

PREHEARING CONFERENCE AND EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No. 09-AFC-10
for the RICE SOLAR ENERGY)
POWER PLANT PROJECT)
)
-----)

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

FRIDAY, OCTOBER 29, 2010
9:02 A.M.

Reported by:
Peter Petty

Transcribed by:
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1 APPEARANCES

2 HEARING OFFICER

3 Kourtney Vaccaro

4
5 COMMITTEE MEMBERS

6 Robert B. Weisenmiller, Presiding Member

7 Karen Douglas, Chair and Associate Member

8 Eileen Allen, Commissioner Weisenmiller's Advisor

9 Galen Lemei, Commissioner Douglas's Advisor

10
11 STAFF

12 Deborah Dyer, Staff Counsel

13 John Kessler, Project Manager

14 Jennifer Jennings, Public Advisor

15
16 APPLICANT

17 Scott Galati, Esq., Galati Blek, LLP

18 Robert Gladden, Esq., Galati Blek, LLP

19 Jeffrey Benoit, Solar Reserve

20 Andrea Grenier, Grenier & Associates, Inc.

21 Douglas M. Davy, CH2MHill

APPEARANCES (Continued)

ALSO PRESENT

Bill Werner, Western Area Power Administration

Jim Shipley, Blythe Area Chamber of Commerce

John Benoit, Riverside County Board of Supervisors and
South Coast Air Quality Management District

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P R O C E E D I N G S

1
2 PRESIDING MEMBER WEISENMILLER: Welcome to the
3 Rice evidentiary hearing. I'm Commission Weisenmiller.
4 To my left is my advisor, Eileen Allen. To my right is
5 the hearing officer, Kourtney Vaccaro. And the chair,
6 Karen Douglas, and her advisor, Galen, will be here
7 shortly.

8 Do you want to go around and introduce the
9 parties?

10 HEARING OFFICER VACCARO: Sure. We'll go ahead
11 and do introductions now of, I think, the applicant's
12 representatives, staff's representatives; but before I do
13 that, I'm going to take this a little bit out of turn and
14 bring everybody's attention to the public advisor for the
15 Energy Commission, which is Jennifer Jennings. She's
16 holding her hand up.

17 I see a pretty full house in here, and it appears
18 that most of you are affiliated with one of the parties;
19 but if anyone is a member of the public who wishes to make
20 a public comment during today's proceeding, you're
21 certainly welcome to do so. We have a procedure where we
22 ask that you fill out a blue card.

23 If you have any questions, need any information
24 on how to do that, please see Jennifer Jennings, and she
25 will assist you and give you further information about the

1 public comment period. That is going to happen at the end
2 of today's proceeding with one possible exception, which
3 I'll discuss once we get moving today. But as long as
4 everybody's aware, that's the public advisor in the back.

5 And those of you on the telephone who might wish
6 to make a public comment, while you won't be speaking to
7 Ms. Jennings or filling out a blue card, we'll get all of
8 your pertinent information at the end of the proceeding,
9 and you, just like everybody else, can make a comment with
10 respect to the project and today's proceeding.

11 So I think we'll go ahead and get introductions
12 from the applicant.

13 MR. GALATI: Scott Galati, representing Rice
14 Solar Energy, a wholly-owned subsidiary of Solar Reserve.

15 HEARING OFFICER VACCARO: I'm sorry, Mr. Galati,
16 while you were speaking, and I did understand that you
17 introduced yourself, and I apologize that we were talking
18 over you.

19 I was just advised that yesterday there were some
20 technical difficulties in this room during the
21 proceedings, and we may well have that problem today with
22 our microphones; we'll find out. So I think what I ask
23 everyone to do is why don't you go ahead and turn off your
24 microphone when you're done speaking.

25 Usually we can have about four on at a time in

1 here, but I don't want people to not be heard, I don't
2 want to have to ask you to repeat yourself, and I
3 certainly don't want to talk over you like I just did.

4 So if you wouldn't mind, please, go ahead and
5 introducing the rest of the applicant's representatives.

6 MR. GALATI: Thank you.

7 Scott Galati, representing Rice Solar Energy,
8 which is a wholly-owned subsidiary of Solar Reserve.

9 MR. BENOIT: Good morning. I'm Jeff Benoit, I'm
10 the project director for the Rice Solar Energy Project.

11 MS. GRENIER: Andrea Grenier, permitting
12 consultant to Solar Reserve.

13 MR. DAVY: I'm Doug Davy, I'm the AFC project
14 matter and a consultant to Solar Reserve.

15 MR. GLADDEN: Bob Gladden, with Galati Blek, also
16 representing Solar Reserve.

17 MR. GALATI: We have several other members of the
18 Solar Reserve management team and support team in the
19 audience. I'm not going to introduce them now unless the
20 Committee would like me to. During testimony, various
21 members will be sworn in as testimony.

22 HEARING OFFICER VACCARO: Okay. I think we'll go
23 with the latter suggestion, which is as they come up for
24 testimony, you can do the introductions at that time.

25 Staff?

1 MS. DYER: Good morning. I'm Deborah Dyer, staff
2 counsel for the Energy Commission.

3 MR. KESSLER: Good morning. I'm Jeff Kessler,
4 project manager from staff.

5 HEARING OFFICER VACCARO: Okay. And I understand
6 that you two have some individuals who are going to be
7 giving testimony today, but we'll wait and get their
8 introductions later.

9 MS. DYER: Yes.

10 HEARING OFFICER VACCARO: Okay. I think we are
11 all pretty clear though what we have here today are only
12 two parties, we do not have any intervenors in this
13 proceeding. We've got the applicant, we have staff. But
14 we do have some federal agencies who also have an interest
15 in this project.

16 And I understand we have Ms. Reilly on behalf of
17 Western. Do we have anyone on behalf of the Bureau of
18 Land Management either present or on the telephone?

19 It does not sound like it.

20 Mr. Kessler, you wanted to say something?

21 MR. KESSLER: I just wanted to mention that also
22 representing Western here in person is Bill Werner this
23 morning.

24 HEARING OFFICER VACCARO: Thank you. Welcome.
25 Would you please spell your last name.

1 MR. WERNER: W-e-r-n-e-r.

2 HEARING OFFICER VACCARO: Great, thank you.

3 I think we've completed the introductions, but I
4 do want to be clear if there are any other individuals who
5 joined us on the phone, if you represent a public entity
6 of any sort, if you would please let us know that you are
7 on the line, other than those who have already identified
8 themselves.

9 Anyone else?

10 MR. BENOIT: Madam coordinator, John Benoit.

11 HEARING OFFICER VACCARO: Okay.

12 MR. SHIPLEY: Madam coordinator, this is
13 Jim Shipley in Blythe. I'm with the Blythe Area Chamber
14 of Commerce.

15 HEARING OFFICER VACCARO: Thank you.

16 MR. BENOIT: And, madam coordinator, this is
17 John Benoit again. I'm sorry, but I wanted to point out
18 that I am also a member of the Riverside County board of
19 supervisors and the South Coast Air Quality Management
20 District, which the South Coast board is meeting at 9:30
21 on an emergency session, and I will have to leave at that
22 point. If there's any possibility I could make my
23 presentation before then.

24 HEARING OFFICER VACCARO: Okay. And thank you
25 for letting us know that. And you are the one exception

1 that I was referring to a few moments ago when I stated
2 that we would go ahead and take some public comment early
3 on. So I just need to get through a few housekeeping
4 issues, we'll go ahead and hear from you, and then I might
5 have to finish up with my housekeeping issues. So if you
6 could just be patient for a few moments longer.

7 MR. BENOIT: Certainly.

8 HEARING OFFICER VACCARO: So for some of you this
9 procedure, I think, is a little old hat; you know what we
10 do and why we do it. There are those of you who aren't
11 clear on what today's proceedings are intended to
12 accomplish.

13 This is a formal process. It's the prehearing
14 conference and evidentiary hearing. The purpose of
15 today's proceedings are to take in all of the evidence
16 into the record that's going to be the basis of the
17 Presiding Member's Proposed Decision. That decision can
18 only be based on the evidence in the record. So today
19 we'll be taking in all of the documentary evidence as well
20 as oral evidence.

21 So this is a very formal procedure; although it
22 seems like it might be a little bit informal, it's very
23 important for the Presiding Member's Proposed Decision.
24 That decision is something that's issued by the two
25 members of the Committee that later gets presented to the

1 full Commission for hearing and for possible adoption.

2 So we're moving very swiftly in this case. We're
3 looking to get that before the Commission in its
4 December -- on a December business meeting, which means we
5 really need to be efficient today, we need to be thorough.

6 And with that, that means that for all of this
7 written testimony that's already been submitted, you can
8 assume that the Committee is well aware of what you've
9 already stated. We don't need you to restate what you've
10 already told us. We need to understand what the issues
11 are, and we need you to ensure that your direct testimony,
12 your cross, and your rebuttal are focused on those issues.

13 We have a full day; and I think what we're going
14 to do is you're not going to hear is lot from us, we're
15 going to hear mostly from you. But I want to make sure
16 that we're very clear; we don't need to be redundant and
17 we don't need to repeat what's already been said.

18 I think with that I'm going to go ahead and take
19 the public comment, because we do need to talk about the
20 exhibit list and the topic witness list. Those have been
21 distributed to the parties. You've seen them in advance
22 of today's proceeding, you also have a copy before you. I
23 have not made any changes since I've heard from the
24 parties, so they are exactly what you've seen. I have a
25 few additional copies if anyone else might want to look at

1 that as a guide when we get to those topics.

2 But what we're going to do is something a little
3 different today, and in this one instance, because we do
4 have an elected official on the line who is pressed for
5 time, we're going to take public comment.

6 And it's my understanding, and, Mr. Galati,
7 correct me if I'm wrong, that this public comment is
8 really intended to go to the overrides issue that's been
9 presented in this matter; is that correct?

10 MR. GALATI: That is correct.

11 HEARING OFFICER VACCARO: Okay. And we will be
12 hearing the overrides topic early this morning. I didn't
13 hear Mr. O'Brien on the telephone, but I suspect that he
14 will be available by phone when we're ready to hear from
15 him.

16 MR. KESSLER: Hearing Officer Vaccaro, if we have
17 any idea what time we would like Mr. O'Brien to call in, I
18 could convey that to him.

19 HEARING OFFICER VACCARO: Well, I can't give you
20 that with precision, but I believe I did indicate that
21 would be one of the first orders of business today; so
22 once we get there, if you need to call him and get him on
23 the phone line, you can certainly do that.

24 I think with that, why don't we go ahead and hear
25 from our one public commenter at this point, the county

1 supervisor, and hear what you have to say.

2 (Chair Douglas joins the hearing.)

3 MR. BENOIT: Thank you very much. And I
4 appreciate the consideration to allow me to speak now.

5 I am John Benoit, Riverside County Supervisor. I
6 represent the Fourth District, which is roughly 4800
7 square miles from Palm Springs to Blythe and includes the
8 site of this proposed project.

9 You should have at the meeting a letter I drafted
10 and forwarded in support of the project yesterday and
11 another from our board chairman, Marion Ashley, who is
12 also very supportive and understands that I will speak for
13 both of us today as I make these comments.

14 Here in Riverside County we're working very hard
15 to help be a partner in the governor and the state's goal
16 of reaching a 33 percent renewable energy status. And to
17 that end, I have studied and carefully considered the Rice
18 Solar Project. And while all projects will have impacts,
19 I believe the project before you today, that the level of
20 impact from this project is acceptable.

21 I recently was made aware of concerns read into
22 the record and forwarded by Mr. Terry O'Brien, deputy
23 director of the siting transmission and environmental
24 protection division. I appreciate the fact that he agreed
25 to and did meet with me earlier this week, and we had a

1 chance to talk face to face about his concerns. And
2 frankly, I agree with most of his concerns.

3 Mr. O'Brien has three primary concerns. One is
4 the visual impact. This isn't a unique style of plant.
5 It's not dissimilar from the one that was passed and
6 ground broken yesterday near -- on the road to Las Vegas.
7 That plant will have three large towers; this one will
8 have one.

9 But I think when we consider the visual impact,
10 which is one of Mr. O'Brien's stated concerns, it is
11 important to note that the location of this particular
12 device is in -- plant is extremely remote in eastern
13 Riverside County. That presents some challenges in
14 transmission, but it also means that less than 2,000
15 vehicles a day will travel within about a mile and a half
16 of this, as compared to the nearly 40,000 that will be
17 traveling by the project that was -- ground was broken
18 yesterday and will be much more visible to those 40,000
19 than this one is because of the type of terrain involved.

20 There's certainly an impact of any of these
21 facilities. When you build them, people will see them, as
22 they see all our windmills and other facilities. It is
23 unfortunately a necessary part of our effort to become
24 energy independent and reach our 30 percent goal.

25 While Mr. O'Brien considers the location to be a

1 concern because it is remote, once again, that is part of
2 what has been advised by the Desert Renewable Conservation
3 Plan, which repeatedly emphasizes the need, to the degree
4 possible, to site all renewable energy developments on
5 previously-disturbed land. This project meets that
6 criteria, primarily seated on the Rice Army Airfield from
7 World War II.

8 The transmission challenges are there because we
9 are trying to locate in this a facility -- in a
10 location -- or this facility has been located in a
11 location that is somewhat remote to avoid worse impacts
12 that might result from this type of building in a closer
13 environment.

14 With all this background, and I know that you've
15 already read and heard a lot more, I would simply like to
16 represent that myself and the chairman of the board in
17 Riverside County strongly believes in this project, we
18 would urge an override of these concerns; legitimate as
19 they are, they apply to all solar projects, including this
20 one.

21 I would invite the board as a whole or individual
22 members to please come down and take a tour and join us
23 and we in Riverside County would love to have the
24 opportunity to personally show you the opportunities and
25 the value that we think we can bring to the solar and

1 renewable energy world. I would invite the members to do
2 that in January through March, not August, if at all
3 possible.

4 But with that, I would conclude my remarks and
5 urge that the project be approved.

6 ASSOCIATE MEMBER DOUGLAS: Thank you,
7 Supervisor Benoit. This is Karen Douglas, the Chair of
8 the Energy Commission.

9 MR. BENOIT: Karen, hello. Thank you.

10 ASSOCIATE MEMBER DOUGLAS: Hi, how are you?

11 MR. BENOIT: Good.

12 ASSOCIATE MEMBER DOUGLAS: I wanted to say it's
13 always helpful for us to hear from the county and
14 particularly from the supervisors. I really appreciate
15 you calling in and sharing your perspective and the
16 county's perspective; and we would, I think, most
17 certainly be interested in taking you up on your offer to
18 meet with you and talk more about how Riverside County
19 sees its future in solar development and what your
20 priorities are.

21 MR. BENOIT: Let's do it soon and not in August.

22 ASSOCIATE MEMBER DOUGLAS: Absolutely not August.
23 Thank you.

24 MR. BENOIT: Okay, Karen, thanks. And thank you
25 for allowing me to go in order so I could make my AQMD

1 meeting.

2 ASSOCIATE MEMBER DOUGLAS: Absolutely.

3 HEARING OFFICER VACCARO: Okay. We will go
4 ahead, and we will be hearing more on the overrides issue,
5 not as public comment; we will have sworn testimony from
6 Terry O'Brien in -- probably within a half an hour, but we
7 need to get through, as I said, some of the important
8 housekeeping, because again, it's very important that
9 everything that we intend to have in the record is
10 actually in the record.

11 So with that, I'm going to summarize the
12 Committee's understanding of where we are based on the
13 prehearing conference in opening testimony that was
14 submitted by the parties. So please correct me where I'm
15 wrong because, again, it's important that I get this
16 right.

17 So it's my understanding that all technical areas
18 are ready for hearing today; that there are a number of
19 areas that are not in dispute. And what we'll be doing is
20 taking all of the testimony in on the documents.

21 I'm going to go ahead and identify what those
22 topical areas are, and after I do that, let me know if
23 I've missed anything.

