

DOCKETED
11-AFC-3

TN # 2910

DEC. 17 2012

STATUS CONFERENCE
BEFORE THE
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the:)
)
Application for Certification) Docket No.
for the Quail Brush) 11-AFC-03
Generation Project)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, DECEMBER 10, 2012

10:30 a.m.

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

COMMITTEE MEMBERS PRESENT

Karen Douglas, Presiding Member

Andrew McAllister, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Raoul Renaud, Hearing Officer

Patrick Saxon, Advisor to Commissioner McAllister

Eileen Allen, Commissioners' Technical Adviser for Facility Siting

CEC STAFF PRESENT

Stephen Adams, Staff Counsel

Eric Solorio, Project Manager

OFFICE OF THE PUBLIC ADVISER

Jennifer Jennings, Public Adviser

APPLICANT

Ella Foley Gannon
Bingham McCutchen LLP

Lori Ziebart
Cogentrix Energy, LLC

INTERVENORS

Pete Hasapopoulos (via WebEx)
Sierra Club, San Diego Chapter

Val Hoy
John Kaup
HomeFed Fanita Rancho, LLC

Van Collinsworth (via WebEx)
Preserve Wild Santee

ALSO PRESENT

Gary Sallis (via WebEx)
Plumbers and Pipefitters, Local 230

Kevin Carroll (via WebEx)
CONNECT

Pauline Ma (via WebEx)
CleanTECH San Diego

Brit Coupens (via WebEx)

Scott Alevy (via WebEx)
East County San Diego Chamber of Commerce

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1 HEARING OFFICER RENAUD: Okay. And also at the
2 table who do we have?

3 MR. HOY: Oh, I'm sorry. Val Hoy here on behalf
4 of the intervenor, HomeFed Fanita Rancho. And to my left is
5 John Kaup with my office.

6 HEARING OFFICER RENAUD: Very good, thank you.
7 And also in the room is Jennifer Jennings, the
8 Commission's public adviser.

9 And I can see from the screen here we have a lot
10 of people participating remotely by WebEx. Let me ask if any
11 of the persons on the phone are intervenors, and if so,
12 would you please introduce yourselves. Maybe I'll --

13 MR. COLLINSWORTH: Yes, this is --

14 HEARING OFFICER RENAUD: Go ahead, go ahead.

15 MR. COLLINSWORTH: Van Collinsworth, Preserve Wild
16 Santee, and also representing the Center for Biological
17 Diversity this morning.

18 HEARING OFFICER RENAUD: Thank you very much. Any
19 other intervenors on the line?

20 MR. HASAPOPOULOS: Pete Hasapopoulos for the
21 Sierra Club, San Diego.

22 HEARING OFFICER RENAUD: All right, welcome.

23 MR. HASAPOPOULOS: Thank you.

24 HEARING OFFICER RENAUD: Go ahead. Other
25 intervenors on the line?

1 (No response.)

2 HEARING OFFICER RENAUD: No? Let me just call the
3 roll of intervenors quickly here. Rosalind Varghese?

4 (No response.)

5 HEARING OFFICER RENAUD: Rudy Reyes?

6 (No response.)

7 HEARING OFFICER RENAUD: Dorian Houser?

8 (No response.)

9 HEARING OFFICER RENAUD: Kevin Brewster?

10 (No response.)

11 HEARING OFFICER RENAUD: Phil Connor, Sunset
12 Greens Home Owners Association?

13 (No response.)

14 HEARING OFFICER RENAUD: Rob Simpson, Helping Hand
15 Tools?

16 (No response.)

17 HEARING OFFICER RENAUD: HomeFed Fanita Rancho?

18 MR. KAUP: Present.

19 HEARING OFFICER RENAUD: You're present. Yes,
20 thank you, okay, good. All right, very good.

21 Now for those of you who are participating by
22 computer or phone, we can hear you when you speak to us, we
23 can also hear everything else you're doing near your phone.

24 So if you would, please, keep the rustling of papers,
25 extraneous conversations and so on to a minimum, we would

1 appreciate it. That would make it much easier for us to
2 hear one another and to hear you.

