 HEARING OFFICER GEFTER: No.

24 PRESIDING MEMBER MOORE: Major?

25 HEARING OFFICER WILLIAMS: No.

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1 PRESIDING MEMBER MOORE: With that, I  
2 close this hearing. And I tell you thank you very  
3 much.

4 (Whereupon, at 6:30 p.m., the hearing  
5 was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set  
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