24 I have project alternatives, air quality,
25 facility design, geology and paleontology, hazardous

1 materials management, noise and vibration, power plant
2 efficiency, power plant reliability, public health and
3 safety, socioeconomics, soil and water resources, traffic
4 and transportation, transmission line safety and nuisance,
5 transmission system engineering, waste management, the
6 general conditions, as well as biological resources.

7 Does that sound about right?

8 And I also have identified -- some of those we
9 are going to hear testimony, but not because there's
10 something that's in dispute, but just that oral testimony
11 will be given.

12 Are those the areas on which the intention before
13 hearing a few different things from the Committee that you
14 are intending to submit and rely on the papers?

15 MR. GALATI: I believe so. Since there's so
16 many, it's easier for me to keep track of the ones that
17 we're not going to; but I think that you got all the ones
18 that we're -- that clearly are submitted on the pleadings.

19 HEARING OFFICER VACCARO: Okay. Let me state
20 this otherwise, staff, before you respond, Ms. Dyer.

21 How about this: Biological resources, cultural
22 resources, land use, visual resources, and worker safety
23 and fire protection require both the submission of
24 evidentiary written evidence as well as oral testimony
25 today; is that correct?

1 MS. DYER: Biology is submitted on the documents
2 that staff submitted in their rebuttal testimony and
3 declaration.

4 HEARING OFFICER VACCARO: Okay.

5 MS. DYER: And I believe that that suffices.

6 HEARING OFFICER VACCARO: So just four issues,
7 then.

8 MR. GALATI: Yes, that's correct. And what we
9 wanted to say, and we can say it now or when we get to
10 biology, is the applicant agrees with the conditions as
11 identified in the rebuttal testimony filed by staff.
12 There's no formal document in the record yet with that, so
13 you can use the following, the last statement as an offer
14 of proof of the applicant that we agree with those.

15 HEARING OFFICER VACCARO: Okay. And that's your
16 understanding as well, Ms. Dyer?

17 MS. DYER: Yes.

18 HEARING OFFICER VACCARO: Okay. So I think we're
19 pretty clear then on what we're going to focus on today.
20 There are a few caveats. We are going to hear from
21 someone sponsoring the FDOC today on air quality; is that
22 correct? So we will have some oral testimony, not that
23 there's a dispute, it's just a matter of clarification and
24 ensuring that that document is properly sponsored and
25 brought into the record.

1 MS. DYER: Yes.

2 MR. GALATI: Ms. Vaccaro, I have one other --
3 project description was submitted on the pleadings, but
4 since project description has the information necessary
5 for our evidence of supporting an override, if the
6 Committee has any questions about any of the items listed
7 in project description, I have the witness.

8 HEARING OFFICER VACCARO: Okay. Thank you.

9 You also have before you the exhibit list. And
10 that exhibit list should identify every written document
11 that both parties intend to have brought into the record
12 in this proceeding. You've had an opportunity to look at
13 it before today. I've talked with both of you briefly
14 about this to ensure that it was complete.

15 Since we've discussed this, and since you've
16 looked at this, are there any other changes that we need
17 to make today to this document?

18 MR. GALATI: I have several letters that have
19 been received over the last day or two that did not make
20 it onto the exhibit list. And the Committee could accept
21 those as public comment, or the Committee could have me
22 identify them as exhibits and list them as exhibits. I'd
23 prefer to identify them as exhibits. And I have copies
24 for everyone here for them. And if the Committee would
25 like that, I can identify them now, provide numbers for

1 them, and then my office can make a change to the exhibit
2 list and e-mail it over during the proceedings.

3 HEARING OFFICER VACCARO: I think, you know, my
4 first question is always has Ms. Dyer had the opportunity
5 to see these letters, does she know what they are, because
6 before they're brought in at this late time as an exhibit,
7 there is somewhat of the element of surprise that we like
8 to avoid.

9 So have you seen these documents at all? Do you
10 know what they are?

11 MS. DYER: These were not documents that were
12 submitted as part of applicant's rebuttal testimony?

13 MR. GALATI: No, they're not. These are letters
14 of support from the supervisors and a Blythe City
15 Resolution, all of which were sent directly to the
16 Commission except one; so in going directly to the
17 Commission and the Committee, I don't know if the
18 Committee or Commission has docketed them yet. We're
19 docketing them today. And so I have copies, and I can
20 provide them to you, and you can determine whether they
21 should be exhibits.

22 HEARING OFFICER VACCARO: Okay. So what I
23 propose, why don't you at some point, probably at the
24 lunchtime, if you can ensure that Ms. Dyer's had the
25 opportunity to take a look, we'll revisit how these are

1 going to come in, whether they'll come into the record as
2 an exhibit or public comment later.

3 MR. GALATI: That's the only modification to the
4 exhibit list other than I wanted to clarify that we have
5 two fire needs assessments identified as exhibits. And I
6 wanted to at least take the opportunity to explain to the
7 Committee why that is and which one you should be looking
8 at, although you can read both if you like.

9 The Fire Needs Assessment, Exhibit 50, is the
10 revised Fire Needs Assessment that we would like the
11 Committee to use as its document when referring to the
12 Fire Needs Assessment. Exhibit 43 was the original needs
13 assessment. That was prepared, and then we had a workshop
14 that was productive, and some issues came out of that
15 workshop that were pointed out were not addressed in the
16 needs assessment, which were then addressed in the revised
17 Fire Needs Assessment.

18 So the real difference in the revised Fire Needs
19 Assessment other than some typos and things that were
20 cleaned up, is the addition of some information to address
21 issues that came out of that workshop, if that provides
22 that clarification.

23 HEARING OFFICER VACCARO: Okay. So the bottom
24 line is you want them both entered into the record, but
25 the operative and controlling document is Exhibit 50, the

1 revised Fire Needs Assessment.

2 MR. GALATI: That's correct. And our testimony,
3 which was prepared on worker safety, refers to the revised
4 Fire Needs Assessment.

5 HEARING OFFICER VACCARO: Okay. Thank you.

6 Ms. Dyer, I think you'll notice that I
7 highlighted in yellow a document related to Exhibit 203,
8 which was submitted by staff, and I just want to make sure
9 so that the record is clear that what Exhibit 203 did was
10 submit a complete cultural resources section. And that
11 section is intended to supercede what was initially
12 presented in Exhibit 200; is that correct, specifically on
13 the topic of cultural resources?

14 MS. DYER: And that's correct. We did not want
15 to submit changes and pull those changes out of the
16 section because they were throughout the section; so we
17 thought it would be cleaner just to submit a whole new
18 section. So it does supersede that that was published in
19 the staff assessment and Draft EIS.

20 HEARING OFFICER VACCARO: Okay. And that's the
21 controlling document when we are preparing the PMPD
22 section relating to cultural resources.

23 MS. DYER: At this point, yes. Staff and
24 applicant may have some additional information that they
25 wish to submit after we discuss cultural resources.

1 HEARING OFFICER VACCARO: Okay.

2 MS. DYER: We'll go from there.

3 HEARING OFFICER VACCARO: Okay. So I take it
4 both parties have had an opportunity to see all of the
5 documents that are identified on the exhibit list?

6 MS. DYER: Yes.

7 HEARING OFFICER VACCARO: Applicant?

8 MR. GALATI: Yes.

9 HEARING OFFICER VACCARO: Staff?

10 MS. DYER: Yes.

11 HEARING OFFICER VACCARO: Do you have any
12 objections to any of the documents that are identified on
13 the exhibit list?

14 Applicant?

15 MR. GALATI: No, they may all be received into
16 evidence.

17 HEARING OFFICER VACCARO: Staff, do you have any
18 problem or any objection with any of these documents?

19 MS. DYER: No, we have no objections.

20 HEARING OFFICER VACCARO: Okay. Then what I
21 would propose, even though we're going to be hearing oral
22 testimony in just a short while that's going to supplement
23 some of this information and might, in fact, tease out
24 where some of the information might need to be adjusted at
25 least in the mind of the Committee as it's looking at the

1 evidence, I would propose that applicant make a motion at
2 this point to bring in all of your evidence that's
3 identified on the exhibit list.

4 MR. GALATI: We'd ask the Committee to submit
5 into the evidentiary record Applicant's Exhibits 1 through
6 52.

7 HEARING OFFICER VACCARO: And again, as we
8 mentioned, we will return to the issue of what to do with
9 these additional letters.

10 Staff, do you have any objection to that?

11 MS. DYER: No objections.

12 HEARING OFFICER VACCARO: Okay. They're deemed
13 admitted.

14 (Applicant's Exhibits 1 through 52 were admitted
15 into evidence.)

16 HEARING OFFICER VACCARO: Staff, we'd entertain a
17 similar motion. And if you're going to do it by number,
18 please follow the numbers on the exhibit list.

19 MS. DYER: Absolutely.

20 Staff would like to move Exhibits 200 through 209
21 into evidence.

22 HEARING OFFICER VACCARO: Any objection,
23 applicant?

24 MR. GALATI: No objection.

25 HEARING OFFICER VACCARO: Okay. Then at this

1 point everything before us is deemed admitted into the
2 record.

3 (Staff's Exhibits 200 through 209 were admitted
4 into evidence.)

5 HEARING OFFICER VACCARO: Okay. Before we move
6 forward and really start the heart of this, which are the
7 oral testimony, we have an issue that relates to timing.
8 And I gave Ms. Dyer a heads-up just before the proceeding
9 so she might get her calendar and actually confer with
10 Mr. Kessler as well. And it has to do with the 30-day
11 comment period that runs with the staff assessment and
12 looking at all of the dates that we're trying to meet by
13 the end of the year. It's very important that we
14 understand when that comment period ends.

15 And this goes directly to the issue of testimony
16 in the record, because as you know, staff has an
17 obligation to respond to those comments. And that's
18 usually done in the body of a supplemental or revised
19 staff assessment.

20 And what we need to work out today is when
21 exactly does that 30-day comment period run, and what was
22 staff's intent in ensuring that the Committee has before
23 it in preparing the PMPD any and all comments that staff
24 might have with respect to agency and public comments
25 received on any of the technical areas.

1 So I'll turn it over to you, Ms. Dyer, first; and
2 then, Mr. Galati, if there's something that you'd like to
3 say after that, we'll hear from you.

4 MS. DYER: Well, I believe that the staff
5 assessment was posted on the web site on October 11th;
6 and, Hearing Officer Vaccaro, you had mentioned that you
7 thought there might be a discrepancy as to that date. So
8 if there's a different date that we need to identify as
9 our starting date for the 30 days for the public comment,
10 then --

11 HEARING OFFICER VACCARO: Well, I think what I'm
12 asking you is you tell me. What's the date that's the
13 operative date based on your understanding of when it was
14 published and made available to the public, when do the
15 30 days start to run, when does the clock start, and when
16 does that clock end? And those are important dates for
17 the Committee in meeting its goals in getting the PMPD
18 published by a date certain.

19 MS. DYER: The staff assessment was published on
20 October 11th. And that would make 30 days run on
21 November 10th.

22 HEARING OFFICER VACCARO: So up through the close
23 of business on November 10th, the public has the ability
24 to make comments. And staff is going to be responding to
25 those comments as appropriate.

1 So I guess my question for you is how is it that
2 you will be submitting those comments into the record, or
3 what was your thought on that so that we have a complete
4 record and that gets woven into the PMPD?

5 MS. DYER: We would propose that the record
6 remain open to receive those comments, and the responses,
7 staff's responses to those comments up through --
8 November 10th is a Tuesday, I believe -- if we could leave
9 the record open until that following Friday to respond to
10 any comments that we receive.

11 And at this point we do not have any comments
12 that we need to address, but hopefully we will be able to
13 address them as they come in if they come in before the
14 end of the comment period, we will submit our responses to
15 you at that time, but would like some buffer at the end of
16 that comment period in which to formulate our responses.

17 HEARING OFFICER VACCARO: Okay. Did you have any
18 comment and response to that, Mr. Galati?

19 MR. GALATI: We don't have a problem with that,
20 but I did want to at least state for the record I'm trying
21 to find in the regulations where there's a requirement
22 that the staff assessment be circulated for 30 days. It
23 has been common that the staff assessment is circulated
24 for 30 days, and I didn't want -- there were some issues
25 that came in other cases that I wanted to make sure didn't

1 bleed over. I believe that there's been correlation
2 between the CEQA analysis under a traditional EIR process
3 and the Energy Commission process, and I wanted to make
4 sure that we understand that.

5 We believe that the Presiding Member's Proposed
6 Decision is also circulated for 30 days, and that the
7 Presiding Member's Proposed Decision -- and at the
8 business meeting, certainly the Commission has in past
9 practices, and I think should, respond to comments from
10 the public on the Presiding Member's Proposed Decision as
11 well.

12 So I didn't want -- if being able to go to
13 hearing in 14 days sort of precludes sometimes public
14 comment being entered into the record, so I don't have a
15 problem doing it, but I wouldn't want to set up a
16 precedent where if -- that it would be impossible in the
17 future to do hearings before the 30-day comment period
18 ran.

19 HEARING OFFICER VACCARO: Okay. Understood. I
20 think what the Committee was interested in was getting the
21 positions of the parties on that. I think that we're all
22 informed of now if there is an issue that does need to be
23 addressed in some fashion, the Committee will address it
24 and will advise you how it intends to proceed and what its
25 expectations are with respect to the responses to the

1 comment and bringing those into the PMPD.

2 MR. GALATI: And I do not want in any way to
3 signal to the Committee that I think we're going to get a
4 waive of public comments. The project has enjoyed broad
5 support, and we haven't had any intervention, and any of
6 the issues that were raised early have been addressed. So
7 it's just to not set a precedent.

8 HEARING OFFICER VACCARO: We hear you. I think
9 on that note, we are going to go ahead and finish up the
10 housekeeping. And this is a point where I'm not going to
11 talk, I think I'm going to listen, because it's my
12 understanding that there were some initial disputes, not
13 major disputes, over some language on some of the
14 conditions of certification; some of those issues have
15 been resolved, and that there is language that both
16 parties can agree to on a number of technical areas. I
17 think for the purposes of a clean record, if you could
18 identify for us where the agreement has been reached and
19 what issues remain outstanding for the Committee to
20 resolve in this proceeding.

21 So we'll go ahead. I think we'll start with the
22 applicant; and then, Ms. Dyer, if you can let us know
23 whether or not you concur and if you have a difference of
24 opinion.

25 MR. GALATI: If I may have just a moment to get a

1 hard copy of a document.

2 HEARING OFFICER VACCARO: Is this part of your
3 prehearing conference statement, Mr. Galati? I mean, do
4 you have a document you're going to look at? So could you
5 tell us what it is, because we've got a few up here that
6 the Committee might want to look at as you're looking at
7 yours.

8 MR. GALATI: You bet.

9 HEARING OFFICER VACCARO: Is it Table 1?

10 MR. GALATI: I will tell you as soon as I find
11 it.

12 HEARING OFFICER VACCARO: Okay.

13 MR. GALATI: I think for ease, I will use your
14 working topic and witness list.

15 The only thing that has been changed since the
16 filing of testimony has been that minor changes to
17 biological resources have occurred both in staff's --
18 yeah, in staff's rebuttal testimony, which addressed the
19 concerns and issues that we had. So Exhibit 209, which is
20 the rebuttal testimony of Scott White, those changes to
21 the conditions of certification in the revised staff
22 assessment are acceptable to the applicant. So the
23 changes proposed in our rebuttal -- our opening testimony,
24 many of them were incorporated. So for the Committee's
25 purpose, I think you should use the revised staff

1 assessment as modified by Exhibit 209.

2 HEARING OFFICER VACCARO: Ms. Dyer, do you agree
3 with that on the topic of biological resources?

4 MS. DYER: Yes.

5 HEARING OFFICER VACCARO: Okay. And my wish is
6 and hope is --

7 MS. DYER: Yes, I agree.

8 HEARING OFFICER VACCARO: And you will, one of
9 the two of you will be preparing a clean version,
10 non-marked-up version for the Committee to use to ensure
11 at that we properly incorporate the correct language into
12 the PMPD?