3 If we do have a disturbance from any one of the
4 callers we can mute that particular phone. We don't want to
5 do that because then it prevents you from being heard, but
6 we do have the ability to do that. Anyway, just please keep
7 that in mind as we proceed through this morning.

8 I think the main business the Committee wants to
9 accomplish with this status conference is to discuss
10 possible revisions to the schedule. The applicant and staff
11 both submitted proposed revised schedules in their status
12 reports. Let me ask each of you to comment on the other's
13 proposal, starting with the applicant, please.

14 And also let us know if there are any changes to
15 your proposed schedule, applicant, since you filed it.

16 MS. FOLEY GANNON: No, we have no objections to
17 staff's proposed revisions to the schedule. We are
18 satisfied with what they proposed.

19 HEARING OFFICER RENAUD: All right. For the most
20 part the schedule leading toward evidentiary hearings really
21 times itself off the staff's preparation of the PSA and the
22 FSA. Staff, your proposed schedule, I believe, calls for
23 January 23rd for the PSA. Does that still look doable?

24 MR. SOLORIO: Yes it is. With the caveat that we
25 do have the PDOC that we expected December 14th. Now it

1 looks like it may come to us -- well, it may be published
2 rather about three weeks after that. We think we'll
3 probably be able to get a copy of the conditions from the
4 District. So I guess bottom line is it's possible we may
5 end up publishing the last week of January. Maybe a week
6 delay, give or take, or we may make the date. It depends on
7 how soon we get those conditions.

8 HEARING OFFICER RENAUD: All right, thank you.

9 MS. FOLEY GANNON: And then from the applicant's
10 perspective, we understand that they need to have the
11 information from the PDOC. So if it's, if it was delayed by
12 a week as a result of that we, again, would have no
13 objection to that.

14 HEARING OFFICER RENAUD: Okay. Do any of the
15 other parties wish to comment on the schedule?

16 As you all know, the Committee did extend the
17 discovery period to December 14th, which means that four
18 days from today will be the last day to submit data
19 requests. Is that still looking workable as far as any --
20 any party can speak up. That would be the last day for
21 submission of data requests.

22 MS. FOLEY GANNON: We have no objection.

23 MR. HOY: At this point we'll be prepared to
24 submit our additional data requests. But the CPUC decision
25 becomes final, I think, on December 20th. There may be some

1 value in pushing the date just beyond that so that if there
2 is anything new or different in that document it can be
3 inserted.

4 HEARING OFFICER RENAUD: All right. Well, I can
5 understand your point about the CPUC decision but I am going
6 to suggest that we wait and see what it says.

7 MR. HOY: Yes.

8 HEARING OFFICER RENAUD: And then if any party
9 feels a pressing need to be able to conduct discovery in
10 light of something that is in that decision, bring it to the
11 Committee's attention and we can consider it at that time.

12 MR. HOY: Thanks.

13 HEARING OFFICER RENAUD: All right. Let's see
14 here now. Preserve Wild Santee, you in your status report
15 mentioned an action by the city of San Diego changing some
16 open space from "designated open space" to "dedicated open
17 space." And I think the Committee is a little -- would like
18 to hear some elaboration about that if you can help us with
19 that. Just tell us what is the meaning of that and what
20 were the circumstances.

21 MR. COLLINSWORTH: Yeah, this is Van Collinsworth.
22 On November 27th the San Diego City Council had before it
23 the opportunity coming from Senator Kehoe's bill, Senate
24 Bill 1169, to take city-owned parcels that were designated
25 "open space" and convert those to "dedicated open space."

1 Which essentially gives another layer of protection to those
2 parcels in that any of those parcels that became dedicated
3 could not be changed unless there is a two-thirds vote of
4 the people.

5 So from our perspective, the parcels in east
6 valley and in the vicinity of the power plant that were
7 changed to dedicated open space really reaffirmed their
8 value for wildlife and recreation. That, of course, again
9 from our perspective, brings Public Resources Code Chapter 6
10 Section 25527 back to the forefront and -- where obviously a
11 power plant wouldn't be appropriate for areas that are
12 designated for wildlife protection and recreation.