13 MS. DYER: Staff will.

14 HEARING OFFICER VACCARO: And then you'll make
15 sure the applicant's taken a look just to ensure that
16 there are no problems.

17 MS. DYER: Okay. Right.

18 MR. GALATI: I'll give an opportunity for staff
19 to let us do that if they want. If they're busy, we have
20 no problem putting that together, circulating to staff,
21 and doing it as a joint stipulation; but if you guys want
22 to do the work, that would be great.

23 HEARING OFFICER VACCARO: Well, I'll let you
24 decide that between the two of you.

25 Is that the only topic on which there has been

1 some agreement reached since the initial submission of
2 prehearing statements and opening testimony?

3 MR. GALATI: We had a productive workshop
4 yesterday on cultural resources. We received a
5 modification just before the hearing. I think we need a
6 few minutes to be able to caucus, but we might have
7 agreement on cultural resources, in which I could then
8 point to you which are the exhibits; but we need some time
9 for that. I don't know if the Committee would like us to
10 take that time now, or after we take all the evidence we
11 could take a break and then we could do that.

12 HEARING OFFICER VACCARO: I think their
13 preference is to keep moving, and I think there will be
14 time enough, whether it's at the lunch break or later in
15 the day, for you to maybe have that conversation, but
16 let's do that, I think, on your time instead of on hearing
17 time. Okay. So we'll revisit that issue later.

18 Those of you on the telephone, this is Hearing
19 Advisor Vaccaro, and I need to make a request that when
20 you're not speaking, if you would please put us on mute,
21 or put your phone to mute. That way we don't hear your
22 background noise. We can pretty much hear everything
23 that's happening behind you, even the rustling of papers.
24 We do ask you though, do not put us on hold, because we
25 will hear any sort of Muzak or anything else that that

1 might be projected through your phone system.

2 So again, please go ahead, put us on mute or put
3 your headset or handset on mute unless you're speaking.
4 Thank you.

5 I think we've taken care of all the housekeeping
6 issues, unless there's something from the applicant's
7 perspective or staff's perspective that we missed. I
8 think we're very clear on where we are, where the
9 agreements are at this point, and where we need to go in
10 terms of addressing the remaining technical issues.

11 MS. DYER: I did have a question and point of
12 clarification on the revised traffic and transportation
13 condition of certification. Staff submitted that in their
14 opening testimony, and I was wondering if that was
15 something that we had agreed upon from applicant's point
16 of view.

17 MR. GALATI: We apologize for the record. We
18 agree to those changes.

19 HEARING OFFICER VACCARO: So what is the
20 operative document that we'll be looking to for the
21 conditions of certification for traffic and
22 transportation?

23 MS. DYER: Generally, Exhibit 200, the staff
24 assessment with the modifications that were submitted in
25 Exhibit 205 with specific changes to a condition.

1 HEARING OFFICER VACCARO: Okay. Do you agree
2 with that, Mr. Galati?

3 MR. GALATI: That's correct.

4 HEARING OFFICER VACCARO: Okay. So I think we're
5 done with housekeeping; I think we can move on.

6 I'd like us to start with the topic of overrides.
7 I understand that staff's witness will be available by
8 telephone. I trust that he has the call-in number and
9 that we can have him on the line shortly. So I think
10 we'll go off the record just for a moment while we wait
11 for Mr. O'Brien to join us.

12 (Recess.)

13 MR. GALATI: Can I ask for accommodation from the
14 Committee. We have several members of the public that are
15 on that want to speak to the issue of override as well,
16 some are elected officials. I don't know if they've
17 called in yet. We have like chamber of commerce and
18 others. If after we're done with the testimony on --
19 after we are done with the testimony on the subject of
20 override, we would prefer if the Committee would allow
21 that public comment to go so they don't have to wait till
22 the end of the hearing.

23 HEARING OFFICER VACCARO: I think we'll take that
24 under submission. Of course, you've noticed that the
25 Committee had already been willing to allow elected and

1 appointed -- I'm getting a lot of feedback right now.

2 I think I'm okay now. That cell phone's off now.
3 I think that might have been the cause of the
4 interference, maybe not. Oh, I'm getting a little bit of
5 feedback still.

6 I think, as you've already noticed, the
7 Committee's been willing to allow elected and appointed
8 officials to have a time in advance to accommodate their
9 schedules. I think the Committee will still consider
10 that. We do need to get a sense of who it is that's
11 wishing to make the public comment earlier than the public
12 comment period.

13 Is this better? Sounds much better. We've got a
14 little more feedback still. Well, hopefully we'll get
15 this technical difficulty worked out; otherwise, we'll
16 just, unfortunately, hear everybody with an echo.

17 Where are we in terms of Mr. O'Brien calling in?

18 MR. O'BRIEN: I have called in.

19 HEARING OFFICER VACCARO: Excellent. You're
20 stealthy. So good. We're on the record. We went off for
21 a moment, we went back on, we're still on the record now.

22 So I understand, Mr. O'Brien, you will be giving
23 testimony on staff's behalf. We can't see you, but I am
24 going to need to have you sworn in, so if you would follow
25 the honor system, raise your right hand, and I'll have the

1 court reporter swear you in.

2 MR. O'BRIEN: Okay.

3 Whereupon,

4 TERRENCE O'BRIEN

5 was called as a witness herein and, having been first duly
6 sworn, was examined and testified as follows:

7 THE COURT REPORTER: Please state your name for
8 the record and proceed.

9 MR. O'BRIEN: My name is Terrence O'Brien.

10 HEARING OFFICER VACCARO: Staff, your witness. I
11 understand you wanted to have some direct testimony before
12 Mr. Galati engages in cross-examination?

13 MS. DYER: Yes, I do. Thank you.

14 DIRECT EXAMINATION

15 MS. DYER: Good morning, Mr. O'Brien. This is
16 Deborah Dyer.

17 MR. O'BRIEN: Good morning.

18 MS. DYER: How are you?

19 MR. O'BRIEN: I'm fine, thank you.

20 MS. DYER: Good.

21 I'm just going to ask you a few questions.

22 The first one would be did you prepare the
23 statement regarding overriding considerations which has
24 been identified as Exhibit 201 in this case?

25 MR. O'BRIEN: Yes, I did.

1 MS. DYER: Okay. Can you please summarize your
2 statement regarding overriding considerations?

3 MR. O'BRIEN: Yes. In my statement I indicated
4 that staff did not -- would not recommend an override for
5 this project given the impacts associated with visual
6 resources, and that the reason for that was the project
7 location, given its remote location.

8 MS. DYER: And what was this recommendation based
9 upon?

10 MR. O'BRIEN: The recommendation was based upon
11 staff's views regarding development in California deserts
12 that goes all the way back to the work that the staff was
13 engaged in on the Renewable Energy Commission Initiative
14 and which have continued into the work that we're doing on
15 the Desert Renewable Energy Conservation Plan.

16 And going back to that, to the RETI work, when
17 various locations were identified for potential
18 development, the staff in November of 2008 indicated
19 concerns with development in remote areas of California's
20 desert, and that concern has continued based upon our work
21 on the Desert Renewable Energy Conservation Plan.

22 The staff has taken the position that development
23 whenever possible should be located in close proximity to
24 load centers to existing transmission infrastructure; and
25 the Western Mojave is a preferable place whenever possible

1 for development given the existence of private land, and
2 also it happens to be a more disturbed environment.

3 MS. DYER: Okay. So you are aware of staff's
4 conclusions regarding the significant and unmitigable
5 environmental impacts of the project?

6 MR. O'BRIEN: Yes, I am.

7 MS. DYER: Okay. In making your recommendation,
8 did you weigh the potential benefits of this project
9 against those potentially-significant environmental
10 impacts?

11 MR. O'BRIEN: Yes. Certainly this project does
12 have some, you know, benefits. The fact that you would
13 get an additional 150 megawatts of renewable energy is
14 certainly a positive. The fact that the project has
15 storage is a positive. So there are some -- you know,
16 there are some benefits obviously associated with this
17 project.

18 MS. DYER: And is there any benefit from this
19 project that you believe would outweigh the environmental
20 impacts of the project as identified in the staff's
21 assessment?

22 MR. O'BRIEN: No, I mean, you know, that's why we
23 took the position that not to recommend an override to the
24 Commission. I mean, in the statement we talked about the
25 concerns we have for hodgepodge development across the

1 desert going all the way back to RETI, staff has talked
2 about the need to, whenever possible, cluster development.
3 That's certainly the goal with the Desert Renewable Energy
4 Conservation Plan, to identify areas for development in
5 the desert in addition to areas to conserve. And, you
6 know, staff has a concern that we could have sprawl, a
7 development sprawl across the desert of California, and we
8 want to see that development clustered in a limited number
9 of areas.

10 MS. DYER: So hypothetically speaking, do you
11 believe that this project might be better suited for a
12 different location; not pinning down any location, just is
13 there a -- are there other locations that would be better
14 for this project?

15 MR. O'BRIEN: Yes. I think this project would be
16 better located in an area that has more development, is
17 less remote, and is located closer to other renewable
18 energy projects.

19 MS. DYER: Okay. Now, as you know, there have
20 been other projects before the Commission recently,
21 including the Ivanpah project in which staff has
22 recommended that the Commission override significant
23 visual impacts and approve the project. Can you tell us
24 how the Rice project is different from, particularly, the
25 Ivanpah project in your opinion?

1 MR. O'BRIEN: Yes, I can. And I would say that
2 these are obviously difficult decisions. We didn't make
3 the decision on Ivanpah lightly; obviously there are going
4 to be, you know, significant visual impact associated with
5 that project.

6 But the differentiating factors were that Ivanpah
7 is located next to a major interstate; you've got existing
8 commercial development there; you know, the golf course,
9 the major casino development at Primm; you've got an
10 existing power plant, the El Dorado power plant,
11 natural-gas fired facility located not too far; and you
12 have some, you know, several major transmission lines
13 running through that valley.

14 MS. DYER: And is there anything else that you
15 think is important for the Committee and the Commission to
16 consider in evaluating this project and its impacts?

17 MR. O'BRIEN: The only other comment I would make
18 is that if this project approved, the question becomes,
19 you know, where in the desert, you know, are you not going
20 to be permitted to site a project? So it does raise that
21 question.

22 MS. DYER: Okay. Thank you.

23 No further questions.

24 HEARING OFFICER VACCARO: Okay. Thank you.

25 Mr. Galati?

1 CROSS-EXAMINATION

2 MR. GALATI: Good morning, Mr. O'Brien.

3 MR. O'BRIEN: Good morning.

4 MR. GALATI: You do recognize that your
5 recommendation is that the Committee deny the project,
6 correct?

7 MR. O'BRIEN: Well, if the Committee were to
8 follow, you know, staff's viewpoint as expressed in my
9 statement, I think that would be true; but I will note
10 that the staff did not make that recommendation to the
11 Committee. You know, my wording was carefully chosen.

12 MR. GALATI: And I did. I was trying to
13 understand that wording, because the Committee must make a
14 finding of override if they find that there's a
15 significant impact. And the staff has found there's a
16 significant impact.

17 So I just wanted to clarify that if they don't
18 make a finding and follow their recommendation, they would
19 have no choice but to deny the project.

20 MR. O'BRIEN: Yes, I think that's true.

21 MR. GALATI: Okay. And you are aware that your
22 staff did an alternative analysis, correct?

23 MR. O'BRIEN: Correct.

24 MR. GALATI: And they found throughout the
25 alternative analysis that there was no place in the

1 alternative that they found that there wouldn't likely be
2 significant visual impacts; is that correct?

3 MR. O'BRIEN: I believe that's true. The staff
4 has taken the position, I believe on all of the projects,
5 perhaps save one, that there is a significant visual
6 impact associated with building a large industrial
7 facility in a -- you know, in the California desert.

8 MR. GALATI: Okay. Sir, to clarify -- well,
9 actually I'll wait and get to that. I think I've strayed
10 into visual and I apologize, Mr. O'Brien. Let me stay
11 with the attributes of the project.

12 So you said you did consider that the project has
13 storage capability?

14 MR. O'BRIEN: Yes. And that's certainly a --
15 certainly a benefit.

16 MR. GALATI: And I'm just trying to get an idea
17 from a weighing perspective, and so I'm going to ask you
18 some clarifying questions on weighing.

19 How much weight did you give to the project
20 having storage as a benefit?

21 MR. O'BRIEN: Well, if you're looking for a
22 numerical answer to that question, I really can't give you
23 one. I mean, you look at -- you look at a project in its
24 totality and you look at the benefits, you look at the
25 impacts, and you reach a conclusion going through kind of

1 a weighing factor.

2 And the -- you know, the process that I went
3 through was that, you know, on the scales, if you will,
4 the benefits, for example, associated with storage, which
5 obviously, you know, is an important benefit, didn't
6 outweigh the fact of the project's location.

7 MR. GALATI: Okay. Let's continue on storage.
8 And I appreciate that.

9 Would you agree that currently in California this
10 is the only project being proposed that has storage
11 capability?

12 MR. O'BRIEN: In terms of the projects before the
13 Energy Commission, I believe that's true.

14 MR. GALATI: Would you agree that the ability to
15 have storage and generate more flexibly actually helps
16 displace other power plants better than a project that did
17 not have storage?

18 MR. O'BRIEN: I think to the extent you have
19 storage and the facility can operate over a longer period
20 of time is a benefit, particularly if over that longer
21 period of time, and especially given evening hours, for
22 example, past 6:00 p.m., would mean you would probably
23 have to burn less natural gas. So that would be a
24 benefit.

25 MR. GALATI: And, you know, in your experience

1 here at the Commission, would you say that the Rice Solar
2 Energy Project has a -- I guess I'll give you three
3 concepts for you to choose from, a short, sort of moderate
4 length, or a long transmission line being permitted?

5 MR. O'BRIEN: Well, I'm trying to remember now in
6 terms of the -- in terms of the length, which I seem to
7 recall is somewhere between -- around 20 miles. And we
8 have permitted projects that have longer lines than that.
9 But I would say that that is -- it's probably on the upper
10 end.

11 MR. GALATI: I believe the transmission is about
12 10 miles. Would that change your answer?

13 MR. O'BRIEN: Yeah, I would say that would be
14 probably average.

15 MR. GALATI: And you recognize that the project
16 is using dry cooling, correct?

17 MR. O'BRIEN: Yes.

18 MR. GALATI: And it does have a power purchase
19 agreement?

20 MR. O'BRIEN: Yes.

21 MR. GALATI: Okay. And you recognize that the
22 project's on private land that is previously disturbed,
23 correct?

24 MR. O'BRIEN: That's correct.

25 MR. GALATI: And would you agree that isn't that

1 one of the reasons why the only outstanding impact that
2 we're really talking about is related to visual?

3 MR. O'BRIEN: Yes. The fact that, you know, the
4 project is on disturbed land obviously lowers its -- the
5 potential for impacts to sensitive biological resources.

6 MR. GALATI: And are you aware that the project
7 owns land surrounding it that has been conditionally
8 approved by your staff as meeting most if not all of the
9 biological mitigation requirements?

10 MR. O'BRIEN: Yes.

11 MR. GALATI: Are you aware of any other project
12 at the Energy Commission that currently has in its
13 possession its biological mitigation lands?

14 MR. O'BRIEN: Let me think about that for a
15 second.

16 I believe most of the projects are still in the
17 process of trying to secure their land, and the conditions
18 of certification for those projects gives them 18 months
19 to obtain those. The expectation, obviously, is that all
20 of the projects that the Commission have licensed will
21 meet that 18-month requirement and, therefore, will meet
22 their mitigation requirement.

23 MR. GALATI: And are you aware that this project
24 has no intervenors?

25 MR. O'BRIEN: Yes, I think I'm aware of that

1 fact.