13 So from our perspective anyway, the action by the
14 City Council just reaffirmed the prior position it had on
15 these parcels and really what it's shown in terms of
16 opposition to the power plant in the prior vote it had
17 regarding the local land use regulations as well.

18 HEARING OFFICER RENAUD: Where are those parcels
19 relative to the proposed site? Anybody? If you know or
20 anyone?

21 MR. COLLINSWORTH: Well, most of the parcels are
22 going to be to the west of the power plant option parcel.
23 There are a few parcels that are also to the northeast.
24 And, you know, we would expect all of those parcels, once
25 the Master Plan Update for Mission Trails Regional Park is

1 completed, they'd actually be included in Mission Trails
2 Regional Park.

3 HEARING OFFICER RENAUD: All right, thank you,
4 that's helpful to the Committee, appreciate that.

5 MR. COLLINSWORTH: Sure.

6 HEARING OFFICER RENAUD: Commissioners, any
7 questions? Okay.

8 I think any questions the Commissioners had were
9 pretty much answered by the information you provided. But I
10 would like to invite any party, staff, applicant,
11 intervenors, to bring to the Committee's attention at this
12 time anything you want to bring up. Let's start with the
13 applicant.

14 MS. FOLEY GANNON: I don't think there was
15 anything apart from what was in our status report that we
16 need to bring up. I would just say in response to the
17 comments that were just made about the city's action. I
18 think that your question was going to, Hearing Officer
19 Renaud, the parcels that were at issue were not the proposed
20 project site so they are not affected by, by that action in
21 any way.

22 HEARING OFFICER RENAUD: Good, thank you, okay.
23 Staff, anything you wish to bring up with the
24 Committee?

25 MR. ADAMS: We don't have anything additional to

1 the status report, thank you.

2 HEARING OFFICER RENAUD: HomeFed, anything you
3 want to bring up?

4 MR. HOY: No, not at this time.

5 HEARING OFFICER RENAUD: All right. Other
6 intervenors. Any intervenor wish to raise anything with the
7 Committee at this point?

8 MR. COLLINSWORTH: This is Van Collinsworth again.
9 I just -- before we left the, I guess the idea or concept
10 of what's happening with the open space around the power
11 plant parcel. Again, there is in the plans a recreational
12 trail which will be going through this area. The northwest
13 -- excuse me. The northeast portion of the power plant
14 parcel was contemplated or is contemplated for a
15 recreational trail. So some of these dedicated parcels I
16 would expect to be part of this trail. And obviously if
17 this parcel became available and the land acquisition that
18 has been a focus of this hearing was able to --

19 (Hammering heard over WebEx.)

20 MR. COLLINSWORTH: -- that could be a part of this
21 as well. And so I would disagree with the applicant to say
22 that the power plant doesn't affect the parcels around it.
23 It certainly does and it affects even that one particular
24 parcel and the investment that is being made in open space
25 protection and recreation. Thank you.

1 HEARING OFFICER RENAUD: All right, thank you very
2 much for that.

3 Any other intervenor wish to bring anything up
4 with the Committee?

5 (No response.)

6 HEARING OFFICER RENAUD: All right, hearing
7 nothing, okay, Commissioner McAllister, I understand you
8 have something to bring up.

9 ASSOCIATE MEMBER McALLISTER: Let's see. Thanks
10 for everybody being here. I do have a question for the
11 applicant. And obviously intervenors can respond with their
12 understanding as well as to how -- whether and how you see
13 the proposed decision over at the PUC is affecting sort of
14 your project and any other proceedings that are happening
15 over there that might bring to bear on the need for the
16 plant.

17 MS. FOLEY GANNON: From the applicant's
18 perspective, that is a proposed decision. We are hopeful
19 that the decision will change before it is finalized. And
20 then we will have to evaluate what the impact of whatever
21 the final decision is of the project on how we are moving
22 forward. But at this time, again as I said, we are hopeful
23 that it is going to change. It is a separate proceeding so
24 we don't think at this point it impacts what is happening
25 here. That's our perspective.