2 MR. GALATI: And are you aware that, or can you
3 point to another project that is currently in front of the
4 Energy Commission that does not have any intervenors? I
5 apologize, I'm going to qualify that to renewable energy
6 projects.

7 MR. O'BRIEN: Let's see. I'm trying to -- I'm
8 trying to think. I think -- it wouldn't surprise me if
9 all of the other projects had intervenors.

10 MR. GALATI: Would you agree that the
11 environmental community for at least the last year and a
12 half has strongly favored the development on
13 privately-owned land that's previously disturbed?

14 MR. O'BRIEN: I think that's a fair statement.

15 MR. GALATI: And when you weighed all of the
16 factors we just talked about, you still thought that the
17 visual impact was more significant than those benefits,
18 correct?

19 MR. O'BRIEN: Correct.

20 MR. GALATI: Is it really the issue about this
21 project, Mr. O'Brien, or is it about maintaining influence
22 and comments on how the desert should be planned?

23 MR. O'BRIEN: Well, the two are interrelated.

24 MR. GALATI: On the other recommendations of
25 findings of override for renewable energy projects, didn't

1 all of those recommendations include more than one
2 significant impact, for example, in the area of cultural
3 or bio or something other than just visual impacts?

4 MR. O'BRIEN: I believe on all the other projects
5 there were multiple impacts, though I'm not -- I'm not
6 100 percent certain regarding the Beacon project.

7 MR. GALATI: Mr. O'Brien, thank you very much.
8 I don't have any more questions.

9 HEARING OFFICER VACCARO: Thank you.

10 Mr. O'Brien, I want to find out whether or not
11 staff might want to redirect, and after that I'd like to
12 know if the Committee might have a few questions for you,
13 so if you could please stay on the line and wait to be
14 excused, I'd appreciate that.

15 MR. O'BRIEN: Certainly.

16 HEARING OFFICER VACCARO: Ms. Dyer, do you have
17 any redirect?

18 MS. DYER: I have one redirect question.

19 REDIRECT EXAMINATION

20 MS. DYER: Mr. O'Brien, even given all of the
21 benefits that you and Mr. Galati just discussed, would
22 that change your answer when you answered me earlier that
23 there was no benefit from this project that you believed
24 would outweigh the environmental impacts of the project?

25 MR. O'BRIEN: That's correct. I mean, everything

1 that Mr. Galati, you know, asked me was factored in to the
2 overall decision-making process.

3 MS. DYER: Okay. Thank you.

4 No further questions.

5 HEARING OFFICER VACCARO: Do any members of the
6 Committee have a question for Mr. O'Brien, or any
7 advisors?

8 PRESIDING MEMBER WEISENMILLER: I do.

9 Terry, this is Bob Weisenmiller. As you're
10 probably aware, in most of the discussion on the decisions
11 we've had so far I've raised the job question. Do you
12 have any information on the unemployment rate in this
13 area?

14 MR. O'BRIEN: I believe, Commissioner, it's very
15 high. The Blythe area has a very high unemployment rate,
16 but I couldn't tell you what that is. But I know
17 that's -- you know, that's an issue of concern for the
18 county of Riverside.

19 PRESIDING MEMBER WEISENMILLER: Thank you.

20 MR. SHIPLEY: This is Jim Shipley; I'm the COO
21 with the Blythe Area Chamber of Commerce.

22 I believe Riverside --

23 HEARING OFFICER VACCARO: Mr. Shipley, excuse me,
24 this is Hearing Advisor Vaccaro. I am going to give you
25 an opportunity to speak, but we still have Mr. O'Brien

1 under oath as the witness before us. So if you --

2 MR. SHIPLEY: I apologize.

3 HEARING OFFICER VACCARO: No problem.

4 MR. SHIPLEY: I was just going to insert some
5 unemployment information. And I apologize for that,
6 ma'am.

7 HEARING OFFICER VACCARO: Thank you. And just
8 hold on for a few more moments.

9 MR. SHIPLEY: You bet, ma'am. Thank you.

10 HEARING OFFICER VACCARO: Okay. Anything further
11 from the Committee for Mr. O'Brien?

12 Oh, quite possibly.

13 PRESIDING MEMBER WEISENMILLER: So, Terry, one
14 more question.

15 Are you aware of any other renewable or
16 industrial-type facilities proposed within two to five
17 miles of the proposed Rice project?

18 MR. O'BRIEN: The only thing that I'm aware of is
19 that we have had conversations with Solar Reserve about
20 another potential project I think located perhaps six,
21 seven miles away towards the area of the Iron Mountain
22 Solar PEIS area.

23 HEARING OFFICER VACCARO: Okay. I think there
24 are no further questions for Mr. O'Brien.

25 So with that, I think I'd like to thank you for

1 being available by telephone and go ahead and excuse you.

2 MR. O'BRIEN: Thank you. And if you need me,
3 John Kessler has my phone number.

4 HEARING OFFICER VACCARO: Okay. Thank you very
5 much.

6 MR. O'BRIEN: You're welcome. Thank you.

7 HEARING OFFICER VACCARO: Now, it's my
8 understanding that we have a few callers on the phone who
9 are representatives in some form or another of the local
10 jurisdictions within the county of Riverside. So we've
11 already heard from Mr. Benoit. If we could -- I think,
12 Mr. Shipley, you're on the line, and you represent the
13 chamber of commerce; is that correct?

14 MR. SHIPLEY: Yes, ma'am, it is correct.

15 HEARING OFFICER VACCARO: Okay. Do I have any
16 other elected or appointed officials on the line who would
17 like to speak as a public comment specifically to the
18 issue of overrides?

19 Okay. I think with that, Mr. Shipley, you have a
20 few moments to give your public comment on this topic.

21 Again, for the record, it is a public comment.
22 We aren't having you give sworn testimony, so if you would
23 go ahead, spell your last name for the record, state your
24 first and last, and you're welcome to make a brief and
25 pointed public comment.

1 MR. SHIPLEY: Yes, thank you, ma'am, I will be
2 brief.

3 First name is Jim, J-i-m, last name is Shipley,
4 S-h-i-p-l-e-y. I'm the chief operating officer with the
5 Blythe Area Chamber of Commerce. We represent 300 chamber
6 members in Blythe and the Palo Verde Valley. And again, I
7 apologize for interrupting.

8 Riverside County, on the previous unemployment
9 question, Riverside County is in the 15 percent
10 neighborhood; Blythe unemployment is closer to 20 percent.

11 And now to add to my public comment, I just
12 wanted to mention that in the area of visual impact, I've
13 lived in Blythe for 27 years, and I've heard no one in the
14 community discuss visual impact for this project.

15 Continuing, I would just mention that this is
16 going to be a tremendous benefit when it comes to jobs for
17 Blythe and the Palo Verde Valley. You know, our motels,
18 our restaurants, our gas stations, just like any
19 businesses in California and across the country, are in
20 dire need of an economic boost. This along with the other
21 solar projects proposed and also the ones that are
22 approved for the area are going to be great.

23 Blythe needs jobs just like anybody needs jobs,
24 any city needs jobs. And we're looking forward to this
25 project being approved, being completed. And not only the

1 construction jobs would be a tremendous benefit, but also
2 the permanent jobs that would hopefully be considered for
3 our local folks in the area.

4 And I think that's all I want to say, ma'am.

5 HEARING OFFICER VACCARO: Okay. Thank you.

6 MR. SHIPLEY: You're welcome, ma'am.

7 HEARING OFFICER VACCARO: I think with that we'll
8 move on to one of our next topics.

9 Ms. Dyer, do you have the representative from the
10 air district available on the phone at this time? I
11 didn't hear any identification when I asked for callers;
12 or is that something that you need to call and make
13 available?

14 MS. DYER: Mr. Kessler is able to get him on the
15 line, and he had said he would be available on our call.

16 HEARING OFFICER VACCARO: Okay. Well, then why
17 don't we do that now, because I think that's going to be
18 brief testimony, and I suspect the rest of this might take
19 a little bit of time.

20 So we'll go off the record just for a moment to
21 get that individual on the telephone.

22 (Recess.)

23 HEARING OFFICER VACCARO: Thank you.

24 MR. GALATI: I apologize, we really didn't. It
25 was procedural, I wanted to just check because some of our

1 callers are calling in and out, and one of them is a
2 senator, if we could just ask, so he may have just dropped
3 off and then been asked to get back on the line. Could we
4 just ask if the senator's available, or his office?

5 Okay. Thank you.

6 HEARING OFFICER VACCARO: I apologize, yes, we're
7 back off the record.

8 (Recess.)

9 HEARING OFFICER VACCARO: We are awaiting
10 Mr. Oktay's signing in to WebEx.

11 Are you on the telephone line yet, Mr. Oktay?

12 Okay. Not quite yet. Hopefully he'll be
13 connected in the next few seconds. Let's go off until.

14 (Recess.)

15 HEARING OFFICER VACCARO: Mr. Oktay, have you
16 been able to join us?

17 Still not hearing from Mr. Oktay. Don't want to
18 take up too much of everyone's time, but let's just give
19 him a few more moments and see if he can connect on WebEx.

20 Mr. Oktay, are you with us?

21 Okay. I'm looking at the clock, it's 10:10,
22 we'll give him till 10:11, otherwise, unfortunately, he's
23 going to get moved to the end of the day because we do
24 need to keep moving forward. We have quite a bit to
25 cover.

1 MR. OKTAY: Okay. I just dialed in. Name is
2 Sam Oktay with the Mojave Desert AQMD.

3 HEARING OFFICER VACCARO: Great, you got in just
4 under the wire. Thank you very much. This is Kourtney
5 Vaccaro, I'm the hearing advisor in this proceeding. I
6 understand that you are going to be giving some testimony.

7 Before you do that, I need to ensure that you're
8 sworn in. You're on the honor system, we can't see you,
9 but please hold up your right hand, and the court reporter
10 will now swear you in.

11 Whereupon,

12 SAMUEL J. OKTAY
13 was called as a witness herein and, having been first duly
14 sworn, was examined and testified as follows:

15 THE REPORTER: Could you please state and spell
16 your name for the record.

17 MR. OKTAY: My name is Samuel, J, as in John,
18 Oktay. First name, S-a-m-u-e-l, middle initial J, last
19 name Oktay, O-k-t-a-y.

20 HEARING OFFICER VACCARO: Mr. Oktay, I apologize,
21 we did hear most of what you said, but I believe it's
22 possible that we're also picking up a lot of the
23 background noise where you are. If there's any way you
24 might be able to shut a door or somehow silence those
25 around you, we'd greatly appreciate it, because we hear

1 everything in the background. And if it's not yours, then
2 someone else on the line, we're hearing all of your
3 background noise, so please address that so that we can
4 hear from Mr. Oktay.

5 So can you speak now, Mr. Oktay, and let's hear
6 what's going on in your background.

7 MR. OKTAY: So again, the spelling of my name is
8 first name Samuel, S-a-m-u-e-l, middle initial J, last
9 name is Oktay, O-k-t-a-y.

10 HEARING OFFICER VACCARO: Great. Thank you.

11 And because there is so much feedback, let me ask
12 the court reporter, do you need to do the swearing in
13 again, or do you believe that we've accomplished that on
14 the record?

15 Okay. Then, Mr. Oktay, I'm going to turn you
16 over to Ms. Dyer to ask you some questions and have you
17 sponsor a document into the record.

18 MR. OKTAY: Okay. Thank you.

19 DIRECT EXAMINATION

20 MS. DYER: Good morning, Mr. Oktay. This is
21 Deborah Dyer with staff counsel at the Energy Commission.

22 MR. OKTAY: Good morning.

23 MS. DYER: Good morning.

24 Could you please state your position and
25 affiliation?

1 MR. OKTAY: I am the lead air quality engineer at
2 the Mojave Desert Air Quality Management District.

3 MS. DYER: Thank you. And did you prepare the
4 determination of compliance which has been identified as
5 staff's Exhibit 206 in this proceeding?

6 MR. OKTAY: I did.

7 MS. DYER: Could you please summarize very
8 quickly what your responsibilities are with the district?

9 MR. OKTAY: Well, I review all sources of air
10 pollutants as submitted by applicants for subsequent
11 permitting action. I do permitting activities from --
12 anything from gas stations all the way up to and including
13 power plants.

14 MS. DYER: Okay.

15 MR. OKTAY: That would require that we make sure
16 that the equipment does meet the applicable state,
17 federal, and local requirements upon permitting.

18 MS. DYER: Okay. Do you have any changes or
19 corrections to the determination of compliance?

20 MR. OKTAY: I did, and I did e-mail those to you
21 just about ten minutes ago.

22 I did find there is a discrep- -- let's see here.
23 I don't know if you have access to your e-mail at this
24 time.

25 MS. DYER: I'm sorry, I can't pull up the

1 document at this time.

2 MR. OKTAY: Okay. Yeah, I did -- I do have a
3 change -- okay, it's on page 31 of the document, it's
4 condition 12 as it applies to the emergency fire water
5 pumps, and those were preliminary permit numbers E010812
6 and E010813. And we need to remove redundant condition
7 12.

8 If you have the document front of you, you'll
9 notice that 12 and 11 --

10 (Interruption in phone call.)

11 MR. OKTAY: There's somebody --

12 HEARING OFFICER VACCARO: Yes, we're hearing the
13 background noise from one of the callers. If you could
14 please ensure that you have hit the mute button so that we
15 can't hear anything where you are, we would greatly
16 appreciate it. We were unable to hear the witness speak
17 because we heard someone else -- there's the voice again.

18 MR. OKTAY: There's somebody that's talking to
19 somebody else on the phone.

20 HEARING OFFICER VACCARO: Is that in your
21 workplace?

22 MR. OKTAY: No, that's not my --

23 HEARING OFFICER VACCARO: Okay. Well, what we're
24 going to have to do, unfortunately, is let's have
25 Mr. Oktay speak louder, and I'll see if I can't go to the

1 podium and mute that person.

2 MR. OKTAY: All right. So again -- okay, again,
3 it's page 31 of the --

4 MS. DYER: Mr. Oktay, why don't you just pause
5 for a moment while we try to mute this person. I don't
6 think anyone can really hear you right now.

7 MR. OKTAY: Okay.

8 HEARING OFFICER VACCARO: Okay. This is Hearing
9 Advisor Vaccaro. I apologize for that disruption to the
10 witness's testimony. Unfortunately, we were hearing a lot
11 of background noise. And at this point I have muted a
12 particular caller. I don't want to call you out by name,
13 but I'll just use the last name of Mann, M-a-n-n, as the
14 identified caller. And we'll go ahead and take you off
15 mute in just one moment when we finish up this witness's
16 testimony.

17 Thank you.

18 MR. OKTAY: Okay. So again, page 31 of the
19 final, there is a redundant condition. It's condition 12
20 that's a duplicate of condition 11 just above it. It's in
21 the first -- it's about -- it's the -- one, two, three --
22 fourth paragraph down from the top of the page. That
23 condition is redundant to emergency fire water pumps
24 E010812 and E010813. So I'd like to have condition 12
25 removed because it is redundant.

1 MS. DYER: So there would be no condition 12 in
2 the document?

3 MR. OKTAY: Correct. Because it's identical to
4 11. It was just oversight.

5 MS. DYER: Okay.

6 MR. OKTAY: Okay. Then, let's see.

7 MS. DYER: I'm sorry, did you have more
8 corrections or changes?

9 MR. OKTAY: There is one more correction. It is
10 on page 38 under the "Public Comment" header. And it is
11 stated that this preliminary decision determination will
12 be released, da, da, da.

13 Well, it already went out, and it is a final at
14 this point, so that paragraph needed to be updated. And I
15 can read the updated language to you if you'd like. I've
16 also sent the text to yourself in e-mail form.