1 ASSOCIATE MEMBER McALLISTER: So just to follow
2 up on that. So it's a proposed decision. Obviously it's
3 not truly relevant for this yet until it becomes a final
4 decision. And even then the proposed decision, you know, we
5 -- I think all of you have read it -- see that it leaves
6 some relatively point out as far as it doesn't consider
7 renewables integration and the SONGS outage and things like
8 that. So I guess I would ask where do you think those
9 questions -- so what processes over at the Commission are
10 you also looking at on those issues to fill in, to fill in
11 those gaps that are left out in the LTPP proceeding?

12 MS. FOLEY GANNON: Right. In the -- as I'm sure
13 you know they have several different proceedings going on in
14 their long-term procurement planning now. They say in the
15 proposed decision that the integration of renewables and
16 intermittency issues will be addressed in that long-term
17 procurement process.

18 As far as we aware at this time, I think it's in
19 Phase 2 that that is supposed to be addressed and there is
20 not a set schedule for when that will be heard so we are
21 obviously monitoring that. We are hopeful that this
22 decision may be revised to revisit some of that information
23 in this decision because we think it would be appropriate
24 for that to be considered. Again, we'll have to wait and
25 see what the CPUC does later this month or going forward.

1 But we will be -- we are monitoring all of the
2 long-term procurement planning as well and we think that
3 that -- there may be -- the first phase is really not
4 speaking to SDG&E but Phase 2 and 3 will be, and so we will
5 be monitoring those as well.

6 ASSOCIATE MEMBER McALLISTER: Thank you.

7 HEARING OFFICER RENAUD: Okay, thank you. Let me
8 check once again to see if any of the parties wish to
9 address the Committee?

10 (No response.)

11 HEARING OFFICER RENAUD: Okay. Shortly we'll be
12 going to public comment.

13 But before that let me just talk a little bit
14 about the next steps. You can assume that some time in the
15 next several weeks the Committee will issue a revised
16 scheduling order. And it will very likely resemble, if not
17 be exactly a copy of, the one produced by staff.

18 The staff proposed schedule calls for the Final
19 Staff Assessment to be filed on March 22nd, 2013. In the
20 normal course of events that would lead us to hold
21 evidentiary hearings anywhere from four to six weeks after
22 that so we'd be looking at April or May.

23 Intervenors in particular, and really those of you
24 who are not represented by counsel, you might want to start
25 thinking about your evidentiary presentations as early as

1 now. As a party you would have the opportunity to call
2 witnesses on your own behalf, on behalf of the entity that
3 you represent, to cross-examine the witnesses called by
4 other parties and to introduce documentary evidence.

5 Sometimes an intervenor will simply come in to the
6 evidentiary hearing with a cartload of papers and say, here,
7 this is the encyclopedia. There's probably stuff in there
8 that's relevant to this case, Committee, that's my evidence.

9 I can tell you right now that's not very
10 effective. What is very effective for the Committee is if
11 you can show us where in the encyclopedia is the material
12 that you feel is relevant and also tell the Committee why
13 you think it's relevant. And either do that yourself or do
14 that through a witness that you call. Your presentation
15 will be far more effective if you use a few key documents
16 rather than bringing in wheelbarrows full of paper.

17 I can also again recommend to you our Public
18 Adviser, Jennifer Jennings. She is a California-licensed
19 attorney. She can assist you intervenors in preparing your
20 presentations and help you make them as effective as
21 possible.

22 So we would appreciate that. All the parties
23 would appreciate that. Our time will be precious during
24 those hearings and it would be best if we can make the most
25 efficient use of that time. You'll be hearing these

1 admonitions again, including in writing later on but I
2 thought I'd give you a little bit of a heads-up as to what
3 to be thinking about in planning for your presentations.

4 All right. It sounds like all the parties have
5 said what they need to say or want to say so at this point I
6 would ask for public comment. Is there anyone here in the
7 room in Sacramento who wishes to make a public comment?

8 (No response.)

9 HEARING OFFICER RENAUD: Seeing none let me ask if
10 there is anyone who is participating by phone or computer
11 who would wish to make a public comment. Please go ahead.