17 MS. DYER: Yes, please do read the updated
18 language on that.

19 MR. OKTAY: Okay. So that is under N, which is
20 the public comment notification, subsection one, public
21 comment, and it should read as follows:

22 "Previously the MDAQMD submitted its preliminary
23 determination document, PDD, to the U.S. EPA Region 9,
24 California Energy Commission, and the California Air
25 Resources Board on or about June 10th, 2010.

1 "Additionally, the PDD was publicly noticed with
2 a public comment deadline of July 19th, 2010. No public
3 comments were received. Comments were received from the
4 CEC and Rice Solar Energy LLC, and copies of those letters
5 are attached to the end of this document as Attachments 1
6 and 2 respectively.

7 "The MDAQMD coordinated with the CEC and Rice
8 Solar Energy LLC to effect compromised permit conditions
9 and equipment description which have been incorporated
10 into this final decision determination document.

11 "Final district authority to construct permit
12 shall be prepared within approximately 15 days after the
13 California Energy Commission has granted project approval.

14 "Any comments on this final decision
15 determination document shall be forwarded to:" and the
16 contact information remains the same.

17 MS. DYER: Okay. Thank you.

18 MR. OKTAY: You're welcome.

19 MS. DYER: So are the facts as you've amended
20 them in the document, the determination of compliance,
21 true and correct?

22 MR. OKTAY: Yes, they are.

23 MS. DYER: And do the opinions represent your
24 best professional judgment?

25 MR. OKTAY: They do.

1 MS. DYER: No further questions.

2 HEARING OFFICER VACCARO: Okay. Thank you. I
3 have a couple, but I want to go ahead and give Mr. Galati
4 the opportunity to ask any questions if he might have any.

5 CROSS-EXAMINATION

6 MR. GALATI: Mr. Oktay, this is Scott Galati
7 representing the applicant. Good morning.

8 MR. OKTAY: Good morning, sir, how are you?

9 MR. GALATI: Did I hear your testimony that you
10 removed a condition?

11 MR. OKTAY: It was a redundant condition. The
12 condition really still is there, it's just it was a
13 duplication of an existing condition.

14 MR. GALATI: Okay. I wanted to wipe the tear
15 from my eye; I was so happy. Thank you.

16 MR. OKTAY: You're welcome.

17 HEARING OFFICER VACCARO: Mr. Oktay, this is
18 Kourtney Vaccaro, the hearing advisor. I just want to be
19 sure that I'm understanding procedurally where we are. We
20 were having you sponsor Exhibit 206, which is the FDOC
21 that had been distributed and reviewed by everyone.

22 It's my understanding though that by way of an
23 e-mail that you submitted to Deborah Dyer earlier today,
24 there are two amendments to that FDOC, and you've made
25 those clear to us today on the record. Will you be

1 issuing a fully-revised FDOC, or can we understand that
2 you are sponsoring Exhibit 206 and the e-mail that we've
3 all yet to see as your testimony and that those two
4 documents together comprise the entire FDOC?

5 MR. OKTAY: Yes. I believe that with the
6 addendum we can approve the final as submitted. So I
7 wouldn't want to delay the project any further for a
8 revision for what I consider fairly minor changes. But
9 the final submitted along with the addendums I mentioned,
10 which are identical to what I submitted in e-mail form,
11 would -- that should suffice, I believe.

12 HEARING OFFICER VACCARO: And it is also your
13 representation that although we don't have that e-mail
14 before us, what you've stated orally is true and correct
15 and accurately represents what is in the e-mail?

16 MR. OKTAY: That's correct, yes.

17 HEARING OFFICER VACCARO: Okay. Staff or
18 applicant, do you have any objections or concerns with the
19 amendment that has just been made by the district in this
20 proceeding today?

21 MR. GALATI: No objection.

22 MS. DYER: No objections or concerns. I just
23 want to make sure that that document with the amendments
24 did get into the record. And I don't know how you would
25 propose we go about that.

1 HEARING OFFICER VACCARO: I think that we do is
2 we will identify that e-mail as Exhibit 206A, and at this
3 point we will consider that deemed admitted into the
4 record with the caveat that if the document does not, in
5 fact, match the language that was given orally today, that
6 we will have to reconsider how to treat that particular
7 exhibit. But at this point we have 206 and 206A as
8 representing the FDOC, and those document are admitted.

9 (Staff's Exhibits 206 and 206A were admitted into
10 evidence.)

11 HEARING OFFICER VACCARO: Okay. I think we have
12 no further questions.

13 Anything from the Committee for Mr. Oktay?

14 Okay. Mr. Oktay, thank you very much.

15 MR. OKTAY: You're welcome. Have a good day.

16 HEARING OFFICER VACCARO: You, too.

17 MR. OKTAY: Bye-bye.

18 HEARING OFFICER VACCARO: Okay. We are now going
19 to unmute caller Mann.

20 And again, if you could please ensure that the
21 background is muted, we would really appreciate that
22 because we hear everything in this room.

23 MR. MANN: This is Carlos Mann. Can you hear me?

24 HEARING OFFICER VACCARO: Yes, I can.

25 MR. MANN: Okay. Actually, if you could just

1 leave me muted -- I'm on the WebEx, and so I can't figure
2 out how to mute it myself here.

3 HEARING OFFICER VACCARO: Okay. And I'm not sure
4 what telephone you were using, so I did make an assumption
5 that you might be calling from a phone that actually has a
6 mute button on the handset. But if not, if you could do
7 your very best to cover the speaking part of the telephone
8 when you're not speaking if there are others present in
9 the room or nearby.

10 MR. MANN: Okay. Yeah, I'm just on the computer
11 here, on the WebEx system; so if it's okay, you can just
12 leave me muted.

13 HEARING OFFICER VACCARO: Okay. That's fine.
14 And we'll check back with you a little bit later in the
15 event that you might have a comment. Thank you.

16 MR. GALATI: Ms. Vaccaro, before we leave the
17 area of air quality, I'd like to just, on behalf of the
18 applicant, thank the Mojave Desert Air Quality Management
19 District. They have been extremely responsive on the
20 renewable projects and especially this one, and they did a
21 superb job in working with us. And while Mr. Oktay was on
22 the phone, I just wanted to make sure he understood that
23 and the Committee is aware and it's in the record that we
24 very much appreciate their hard work.

25 HEARING OFFICER VACCARO: Thank you.

1 I think now we're ready to move forward to our
2 next topic. And if we use the witness topic list that's
3 been distributed, the next in order, as I understand it,
4 would be the topic of land use. It's my understanding
5 that the applicant would like to present direct testimony,
6 that the applicant would also like to cross-examine
7 staff's witness, and that staff would like to be able to
8 cross-examine the applicant's witness; is that correct?

9 MR. GALATI: That is correct, since there was
10 cross-over between visual and land use, I'd like the
11 Committee, if the staff didn't mind, to entertain taking
12 them together.

13 HEARING OFFICER VACCARO: Does staff have any
14 objection or concern with putting together I guess a
15 combined panel of land use and visual witnesses?

16 MS. DYER: I -- I would prefer to take visual
17 first and then follow with land use since land use, the
18 testimony sort of follows the visual issues, if we could
19 do that.

20 HEARING OFFICER VACCARO: I think -- I mean, from
21 my perspective that's fine.

22 I think -- Mr. Galati, is there a compelling
23 reason to combine, or is there a way -- I mean, if you
24 want your whole panel sitting up there and those who are
25 best able to answer a particular question being given the

1 opportunity to do so, I think that's certainly fair and
2 reasonable. I am not sure why we can't then divide the
3 topics up if we handle it that way.

4 MR. GALATI: That's fine. If we do visual first,
5 the only thing I would ask is before we move to land use,
6 let's not close the record on visual in case there is a
7 cross-over question, I can bring my visual person, or at
8 least have them -- they're still sworn, and they can
9 answer it. Because my land use witnesses will not be able
10 to answer any of the cross-over visual questions.

11 So I'm fine doing visual first. I don't think
12 visual will cross into land use; but I do think that when
13 we're doing land use, we might need to cross into visual.

14 HEARING OFFICER VACCARO: Okay. I understand
15 that.

16 Do you have any problems with that, Ms. Dyer?

17 MS. DYER: No.

18 HEARING OFFICER VACCARO: Okay. Then I think
19 that's what we'll do.

20 I suspect that you were considering a panel
21 approach in presenting your witness testimony, Mr. Galati;
22 is that correct?

23 MR. GALATI: That's correct.

24 HEARING OFFICER VACCARO: Okay. How many
25 individuals do you have?

1 MR. GALATI: I have three.

2 HEARING OFFICER VACCARO: Okay. I believe that
3 we can have them sit directly across from the Committee at
4 the -- I guess that would be the foot of the table. They
5 have to share a microphone, or perhaps we could bring
6 another microphone over for their use. If you'd go ahead,
7 please, and call your witnesses up.

8 MR. GALATI: Yes, at this time I'd like to call
9 up Dr. Tom Priestley. I actually have Doug Davy down on
10 here, but I think I do not need Doug Davy, I apologize. I
11 only have two. And Mr. Diep.
12 Whereupon,

13 THOMAS PRIESTLEY, CHARLES DIEP
14 were called as witnesses herein and, having been first
15 duly sworn, were examined and testified as follows:

16 THE REPORTER: Individually state and spell your
17 names for the record.

18 MR. PRIESTLEY: My name is Thomas Priestley,
19 P-r-i-e-s-t-l-e-y.

20 MR. DIEP: And I'm Charles Diep, D-i-e-p, senior
21 engineer for Solar Reserve.

22 HEARING OFFICER VACCARO: Okay. Thank you.

23 And this is a panel convened on the topic of
24 visual resources.

25 Mr. Galati, if you'd like to do direct.

1 DIRECT EXAMINATION

2 MR. GALATI: I'm going to go ahead and start with
3 Dr. Priestly.

4 Did you prepare opening testimony in visual
5 resources Exhibit 48?

6 MR. PRIESTLEY: Yes, I did.

7 MR. GALATI: We're going to play this like a
8 tennis game, okay? I'll give you the eyebrow.

9 Did you also prepare rebuttal testimony
10 Exhibit 52 in visual resources?

11 MR. PRIESTLEY: I did.

12 MR. GALATI: And, Mr. Diep, did you also help
13 prepare those, Exhibit 48 and Exhibit 52?

14 MR. PRIESTLEY: Yes.

15 MR. DIEP: Yes.

16 MR. GALATI: Did the court reporter get the
17 distinct answers?

18 Thank you.

19 Dr. Priestly, my understanding is with respect to
20 visual resources, there are two issues. I'd actually like
21 you to summarize both of them for the Committee very
22 briefly.

23 The first issue is our change requested to VIS 3
24 on pigmenting concrete for the tower. And then the second
25 issue I'd like you to address is the reasons you disagree

1 with staff's conclusion on the significance of the visual
2 impact.

3 And, Mr. Diep, if you wanted to chime in on the
4 concrete, that would be great.

5 So go ahead, Dr. Priestly.

6 MR. PRIESTLEY: Okay. Let me first address the
7 issue of tinting of the concrete of the solar tower. I
8 recommend that this condition be removed. Appearance with
9 coloring of very, very large structures would suggest that
10 you're a lot better off leaving this tower the natural
11 concrete color.

12 You probably have looked at the simulations that
13 we submitted. We took two of the KOPs, and for each of
14 those, we have set up a page where first there is a
15 simulation of the tower with the natural concrete color,
16 then with a sky tint, and then with an earth tone tint.
17 And this allows you to kind of compare and contrast what
18 you get with these treatments.

19 And I wasn't surprised to see that these
20 simulations very strongly suggest that it's actually the
21 natural concrete color that works the best, because the
22 sky color -- whenever the structures are seen against the
23 landscape background, the sky color increases the
24 facility's contrast with that landscape backdrop. And in
25 cases where there is an earth tone color, when the earth

1 tone is seen against the sky, the contrast and visibility
2 of the structure is greatly increased.

3 MR. GALATI: Dr. Priestly, I wanted to interrupt
4 you for a moment, because I have copies of those
5 simulations that I'd like to pass out since you're
6 speaking to them.

7 MS. DYER: Can I ask a point of clarification,
8 please?

9 HEARING OFFICER VACCARO: Yes.

10 MS. DYER: Are you discussing VIS 3 or VIS 1?

11 MR. PRIESTLEY: VIS 1.

12 MS. DYER: Okay. Thank you.

13 HEARING OFFICER VACCARO: Let's please have the
14 record reflect that Mr. Galati has passed handouts to the
15 parties and to the witnesses.

16 Mr. Galati, before moving forward, please give us
17 all an indication of what it is that's before us and
18 whether or not these are the same simulations that were
19 presented in materials submitted by the applicant prior to
20 today's proceeding.

21 MR. GALATI: No, they are not. They are prepared
22 as part of rebuttal testimony, and they're being handed
23 out now for the first time. And I have used them for
24 clarification purposes.

25 I was not intending to issue them as exhibits,

1 but they're similar to something that's demonstrative to
2 help illustrate the witness's testimony. If you'd like, I
3 can mark each of them as an exhibit and identify them.

4 HEARING OFFICER VACCARO: I think we may -- we
5 should go ahead, let's for the purposes of identification
6 at this point go ahead and mark this document. I think
7 we're now at Applicant's Number 53. So we're going to go
8 ahead and mark it for identification, allow staff the
9 opportunity to take a look at it. We'll move forward with
10 the testimony using it as demonstrative evidence.

11 At the close of testimony, we'll go through the
12 process of you making your motion to admit and hearing
13 whatever staff might have to say by way of objection, if
14 there is any.

15 (Applicant's Exhibit 53 was marked for
16 identification.)

17 MR. GALATI: You know, just to clarify,
18 Exhibit 53 now consists of two documents. There are two
19 KOPs where photographs were taken and simulations
20 performed. Each document has three photographs and visual
21 simulations on them. So I think we can refer to them as
22 Exhibit 53.

23 And I would instruct the witness that when you're
24 speaking to those, when you're speaking to those
25 documents, Dr. Priestly, please refer to which KOP, which

1 version, which one you're using. Okay?

2 So I apologize for interrupting your testimony on
3 that, but I knew it would be better if there was a drawing
4 or a figure. So would you continue, please.

5 HEARING OFFICER VACCARO: Actually, please don't.

6 I need to make sure of what I have in front of
7 me, because you indicated two documents; I have one. So
8 if this is comprised of two documents, I need the second,
9 and we need to be clear on what this is comprised of if we
10 are, in fact, going to move this into the record later.

11 Okay. Let me tell you what I have before me. I
12 have a document that has KO 4 simulated tower colors. I
13 think we can grab another one from someone.

14 Okay. Thank you.

15 And just to be clear for the purposes of the
16 record, both of these documents are identified now as
17 Applicant's Exhibit 53 for identification.

18 Please proceed.

19 MR. PRIESTLEY: Okay. Yeah, no, my apologies. I
20 had just assumed everybody had already seen those.

21 So just to be very, very clear, what we have in
22 front of us is Figures 1, Figures SI 10-1, and SII 10-2.
23 The first one, SII 10-1 is views from KOP 1. And that's
24 the same KOP used in the rest of the analysis.

25 So what we see here is a view looking east down

1 SR 62 in close proximity to the project site. A is a
2 simulation of the solar tower built using untreated
3 concrete. B is a simulation of the tower in which the
4 concrete has been tinted a sky blue color. And C is a
5 simulation of the tower treated using an earth tone color.

6 So similarly, figure SII 10-2 is the view from
7 KOP-4, which is the view from SR 62 looking to the west.
8 And similarly, the views indicate untreated concrete,
9 blue-tinted concrete, and brown-tinted concrete.

10 MR. GALATI: Dr. Priestly, I'd like you to move
11 into the second issue now, specifically on staff's finding
12 of a significant impact that cannot be mitigated in
13 visual. So could you please summarize for the Committee
14 very briefly the main points of the basis for your
15 disagreement in that ultimate conclusion?

16 MR. PRIESTLEY: Okay. Now, I'm assuming that all
17 of you have seen my written rebuttal testimony?

18 HEARING OFFICER VACCARO: I think that's a fair
19 assumption, yes.

20 MR. PRIESTLEY: Okay, good. Then I won't repeat
21 everything that's in there, but here is the bottom line:
22 This all boils down to assessment of the significance of
23 the project's impacts under the four criteria established
24 under the guidelines for interpretation of CEQA. And of
25 those four criteria, I do, in fact, agree with one of

1 staff's conclusions, but I disagree with three of them.

2 I do agree with staff's conclusions that the
3 project will not have a significant impact on scenic
4 highways. That is criteria B. But I do disagree with
5 staff's conclusions on the other criteria.

6 I disagree with staff's finding that the project
7 would have a significant impact on a scenic vista. And I
8 think one of the problems with the staff's assessment is a
9 very faulty assumption. They interpret the California
10 Desert Conservation Area Plan as suggesting that every
11 single view in the California desert is a scenic vista;
12 and this does not at all reflect a reading of that plan's
13 intent or its specifics.

14 So that assumption is -- on which this finding is
15 built is just absolutely incorrect. The reality, because
16 this land is private land, in fact, the California Desert
17 Conservation Area Plan which pertains to management of
18 federal lands has no jurisdiction over this project site;
19 and beyond that, the lands in the project's vicinity, in
20 this plan, those plans that are federal lands have been
21 designated for a moderate level of development, which, in
22 fact, permits a whole array of development, including
23 mining and energy facilities, all of which can be presumed
24 to have some level, in fact, in some cases substantial
25 level of visual impact.

1 And so that's -- that's one of the -- so that's
2 the primary reason why this finding of impact on a scenic
3 vista is incorrect. And beyond that, assessment of the
4 scenic highway impact clearly states that the project will
5 not have a significant impact on views from SR 62. So
6 there would not be a finding of a significant impact
7 related to scenic vistas from there.

8 And then the final point that kind of folds into
9 the findings related to scenic vista, there is a
10 presumption that the project would have significant
11 impacts on views from the two nearby wilderness areas, the
12 Rice Valley Wilderness Area and particularly the Turtle
13 Mountain Wilderness Area. And there are several points to
14 consider here.

15 The finding of a significant impact on views from
16 the Turtle Mountain Wilderness Area can be challenged
17 given the fact that there were two key observation points
18 established in that area. And interestingly enough, the
19 simulations, the quote, simulations, unquote, provided to
20 substantiate the analysis of the impacts from those views
21 were not based on photographs that an actual person had
22 gone into this area to take. Because of the fact that
23 this area is very inaccessible, these simulations were
24 based on Google Earth terrain models. So it's very, very
25 artificial.

1 And I have to say that as somebody who has done
2 visual analysis for a very, very long time, I was -- I was
3 rather taken aback by the use of these hypothetical
4 viewpoints as the basis for evaluation of the visual
5 impacts of a project, because, you know, in visual
6 assessment we establish key observation points to use as
7 the basis for our analyses.

8 And the assumption is that a key observation
9 point is a view that is seen by some substantial numbers
10 of people and is selected either because it's a worst-case
11 view that people see or because it is a representative
12 view that people see. But the idea of selecting a view
13 that has no real viewers or a tiny number of viewers
14 really is at variance with established professional
15 practice for conducting visual impact assessments.

16 And it's very fair to say that even the visual
17 analysis section of the staff report indicates that data
18 from -- or information from the BLM has established that
19 the number of viewers in the two wilderness areas is very,
20 very low; and beyond that, it's not clear that there are
21 any trails that would provide the few viewers who visit,
22 say, the Turtle Mountain area to get to the viewpoints
23 that were established to create this finding of a
24 significant impact.

25 So in any case, you know, I challenge this

1 finding of a significant impact on a scenic vista.

2 I also challenge the finding impacts under
3 criteria C, which is a substantial adverse degradation of
4 the character and quality of the site and its
5 surroundings.

6 It has not been established that the project site
7 is an area of outstanding -- of outstanding beauty
8 requiring protection. And again, I mention the California
9 Desert Area Conservation Plan, which has set aside the
10 lands immediately adjacent to the project, those lands
11 that are federal lands to which this plan applies as lands
12 in which a fair amount of development and with it visual
13 change would be -- would be allowed.

14 So public policy already permits a substantial
15 level of visual change in this area and has not set aside
16 this area for preservation, and beyond that, the
17 sensitivity of the views towards the project site are low
18 given the fact that it has not been identified for
19 preservation under public policy; and secondly, because of
20 the relatively small numbers of viewers and the low
21 sensitivity of the viewers.

22 The project is -- would be seen almost
23 exclusively by travelers on SR 62. We know that there is
24 something on the order of 2,200 vehicles a day on that
25 road, and we do know that this road has not been developed

1 as, say, a tourist or a scenic route in that in this area
2 in particular there are no places for -- that have been
3 designed for people to pull over to take in panoramic
4 views, to enjoy the scenery and so on.

5 So the case has not been established that this
6 view -- the views in this area are so sensitive that the
7 changes would amount to a substantial degradation of the
8 scenic qualities in that area.

9 And then the final point, D, has to do with
10 whether the project would create levels of light and glare
11 that would substantially degrade people's experience of
12 the area. And I do agree with staff that the nighttime
13 lighting associated with the project would not create a
14 significant impact; however, I do disagree with the staff
15 that daytime levels of glare would create a substantial
16 impact.

17 I think it's very important, first of all, to
18 define, well, what is glare. If you look in the traffic
19 section on the discussion of the light impacts of the
20 project, they have a very nice and a very accurate
21 definition of glare, which is glare is a light source that
22 is so much greater than the surrounding lighting
23 conditions that it either makes it difficult to see or it
24 causes, you know, severe -- severe annoyance.

25 And in this case, again, if you look in the

1 transportation section analysis of the lighting issues,
2 this analysis establishes at the point along Highway 62
3 where you would be closest to the solar tower, at that
4 point the level of light seen from the solar collector at
5 the top of the tower would have the luminance that would
6 be equivalent to that of two ordinary 60-watt light bulbs.
7 And this is -- something I want to point out is that this
8 is the level of luminance that would be experienced right
9 at that point that is closest to the tower.

10 A very important thing to understand about light
11 is that light energy decreases very, very rapidly with the
12 distance; you know, it's a factor, it decreases at a rate
13 that's related to the square of the distance. So it drops
14 off pretty quickly. And I would -- I would say that when
15 you're at that point where you're closest to the solar
16 tower, in fact, your view is going to be looking either
17 straight east or straight west and not towards the solar
18 tower. As you're further down the road and you would
19 incorporate the solar tower in your cone of vision, you
20 would be much, much further from the solar tower. So the
21 degree of luminance that one would experience at that
22 point would be less than at this very closest point that
23 was documented in the transportation analysis.

24 So in any case to the extent that, in fact, one
25 does see some glow at the top of the solar tower, it would

1 not constitute glare as defined -- as referred to in the
2 CEQA guideline.

3 MR. GALATI: Dr. Priestly, did you review the
4 testimony of Terry O'Brien?

5 MR. PRIESTLEY: Yes, I did.

6 MR. GALATI: And did you have any opinion about
7 the statements related to how far you would be able to see
8 the tower?

9 MR. PRIESTLEY: Yes, I did. His analogy
10 that oh -- or statement that, oh, you could see this solar
11 tower in an area that's as large as the state of
12 Rhode Island really took me aback as a new Englander in
13 particular. So my thought is well, what an overstatement
14 this is. Because -- for a couple of reasons.

15 Well, if you take a look at that viewshed map,
16 well, maybe if you're out at the far edges of the
17 viewpoint, of the viewshed, maybe you could barely detect
18 this project, but is it really going to substantially
19 affect your view in any way? And in fact, one of the
20 things I would say, here's a little cautionary tale:
21 Whenever you do a viewshed map, you should always put on
22 concentric circles that show distance zones so that in
23 looking at this map, you can begin to interpret, well,
24 maybe this thing is visible, but just how visible is it
25 going to be, because obviously the further you get away

1 from things, the smaller they are and the more they're
2 absorbed into the overall landscape pattern.

3 So this figure -- this statement that this
4 area -- that this project can be seen in an area big as
5 the state of Rhode Island does not take distance into
6 account at all. And in fact, if you look at your staff's
7 testimony for visual, it indicates that the potential for
8 a significant impact of this project extends only up to
9 five miles.

10 So I think that one would need to revise
11 Mr. O'Brien's statement to at most refer to an area within
12 five miles of this project, which I think would be
13 probably an area somewhat smaller than that of the state
14 of Rhode Island.

15 MR. GALATI: I have no more further direct
16 testimony.

17 HEARING OFFICER VACCARO: Okay. Thank you.

18 Ms. Dyer, did you wish to cross-examine either of
19 the witnesses?

20 MS. DYER: Yes, I do have a question for
21 Dr. Priestly.

22 CROSS-EXAMINATION

23 MS. DYER: You had stated in your discussion of
24 CEQA criterion C which states, "Would the project
25 substantially degrade the existing visual character or

1 quality of the site and its surroundings," you had
2 mentioned something about outstanding beauty, that this is
3 not a site of outstanding beauty. Is there anything in
4 that criteria that requires the visual character to be of
5 outstanding beauty?

6 MR. PRIESTLEY: If you look specifically at the
7 language of that criterion, there is no mention; but I
8 think in practice, when that criterion is applied, you
9 know, typically we look -- and the Commission does this as
10 well -- if you take a look at the Commission staff's
11 methodology, you will see that one of the factors taken
12 into consideration is the visual sensitivity of -- of the
13 project site and its surroundings. And one of the
14 criteria again that the Commission looks at is whether or
15 not policies have been established that designate this
16 area as an area of outstanding beauty or whether policies
17 have been established to protect it in some way.

18 MS. DYER: I have no further questions.

19 HEARING OFFICER VACCARO: Okay. So now let's
20 turn our attention back to what's been identified as
21 Applicant's Exhibit 53.

22 I think you've had an opportunity at this point
23 to review it, Ms. Dyer. Have you shown it at all to your
24 witness on visual?

25 MS. DYER: Yes. And I would like our witness on

1 visual to address that.

2 HEARING OFFICER VACCARO: Okay. So we'll hold
3 off doing anything further with this exhibit, I think,
4 until after we've finished with all of the testimony on
5 the topic of visual.

6 MS. DYER: Right. And I think what our witness
7 is going to testify to, that what applicant has proposed
8 as far as coloration of the tower is acceptable to us.

9 HEARING OFFICER VACCARO: Okay. Thank you. I
10 think that would be helpful to hear that under sworn
11 testimony first, and then we'll get to the housekeeping
12 part of this exhibit.

13 MS. DYER: Okay.

14 HEARING OFFICER VACCARO: Okay. Thank you.

15 So if there are no further questions for these
16 two witnesses, Mr. Galati, would you like -- we'll go
17 ahead and excuse them, but it's possible that we're
18 bringing them back when we discuss land use; is that
19 correct?

20 MR. GALATI: That's correct.

21 HEARING OFFICER VACCARO: Okay. So I think at
22 this point, thank you, gentlemen. You can be excused.

23 I think the -- we had this -- I mean, the way it
24 was originally intended was that applicant was going to do
25 direct, staff was going to do cross, but that the

1 applicant did want to cross-examine, I believe, staff's
2 witnesses regarding visual resources.

3 And there wasn't a reservation by staff to have
4 direct testimony; is that correct, on visual?

5 MS. DYER: Staff does have direct testimony on
6 visual.

7 HEARING OFFICER VACCARO: Okay. Why don't you go
8 ahead and call your witnesses.

9 MS. DYER: At this point we'd like to call
10 Mr. Bill Kanemoto.

11 Whereupon,

12 WILLIAM KANEMOTO

13 was called as a witness herein and, having been first duly
14 sworn, was examined and testified as follows:

15 THE REPORTER: Could you please state and spell
16 your name for the record.

17 MR. KANEMOTO: William Kanemoto, spelled
18 K-a-n-e-m-o-t-o.

19 THE REPORTER: Thank you.

20 DIRECT EXAMINATION

21 MS. DYER: Mr. Kanemoto, did you prepare the
22 staff's testimony on visual resources that's included in
23 the staff assessment?

24 MR. KANEMOTO: Yes, I did.

25 MS. DYER: And could you please summarize for the

1 Committee briefly your testimony and your conclusions on
2 that topic?

3 MR. KANEMOTO: Well, first of all, in terms of
4 the visual setting that we were describing in which the
5 project takes place, we evaluated the Rice Valley as
6 having moderately high visual quality. It includes long,
7 highly-distinctive panoramic views of the Rice Valley and
8 dunes ringed on each side by mountain ranges, despite some
9 existing manmade features such as the California aqueduct
10 and ATSF Railroad. These features are generally
11 subordinate within the viewshed and are located to the
12 north away from the scenic views of the Rice Valley to the
13 south.

14 Overall the impression of the viewshed, I would
15 characterize of one of a highly intact, relatively
16 undisturbed landscape. Evidence of Rice Field itself is
17 subtle, often undetectable, and doesn't interfere with the
18 scenic views of the Rice Valley and mountain ranges in the
19 distance.

20 In terms of the impacts of the project, the
21 project comprises a 1300-plus acre mirrored field, roughly
22 two square miles, with a 538-foot tall central concrete
23 tower, a hundred-foot solar receiver on top of that, and
24 an overall right of 653 feet. The solar receiver, in
25 addition, our understanding is it would be very bright.

1 The mirror field would be located very close to SR 62 at
2 its nearest points and dominating the visual foreground of
3 the highway for a distance of roughly four miles. Outside
4 of that area, the mirror field itself would not be
5 visible, but the solar tower would remain visible to great
6 distances.

7 There seems to be some question as to the
8 distance at which the project would be visible, but we
9 consulted several illumination engineers for the purpose
10 of determining that, and we were told by them that we
11 would expect the solar receiver would represent a
12 prominent and annoying visual nuisance to distances of at
13 least ten miles or greater. A good part of our analysis
14 is based on that fact.

15 So, yeah, the tower is 653 feet tall, in other
16 words, 70 stories, and -- well, equivalent to a 60-story
17 building.

18 Again, according to the viewshed mapping
19 presented in figure 513-1 of the AFC and Figure 2 of the
20 staff assessment, the project would be visible from
21 portions of three wilderness areas, the Turtle Mountain,
22 Rice Valley, and Palen McCoy Wilderness Areas.

23 On the basis of level of impact, particularly two
24 viewers on State Route 62 within that four-mile length in
25 which the project would be visible at either very close

1 foreground or near middle ground distances, we determined
2 that it would have very strong visual effects. And from
3 the point of view of the assessment methodology that we
4 routinely apply to all energy projects, that constitutes a
5 significant impact.

6 In general, staff has also been concerned over
7 the great -- well, in this and other recent visual
8 analyses of solar projects, over the potential for local
9 and desert-wide cumulative impacts to the scenic valley
10 desert area, particularly along large portions of the
11 desert's major travel routes.

12 MS. DYER: Thank you, Mr. Kanemoto.

13 Did you have the opportunity to review
14 applicant's rebuttal testimony that was submitted on
15 October 27th?

16 MR. KANEMOTO: Yes, I did.

17 MS. DYER: Could you please respond to that
18 testimony in the context of your understanding of the
19 project and its impacts?

20 MR. KANEMOTO: Well, in essence, the applicant,
21 as he just stated, takes issue with the conclusions that
22 we came to under the individual topics of CEQA Appendix G,
23 criteria A, C, and D.

24 Criterion A, of course, refers to scenic vistas.
25 And, you know, rather than respond to the specific

1 assertions and the discussion of scenic vistas, we would
2 like to note that this criterion is often problematic
3 because CEQA does not specifically define what a scenic
4 vista is but, rather, I as an analyst for quite a long
5 time have often taken the approach that scenic vistas as a
6 category or by definition a subset of criterion C, that is
7 the visual character and quality of the site and
8 surroundings. And so, you know, in order to save time and
9 simplify matters, I think it would be productive to focus
10 on our findings under criterion C.