12 MR. SALLIS: This is Gary Sallis, Local 230
13 Plumbers and Pipefitters.

14 HEARING OFFICER RENAUD: Good morning.

15 MR. SALLIS: Good morning. Local 230 has a
16 membership of over 1700 members and we support the Quail
17 Brush plant in total. With SONGS losing over 2200 megawatts
18 during this last year and no one knows where that is still
19 going to go, the possibility of Carlsbad coming down here by
20 2017, we're going to lose South Bay power plant in the next
21 couple of years, they're supposed to start demo this 2013.

22 Reliable energy is very, very important to San
23 Diego. If it wasn't for the Sunrise Power Link this last
24 year we would have been in major trouble. And we had a very
25 mild summer, considering, you know. We could end up with a

1 Texas summer with 90 days over 100 degrees and the San Diego
2 County area is going to be in a major problem.

3 So Local 230 and its 1700 members support this
4 project totally. I am also a resident of Santee, which we
5 have 75 members that live in Santee, and they are in total
6 support of this. This power plant needs to come forward and
7 be built, thank you.

8 HEARING OFFICER RENAUD: Okay, thank you for your
9 comment. Does anyone else wish to make a public comment?

10 MR. CARROLL: Yes. My name is Kevin Carroll, I'm
11 Executive Vice President of CONNECT. We're a membership
12 organization comprised of innovation companies, over 180
13 members supporting an innovation economy.

14 And we are really concerned about the reliability
15 issue. I think this summer we really dodged a bullet. And
16 considering what happened with San Onofre, reliability is
17 really an issue, especially with the innovation economy,
18 with the life science companies. We are starting to see
19 manufacturing come back to San Diego. As that comes back
20 the reliability is really going to be a critical issue. So
21 we would, we would advocate that this project is very much
22 needed and the innovation economy is very much dependant on
23 it.

24 HEARING OFFICER RENAUD: Okay, thank you for your
25 comment. Any other public comment?

1 MS. MA: Yes, Pauline Ma with CleanTECH San Diego.
2 CleanTECH San Diego, we are a private nonprofit and are an
3 organization dedicated to positioning the region as a global
4 leader in a clean energy economy.

5 And like Mr. Carroll said, we are concerned about
6 the reliability of the grid. And Quail Brush will help
7 stabilize the grid when intermittent available resources
8 suddenly stop producing energy.

9 The facility will have quick start capability and
10 be able to ramp up within ten minutes when the wind stops
11 blowing and the sun stops shining.

12 With highly efficient technology it will be the
13 first of its kind in San Diego and will help support the
14 increased use of clean power.

15 And SDG&E currently provides about 20 percent of
16 its power from renewable sources and is on track to deliver
17 36 percent by 2020, but wind and solar require a significant
18 increase in renewable energy by 2015.

19 We generally support the use of wind and solar
20 power but these resources generate electricity
21 intermittently. In fact, the capacity factors for wind and
22 solar range from approximately 22.5 percent to 36 percent.
23 So that's why we need reliable generation to help fill the
24 gaps and keep the lights on when renewable energy is not
25 available.

1 And although some people claim our rooftop solar
2 can supply enough energy to make up for this deficit, solar
3 rooftop cannot ensure reliability without backup from
4 facilities like Quail Brush.

5 In the summertime SDG&E's peak demand currently
6 occurs between 4:00 and 8:00 p.m. but rooftop solar
7 production peaks between noon and 1:00 p.m. So that means
8 solar is not always available when peak demand occurs.

9 Therefore, CleanTECH San Diego is in support of
10 the Quail Brush project.

11 HEARING OFFICER RENAUD: Thank you for your
12 comment, appreciate that. Any other comment?

13 (No response.)

14 HEARING OFFICER RENAUD: All right, hearing
15 none --

16 MR. COUPENS: Yes, hello.

17 HEARING OFFICER RENAUD: Oh, go ahead.

18 MR. COUPENS: Yes, hi, my name is Brit Coupens,
19 I'm a resident of San Diego. And I've had the opportunity
20 to work on some developing in the county and I realize the
21 difficulty in finding good places. I think just the
22 infrastructure that's in place there allows them for this
23 project to be a feasible and viable alternative to provide
24 reliable energy for the county. The other people have made
25 some pretty good claims.