11 Under criterion C, the applicant disagreed that
12 the project would degrade the existing character and
13 quality of views from SR 62 and the Turtle Mountain
14 Wilderness Area stating that they would produce small to
15 moderate levels of visual change. With all due respect,
16 staff finds this statement quite remarkable and strongly
17 disagrees.

18 As described at length in the staff assessment,
19 by almost any measure, the project would represent a
20 highly-dominant intrusive presence of highly disparate and
21 incompatible visual character and huge scale in the
22 foregrounded views from SR 62 and the middle ground or
23 near middle ground distances of the Turtle Mountain
24 Wilderness Area.

25 Anyway, the project could hardly be more visually

1 dominant and would command the attention of viewers on
2 SR 62 for miles with very strong levels of visual contrast
3 and visual change. Under the methodology that we
4 routinely are required to use to evaluate these projects,
5 there is absolutely no way that we could not find a
6 substantial impact in that situation.

7 For a distance of roughly four miles the project
8 will largely obliterate southward panoramic views of the
9 Rice Valley and its background mountain ranges. The area
10 of visual impact would be greatly increased by the very
11 tall, very bright solar receiver, which according to the
12 staff illumination consultants I referred to a second ago,
13 would be visible, highly visible and intrusive to
14 distances of many miles, potentially over ten miles.

15 The applicant objected that the viewpoints within
16 the affected wilderness areas would not be substantial in
17 number or extent. This is undoubtedly true, and we agree
18 with that; however, that fact does not necessarily imply
19 that the number of viewers is insignificant. Use data
20 were not available.

21 Finally, under the discussion of criterion D,
22 referring to glare and bright lighting, the applicant
23 makes a distinction between reflected glare and direct
24 illumination, implying that direct illumination such as
25 that that would be experienced from the solar receiver

1 does not constitute glare under CEQA.

2 Staff would simply observe that evaluation of
3 sources of direct illumination such as lighting are
4 routinely evaluated under criterion D. In any case, staff
5 believes it is indisputable that the solar receiver will
6 represent an extremely bright sort of illumination that
7 will be highly prominent and intrusive to distance of
8 several miles.

9 Again, relying very heavily on the testimony of
10 two highly-qualified and very experienced illumination
11 engineers, one of whom was the president of the
12 Illumination Engineering Society of North America and the
13 other who has been senior member of many of its
14 committees. I don't purport to be an expert in glare or
15 illumination. We've got all of our guidance on that
16 subject from those two individuals.

17 MS. DYER: The applicant's witness, Dr. Priestly,
18 suggested that some of our key observation points were
19 hypothetical key observation points that maybe were not
20 accessible. Can you address that, please?

21 MR. KANEMOTO: Well, as I just mentioned, you
22 know, we don't dispute the fact that the number of viewers
23 that would be expected within the wilderness area is bound
24 to be small; however, Dr. Priestly implies that in his
25 rebuttal testimony, his written rebuttal testimony, that

1 they're not -- the points within the wilderness area are
2 not legitimate KOPs because they're only accessible by
3 foot. That would imply that no KOPs could ever be found
4 in any wilderness area, because all wilderness areas are
5 by definition accessible only by foot. But we do know for
6 a fact that many wilderness areas receive a lot -- I
7 wouldn't say heavy, but substantial hiking traffic. Now
8 whether this one does or not, we don't know for a fact,
9 because there's no user data.

10 But those areas from which the viewpoints are
11 taken are accessible for most hikers who are going for the
12 purpose of cross-country hiking, they're taken from ridge
13 lines that are not far from the level areas, not far from
14 parking areas and are accessible as day hikes.

15 So I would have to disagree that they're
16 completely unrealistic. It's true that they're virtual
17 views, and it's a little bit unorthodox, but I don't think
18 that they're illegitimate. They were very carefully
19 studied, and I believe that they are easily accessible
20 viewpoints.

21 MS. DYER: Is it your understanding, think about
22 the significance criteria under CEQA, you know, there's A,
23 B, C, and D, if they're -- how many criteria do you need
24 to find significant impact for it -- to make a conclusion
25 that there is a significant visual impact?

1 MR. KANEMOTO: Well, an impact may be significant
2 if any one of these criteria is not met. As I mentioned
3 before, however, in general, staff's analysis particularly
4 emphasizes criterion C, substantial degradation of visual
5 character and quality of the site and surroundings, and in
6 this case, also substantial adverse light or glare,
7 criterion D. But any one of those is adequate to arrive
8 at a significant impact finding.

9 MS. DYER: And one final question.

10 Based on your background and experience, do you
11 believe that there are any mitigation measures that could
12 reduce the impacts of this project to a level below
13 significant?

14 MR. KANEMOTO: No. Staff is not aware of any
15 available measures that would reduce the project impacts
16 to less than significant levels.

17 MS. DYER: Thank you.

18 Now, my understanding is that we will discuss
19 land use and LORS compliance at a later time, or is that
20 something that we should invite Mr. Kanemoto to discuss
21 right now?

22 HEARING OFFICER VACCARO: Yes, we are going to do
23 land use separately; so if this is a witness you'd like to
24 bring back again to discuss land use and local LORS
25 compliance, you're certainly welcome to do that.

1 MS. DYER: I have no further questions.

2 Thank you.

3 HEARING OFFICER VACCARO: Mr. Galati, do you have
4 cross?

5 MR. GALATI: Yes, I do.

6 CROSS-EXAMINATION

7 MR. GALATI: Mr. Kanemoto, thank you for your
8 testimony.

9 If an applicant proposed the KOP and Google Earth
10 visual simulations in their application for certification,
11 would you consider that application data adequate?

12 MR. KANEMOTO: Well, I can't speak for the rest
13 of the staff, but I personally would consider it with
14 qualifications, technical qualifications.

15 MR. GALATI: So rather than requiring actual
16 photos and visual simulations based on actual photos at a
17 particular focal length and a particular size, in your
18 opinion the Google Earth images that you created would
19 be -- would satisfy the data adequacy regulations?

20 MR. KANEMOTO: Well, I think this approach, which
21 we've acknowledged is highly unorthodox, would only be
22 called for in instances like this, where, you know, it's
23 difficult and under the circumstances it wasn't practical
24 in our time frame to get to those viewpoints and do it in
25 the conventional way.

1 I'll mention that considerable effort was made to
2 ensure that the Google Earth views that you saw
3 represented a normal camera lens, they were cropped to
4 emulate a 40-degree angle of view, you know, typical of a
5 normal camera lens.

6 The idea in this case was simply to show the
7 visual magnitude of the object from those general distance
8 zones and to give you a sense of how visible the extent of
9 the mirror field were, and so on and so forth. I admit
10 they're not ideal.

11 MR. GALATI: Wouldn't you agree they seriously
12 overestimate the visual contrast?

13 MR. KANEMOTO: Not based on my understanding; and
14 that understanding was based on an awful lot of
15 conversation with the two illumination engineers that I
16 mentioned to you before.

17 MR. GALATI: Individual simulations, you've taken
18 the entire mirror field and colored it sort of a gray
19 reflective area. You are aware, correct, that the mirrors
20 are not all visible from that location, and, in fact,
21 you've shown it as a circle where they are all visible as
22 a reflected color, correct?

23 MR. KANEMOTO: That's correct. And they would be
24 visible in that manner at certain times, under certain
25 conditions they wouldn't. And I believe that we mentioned

1 this in the text and the discussion. And probably this
2 was based also on aerial photographs of not identical, but
3 very similar types of sole tower systems that actually
4 exist, you know, Solacar and other projects like that.

5 MR. GALATI: With respect to the selection of
6 those KOPs, would you agree that if a particular KOP is
7 inaccessible, that it should not be used as a key
8 observation point for visual analysis?

9 MR. KANEMOTO: I suppose I would agree with that,
10 yes.

11 MR. GALATI: How many users would have to use a
12 location for you to consider that it's appropriate KOP for
13 analysis?

14 MR. KANEMOTO: Well, obviously today there's been
15 a lot of emphasis on the number criterion as the measure
16 of visual sensitivity, but I have to point out that, you
17 know, no where does CEQA specify the number of viewers as
18 one of the criteria for visual sensitivity or impact; and
19 although all methods acknowledge viewer number as a key
20 component of analysis, it is never the sole criterion for
21 establishing viewer sensitivity, it's one important
22 component.

23 MR. GALATI: Yeah, aren't we looking at -- I
24 mean, by the very definition, aren't we looking at the
25 sensitivity of a viewer? Obviously there has to be at

1 least one, correct?

2 MR. KANEMOTO: I'm sorry, can you repeat that?

3 MR. GALATI: All of the CEQA criteria talk about
4 the impact on someone who views it, so there has to be at
5 least one viewer, correct?

6 MR. KANEMOTO: Yes, I would say so, I would agree
7 with that.

8 MR. GALATI: So it's theoretically possible for
9 you to choose -- if you chose a KOP where there were no
10 viewers, would you agree that that is not an appropriate
11 KOP to base your analysis on?

12 MR. KANEMOTO: I would agree with that statement
13 with qualifications. I mean, we refer to these sometimes
14 as key representative viewpoints; in other words, you
15 know, if that exact spot is not accessible, but it's
16 representative, substantially representative of the view
17 conditions of other locations of a similar nature in that
18 vicinity at a similar distance and a similar viewing
19 angle, I would say it's representative.

20 If we could establish -- and actually, this has
21 come up on some recent cases, that there are not
22 accessible viewpoints in the area of possible potential
23 visibility, then I would agree with you that those are not
24 appropriate or very particularly meaningful viewpoints,
25 but I don't think that applies in this case. That's my

1 opinion.

2 MR. GALATI: Visual analysis is very subjective;
3 would you agree?

4 MR. KANEMOTO: I would only partly agree with
5 that. I mean, as a professional visual analyst, I have to
6 believe that the process is designed specifically to
7 narrow down areas of, you know, the areas of vagaries to
8 the point where at least where they are subjective, that
9 aspect can be explicitly identified. And I think certain
10 things like the various components of viewer sensitivity,
11 and more importantly, you know, the actual measure of
12 visual impact, of visual contrast, visual dominance,
13 visual magnitude, things like that, have a very objective
14 aspect to them.

15 MR. GALATI: But wouldn't you agree the
16 subjective part of the analysis isn't whether it's
17 contrast of what the dominating view would be, it's
18 actually whether anybody sees it, correct?

19 MR. KANEMOTO: That's correct.

20 MR. GALATI: I want to turn to a statement that
21 you said is using the Energy Commission's methodology;
22 there's no way you could find an insignificant impact for
23 the Rice project, correct?

24 MR. KANEMOTO: Yes, that's correct.

25 MR. GALATI: Using that same methodology, do you

1 think there's any place in California the Rice project
2 could be sited in which you could find no significant
3 impact?

4 MR. KANEMOTO: I believe there probably could be,
5 yes.

6 MR. GALATI: Can you help me understand what --
7 how you would make that decision? Want to give the
8 Committee a view of where the Rice project should be sited
9 with no impact from your view?

10 MR. KANEMOTO: I think in a situation where the
11 project was not located so close to the sensitive viewers,
12 you know, the key sensitive viewers, which in this case,
13 to my mind, are the motorists on SR 62, that distance
14 makes a huge difference. Just in the way that
15 Dr. Priestly referred to the way the light falls off as
16 the square of the distance, visual magnitude and all that
17 goes with it, contrast and dominance also falls off as a
18 square of the distance. So distance makes a big
19 difference.

20 The opportunity for screening or topography makes
21 a big difference. And of course, screening would probably
22 be a very, you know, important consideration in the case
23 of this particular technology because of the fact that I
24 think the larger problem that is being countered here is
25 the fact that there's this tremendously tall structure,

1 the top, which the primary source of impact is occurring,
2 the solar receiver. So that is an unusual circumstance.

3 MR. GALATI: What it appears to me you're
4 describing is putting the solar project in -- even in a
5 more remote location farther from roads and viewers than
6 its current location.

7 MR. KANEMOTO: I would have to think about that
8 further, sir. I'm -- you know, it has to do with the
9 level of sensitivity being ascribed to those viewers.

10 MR. GALATI: I don't have any further questions.
11 Thank you.

12 MS. DYER: I have a couple of redirect questions,
13 if that's all right.

14 REDIRECT EXAMINATION

15 MS. DYER: How many KOPs did you consider in your
16 analysis?

17 MR. KANEMOTO: There were five KOPs; four that
18 were presented in the AFC and then the two controversial
19 ones using Google Earth.

20 MS. DYER: So four KOPs were used, were
21 identified using traditional camera methods that you would
22 normally use on a visual impacts analysis.

23 MR. KANEMOTO: Yes.

24 MS. DYER: And if I could clarify, have you
25 clarify for my understanding your statement regarding the

1 visibility of the proposed project in the proposed site
2 regarding the distance that that project could be seen
3 from, could you explain just for me what you meant by that
4 again?

5 When Mr. Galati asked you if there was any way --
6 any place that you thought a power plant like this power
7 plant could be sited where the visual impacts would be
8 reduced, you said if you thought the power plant -- or
9 maybe I'm misstating, I would like you to state your
10 testimony to that question again, please.

11 HEARING OFFICER VACCARO: Before you do so, I
12 just want to be clear that the record reflects that you
13 asked your initial question, and the witness, although it
14 was not captured on the microphone, asked for
15 clarification, and you, therefore, restated the question.

16 And with that, I do have to ask if you could
17 please ensure that the red light is on when you speak,
18 because it's important that everything is captured on the
19 record.

20 MR. KANEMOTO: Could you repeat the beginning of
21 the question again? I'm sorry. I'm just trying to --

22 MS. DYER: Mr. Galati had asked if there was any
23 place you thought that such a project could be located
24 that it would reduce the impacts, the visual impacts. And
25 you had said if the views were -- and please correct me --

1 if the views were not visible from such distances, that
2 would reduce the impact of the project. Could you please
3 explain that?

4 MR. KANEMOTO: Right. Well, it isn't simply an
5 issue of visibility, it's also an issue of, as Mr. Galati
6 has been saying, the nature of the receptors and the
7 conditions under which they're viewing the project. So
8 I -- I couldn't right now state what type of site would be
9 ideal for siting this type of project. I think that would
10 take a lot of thought, and it's a complicated question.
11 But the two basic parameters are the sensitivity of the
12 viewers that are going to be exposed, especially at a high
13 level of brightness, and certainly visibility, distance,
14 and so on.

15 MS. DYER: Thank you. I understand I put you on
16 the spot with kind of a speculative question of that
17 nature; but I have no further questions.

18 HEARING OFFICER VACCARO: Okay. Then can we
19 address the issue of Exhibit 53 at this point?

20 I think you indicated that your witness had taken
21 a look at these simulations and did not have any objection
22 to that, but I'd rather have that on the record through
23 your witness than through you. So, Ms. Dyer, if you could
24 question your witness with respect to Exhibit 53.

25 MS. DYER: Absolutely.

1 I believe that the condition of certification in
2 question was VIS 1, and the question was the color of the
3 concrete that should be used in the tower, and applicant
4 had suggested a non-colored concrete. Could you please
5 explain your view on that?

6 MR. KANEMOTO: Yes. That was actually a new
7 question and one that we spent some time trying to
8 resolve.

9 I spoke with one of the staff illumination
10 consultants, Dr. Greg Irvin, and discussed the issues at
11 stake here. And based on that discussion, we are prepared
12 to agree to the applicant's request to drop the
13 requirement for coloring of the concrete tower. We
14 believe instead that a minor change in wording indicating
15 that the tower not be reflective or shiny would be
16 adequate.

17 As Dr. Irvin observed, a light-colored concrete
18 with its associated high LRV value would cause the tower
19 to blend with the sky reasonably well as long as it's not
20 shiny.