1 I would just give a real world example. You know,
2 it cost hundreds of millions of dollars to argue the
3 necessity of the Sunrise Power Link and yet I think it's
4 already demonstrating that it, in fact, was needed.

5 After the power outage last summer here I had the
6 opportunity just to walk into Costco in my neighborhood and
7 I was appalled to find that the refrigeration area was
8 completely empty and I was asking why. And the gentleman
9 told me that they had to basically dispose of everything and
10 that that particular store lost over a million dollars in
11 products just from that one outage. And that's just one
12 store. Many businesses were impacted by that, whether they
13 had perishable items or not. You know, they frequently had
14 to send employees home and everything.

15 So I guess my point is that I think the costs of
16 unreliability exceed the cost of building projects like
17 Quail Brush and I'm very much in support, thank you.

18 HEARING OFFICER RENAUD: Thank you. And we didn't
19 hear clearly the organization you were speaking for, would
20 you repeat that again, please.

21 MR. COUPENS: I'm just a citizen of San Diego and
22 I have had the opportunity to hear of this project, a little
23 bit about it, and I'm just in support of it.

24 HEARING OFFICER RENAUD: Thank you, appreciate it,
25 thanks very much.

1 MR. SOLORIO: Could we have that gentleman state
2 his last name, I didn't get it.

3 THE REPORTER: Yes, spell it, please.

4 HEARING OFFICER RENAUD: Give us your name again,
5 please.

6 MR. COUPENS: Certainly. The first name is Brit,
7 B-R-I-T, the last name Coupens, C-O-U-P-E-N-S.

8 HEARING OFFICER RENAUD: Got it, thanks very much.

9 MR. COUPENS: You bet.

10 HEARING OFFICER RENAUD: Okay. Anyone else wish
11 to make a public comment?

12 MR. ALEVY: Yes, if I could. My name is Scott
13 Alevy, I'm President and CEO of the San Diego East County
14 Chamber of Commerce.

15 We know there's a lot of people who do support
16 this project, and that includes this particular chamber has
17 taken an official position. We represent about 800 member
18 businesses, which is about 20,000 employees. We are the
19 largest business organization east of the city of San Diego.

20 We need power to live, to work, to run our
21 businesses, to serve our customers and so new generation is
22 needed now. We need sustainability. I mean, like any major
23 infrastructure project, this should be about the greater
24 good, not NIMBY opposition.

25 I mean, anybody who is in New York has the ability

1 to take the subway or the metro in DC or freeways here in
2 Southern California. It's inconvenient but it's a
3 necessity. They need to keep energy affordable for
4 businesses to even exist in a challenging economy.

5 I guess the question is, how do we as a state live
6 up to mandated sustainability levels with roadblocks being
7 thrown at so many levels? There needs to be a balance
8 between the environment and lifestyle, the politics, the
9 wildlife and business, people struggling to make a living.

10 So we urge you as a business organization with a
11 whole lot of employees and a whole lot of companies. We
12 urge you to think about small businesses and ensure that we
13 have reliable energy so we can stay in business. Thanks.

14 HEARING OFFICER RENAUD: Thank you. Does anyone
15 else wish to make a public comment?

16 (No response.)

17 HEARING OFFICER RENAUD: If you wish to make a
18 public comment this is the time to speak up.

19 (No response.)

20 HEARING OFFICER RENAUD: All right, it sounds like
21 we may be done with public comment then.

22 Let me turn to the Commissioners to see if you
23 have any closing remarks before we adjourn. Commissioner
24 Mcallister?

25 ASSOCIATE MEMBER McALLISTER: (Nodded).

1 HEARING OFFICER RENAUD: Okay. As I said earlier,
2 the Committee will issue a revised schedule shortly and this
3 status conference is adjourned. Thank you.

4 MS. FOLEY GANNON: Thank you.

5 MR. SOLORIO: Thank you.

6 (The Status Conference adjourned at 11:03 a.m.)

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CERTIFICATE OF REPORTER

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

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of December, 2012.

JOHN COTA

CERTIFICATE OF TRANSCRIBER

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

RAMONA COTA, CERT**478

December 17, 2012