21 HEARING OFFICER VACCARO: Okay. Then so just to
22 ensure that the Committee's understanding with respect to
23 what's before us as Exhibit number 53, I'm hopeful that
24 you have that before you or that someone will get that
25 before you, what's identified on both sheets as the

1 untreated concrete, which I believe is what the applicant
2 is suggesting they'd like to go with, you're now saying
3 that it's staff's position that the untreated concrete is
4 acceptable, but you would like to ensure that the language
5 of the condition expressly states that the tower structure
6 should not be reflective or shiny; is that correct?

7 MR. KANEMOTO: Yes, that's right.

8 HEARING OFFICER VACCARO: Okay. Applicant, is
9 there anything at all you need to say about that? I think
10 you should be satisfied, but let me let you get the last
11 word on that.

12 MR. GALATI: Whenever this happens, I think can I
13 put myself during compliance. We're rushing to get
14 something approved, we now have a demonstration that
15 natural concrete is not shiny. We have visual
16 simulations, we know that natural, unpigmented concrete is
17 not shiny, so why do we need the criteria? Can't we just
18 make it really clear to the applicant, use unpigmented
19 natural concrete; and that's not treated, that's not
20 shiny, and we've shown proof of that.

21 So I just worry about whether or not we're going
22 to have another meeting and a discussion during compliance
23 about proving that the concrete is not shiny.

24 HEARING OFFICER VACCARO: I think your point is
25 well taken, and I think what we've done at this point is

1 we've heard from staff and heard from applicant on the key
2 issue, which is color-treated or not color-treated
3 concrete, and on that point, my understanding is that the
4 parties are in agreement. Whether or not additional
5 language might be added is something to clarify or ensure
6 that everyone understand the intent, I think that's the
7 job of the Committee.

8 So I want to be sure that we are in agreement
9 that there is no longer a problem with VIS 1 with respect
10 to the color treating of the concrete; is that correct?

11 MR. GALATI: It is correct. For the issue, we
12 would ask the Committee to use our Visual 1 in our opening
13 testimony.

14 HEARING OFFICER VACCARO: Okay. I think I have a
15 question. And I think I can just direct it to
16 Mr. Kanemoto, but if, in fact, it looks like we might need
17 to ask Mr. Priestley, we'll do this.

18 And I think it was triggered though by your
19 testimony, Mr. Kanemoto, and I -- I want to be clear that
20 I'm understanding, so please don't think I'm signaling
21 anything to you, this is really just a point of
22 clarification.

23 You had indicated that the primary viewer that
24 you're concerned with is the motorist; is that correct?

25 MR. KANEMOTO: From my point of view, that was

1 the focus of my concern, yes.

2 HEARING OFFICER VACCARO: Okay. And that's true
3 with respect to the heliostat field as well as the tower
4 structure and the receiver on top of the tower structure;
5 is that correct?

6 MR. KANEMOTO: Yeah, that's right.

7 HEARING OFFICER VACCARO: Okay. And you had
8 indicated distances. I think with the heliostat field you
9 said maybe from up to four miles away --

10 MR. KANEMOTO: Right.

11 HEARING OFFICER VACCARO: -- that would be of
12 concern potentially for a motorist.

13 MR. KANEMOTO: Right.

14 HEARING OFFICER VACCARO: Okay. And with respect
15 to the tower and receiver, I believe you said ten miles
16 and maybe beyond; ten miles or greater I think was the
17 language you used.

18 MR. KANEMOTO: Yes.

19 HEARING OFFICER VACCARO: Okay. I guess what I'm
20 interested in is let's use the four-mile mark. And the
21 heliostat field is what we're talking about right now.

22 How long is this going -- for what duration, for
23 what period of time is this going to be of concern for a
24 motorist?

25 MR. KANEMOTO: Well, depends on how fast they're

1 driving, but --

2 HEARING OFFICER VACCARO: Do you know what the
3 posted speed limit is on State Route 62 on that segment?

4 MR. KANEMOTO: I frankly don't remember, but if
5 one assumes that they're traveling at roughly a mile a
6 minute, then it would be about four minutes.

7 HEARING OFFICER VACCARO: Okay. And same
8 question, but now going where -- starting at about ten
9 miles away, and we're looking at the receiver, you're
10 telling me maybe about ten minutes that that would be of
11 concern for a motorist, the receiver tower and the
12 receiver structure?

13 MR. KANEMOTO: I think that's right, although as
14 I think we've heard today, there's some dispute as to what
15 the limit of significant impact from the glare would be.
16 I was simply told that ten miles or more.

17 HEARING OFFICER VACCARO: Okay. Thank you. I
18 think you've answered my question.

19 Are there any questions what the Committee might
20 have?

21 Okay. So unless there's anything else for this
22 witness, let's excuse Mr. Kanemoto, and let's go ahead
23 then and have the applicant move in Exhibit 53.

24 MR. GALATI: I ask to receive into evidence
25 Exhibit 53, both figures, KOP 1 and KOP 4.

1 HEARING OFFICER VACCARO: Okay. Ms. Dyer?

2 Excuse me, it's my understanding staff does not have an
3 objection to Exhibit 53.

4 MS. DYER: That is correct; we have no objection.

5 HEARING OFFICER VACCARO: Okay. Then we'll deem
6 that admitted. And the copies that I have will be deemed
7 the copies for the record.

8 (Applicant's Exhibit number 53 was admitted into
9 evidence.)

10 HEARING OFFICER VACCARO: Okay. So now I think
11 we've finished with the topic of visual resources. I
12 think we're going to next move into land use. But let me
13 sort of go off the record for just one moment, briefly
14 confer with the Committee, and then we'll go back on the
15 record.

16 (Recess.)

17 HEARING OFFICER VACCARO: We're back on the
18 record.

19 We went off, believe it or not, just to talk a
20 little bit about the next topic and the appropriate place
21 to break, because we understand that there is a rhythm
22 that's developed as you're questioning and preparing for
23 cross. We also understand that at some point people are
24 going to need to eat. So the question that I have for
25 both is do you anticipate the land use testimony, both

1 direct and cross, exceeding one hour; and if so, that's
2 fine, we just need to know if you anticipate that it will
3 be longer than an hour.

4 Mr. Galati, what do you think?

5 MR. GALATI: I think I have about five minutes of
6 direct and about five minutes of cross-examination. I
7 also think we could also handle, just to throw on the
8 record, I think we have an agreement in cultural. And so
9 I think we could do both of those before lunch, unless
10 staff has more than a few minutes for land use.

11 HEARING OFFICER VACCARO: Okay. Ms. Dyer?

12 MS. DYER: I would say we maybe have ten minutes
13 on land use, probably very little cross. And I would
14 agree that we have come to an agreement on cultural, we
15 want to put that on the record, but that would be fairly
16 quick.

17 HEARING OFFICER VACCARO: Okay. I think that's
18 good. Then why don't we go ahead and move forward with
19 those two topics. At that point, natural place to break
20 for lunch, and then we'll come back and finish up.

21 So I think we'll begin with the applicant's panel
22 that may be comprised of both land use and visual
23 witnesses, from what I understand; is that correct
24 Mr. Galati?

25 MR. GALATI: Yeah. I think I'll call the visual

1 witness back up to the panel, he's already sworn, if
2 there's a question that comes up that the land use
3 people --

4 HEARING OFFICER VACCARO: Okay. Thank you.

5 And before we begin, I did send an e-mail to
6 Mr. Galati and Ms. Dyer yesterday advising them that it's
7 possible that the Committee will have a question or some
8 questions relating to the Riverside County development
9 impact fee requirement and the topic of property taxes.
10 So please ensure whomever it is that you're calling up
11 will be able to respond to any such questions.

12 MR. GALATI: I identified the witness that is
13 most relevant and most knowledgeable about that in worker
14 safety. He is here. I can have him answer the question
15 now in land use or in worker safety, I would just need to
16 swear him now.

17 HEARING OFFICER VACCARO: Why don't we go ahead
18 and swear that individual in at this time, and if it's a
19 different technical area, I don't think it matters because
20 the substantive topic is what we're most interested in.
21 Whereupon,

22 DEBBIE BUILDER, JOHN SNELL, BOB ANDERS
23 were called as witnesses herein and, having been first
24 duly sworn, were examined and testified as follows:

25 MS. BUILDER: Debbie Builder, B-u-i-l-d-e-r.

1 MR. SNELL: John Snell, J-o-h-n, S-n-e-l-l.

2 MR. ANDERS: Bob Anders, A-n-d-e-r-s.

3 DIRECT EXAMINATION

4 MR. GALATI: Probably to make this easier, I'm
5 going to ask a question to all of you, and then if you
6 could each just answer one at a time.

7 So the question to all of would be, did you
8 prepare opening testimony as part of Exhibit 48 in land
9 use?

10 MS. BUILDER: Yes.

11 MR. SNELL: No.

12 I'd restate that to yes.

13 MR. ANDERS: Yes.

14 MR. GALATI: And did you also prepare rebuttal
15 testimony of part of Exhibit 52 for land use?

16 MS. BUILDER: Yes.

17 MR. SNELL: Yes.

18 MR. ANDERS: Yes.

19 MR. GALATI: Ms. Builder, did you review the
20 staff assessment on land use?

21 MS. BUILDER: Yes, I did.

22 MR. GALATI: And did you agree with the
23 conclusion that the project needs a finding of override
24 because it does not comply with land use LORS?

25 MS. BUILDER: I disagree with staff's conclusion.

1 MR. GALATI: Can you briefly tell us -- the
2 Committee has read the testimony that you wrote. Can you
3 briefly summarize why you disagree?

4 MS. BUILDER: Yes. I believe that staff was
5 incorrect with their findings of inconsistency on some of
6 the policies as well as the conclusion that inconsistency
7 with a policy renders a determination of finding of
8 override for inconsistency with LORS. And that's
9 primarily based upon the concurrence of the Riverside
10 County Planning Department and their supporting letters
11 that, in fact, the project is in conformance with the
12 LORS.

13 MR. GALATI: I actually don't have any more
14 questions on direct.

15 HEARING OFFICER VACCARO: Ms. Dyer, I'm assuming
16 you want to cross-examine? Or perhaps you don't.

17 MS. DYER: I don't have any cross questions.
18 Thank you.

19 HEARING OFFICER VACCARO: Okay.

20 Actually, I think the Committee has just a few
21 questions.

22 And I think we want to first of all understand
23 two statements that were made in this staff assessment,
24 understanding that you're not staff's witnesses but you've
25 read the staff assessment.

1 In land use there is an indication that the
2 project owner will be required to pay Riverside County
3 development impact fees. Will the project owner be
4 required to pay such fees?

5 MR. SNELL: The CEC has jurisdiction over the
6 project. Right now the county expects to receive the
7 fees; and if the project was under the direct jurisdiction
8 of the county, it would receive the fees. It will be up
9 to the Commission to require that. And then that would be
10 done through the CBO, is my understanding.

11 HEARING OFFICER VACCARO: Okay. And I think that
12 answer clarifies what my next question was going to be,
13 because in the topical area of worker safety and fire,
14 there is narrative stating that if the projects were
15 required to pay that fee, that might address some of the
16 concerns relating to fire impacts.

17 I don't want to talk about worker safety and fire
18 right now, I was just trying to reconcile the two
19 statements, one in the land use testimony, one in worker
20 safety and fire. And, of course, I'll pose these same
21 questions to staff.

22 So let's assume that the project owner is going
23 to be required to pay these fees. What's the amount, and
24 how is it calculated?

25 MR. SNELL: I'll start with the latter part of

1 that first.

2 It's -- the fee is calculated in a practical
3 matter with the county right now on the area that is
4 most -- they considered to be the most heavily developed,
5 and that would be the primary paved access road, the
6 square footage of the footprint of buildings, and the
7 square footage of the major foundations, for instance, the
8 turbine or the cooling areas, those kind of things, and,
9 of course, the footprint of the tower would be part of
10 that. Right now that's calculated to be between 10 and 20
11 acres. The exact calculations will be done at the time
12 the construction plans are done and reviewed with the
13 county staff.

14 HEARING OFFICER VACCARO: And is the fee based
15 per acre? So let's say this would probably be deemed,
16 what, industrial use. That has a dollar figure associated
17 with industrial use per square foot; is that correct?

18 MR. SNELL: Your assumption is correct. The way
19 the ordinance is written, and county recognizes that this
20 would be an industrial use, the ordinance is written
21 though that certain zoning categories are put into the
22 assessment of the fee regardless of what the actual land
23 use is. And this zone is W-2 primarily. W-2 is in the
24 category of a commercial use. So the fee is based on the
25 commercial use in the desert area.

1 The fee is \$25,931 per acre. We're in a period
2 now where that fee is cut in half for all development in
3 the county to encourage development. I think that expires
4 at the end of the year, if I'm not mistaken.

5 HEARING OFFICER VACCARO: Okay. So to be clear,
6 it would be \$25,931 per acre without the 50 percent
7 discount that the county is giving to stimulate
8 development, and that would only apply to, based on the
9 preliminary design, 10 to 20 acres.

10 So does that mean the heliostat field is
11 completely excluded --

12 MR. SNELL: That's correct.

13 HEARING OFFICER VACCARO: -- from this?

14 And why is that?

15 MR. SNELL: That's not considered heavily
16 impacted on the ground. And they equate this to mineral
17 extraction areas, surface mines, and other industrial uses
18 where they use that same methodology.

19 HEARING OFFICER VACCARO: Okay. Thank you.

20 And as to the issue of property taxes, again, AFC
21 as well as the staff assessment make clear that this is
22 going to be sited on private property. Is the project
23 subject to a property tax requirement?

24 MR. SNELL: Yes, it is. And that's -- in the AFC
25 it's identified as \$209,000 per year after development.

1 HEARING OFFICER VACCARO: Okay. Thank you.

2 Any questions of the --

3 PRESIDING MEMBER WEISENMILLER: Just a follow-up
4 question on the county cutting things in half for projects
5 this year.

6 As I understand this, this project is probably
7 going to use the safe harbor approach, and so the question
8 is whether that would comply with the county's
9 requirements.

10 MR. SNELL: Anything that the project does that
11 start up and trigger that funding won't affect the payment
12 of these fees. These fees are due at the time that
13 they've gone to commercial operation and after they're
14 complete construction, which would be two, three, years in
15 the future. So I expect that -- and I should have
16 mentioned that -- I expect that qualification not to
17 apply. And I hope we're in a better situation by the end.

18 MR. GALATI: Thank you.

19 HEARING OFFICER VACCARO: Okay. And I guess we
20 now have some of this information in the record by way of
21 your sworn testimony, we'll certainly hear from staff as
22 well; but where within the evidence that's been submitted
23 to date is the narrative that explains how the development
24 impact fee would work, discount dollar figures, the
25 discount by the county and the like? Is that anywhere in

1 the documentary evidence that's been submitted? I just
2 don't recall seeing it.

3 MR. GALATI: I'll do my best to answer.

4 I believe that it starts in the AFC, I believe
5 there was a data response that was required. And I'm not
6 sure whether it is addressed in the fire needs assessment.

7 MR. SNELL: I don't think that whole story is in
8 the record. We might want to think about entering the
9 ordinance into the record. And that's clear in the
10 ordinance how that works, the current state.

11 HEARING OFFICER VACCARO: And that's also
12 something that the Committee could take official notice of
13 as well without having to go through the process of
14 putting it into the record, but thank you for clarifying.

15 Ms. Dyer?

16 MS. DYER: I believe our witness, Ms. Strattan,
17 might have something to clarify the questions, if we could
18 swear her in.

19 HEARING OFFICER VACCARO: We'll do that
20 because -- we'll turn to her in just a few moments, as
21 soon as I'm, I think, finished with this group.

22 MS. DYER: Okay.

23 HEARING OFFICER VACCARO: Thank you. I think,
24 unless the Committee has any other questions for these
25 three witnesses, I think you've answered all of our

1 questions. Thank you.

2 MR. GALATI: Can I ask one redirect based on the
3 Committee's questions?

4 HEARING OFFICER VACCARO: Yes, go ahead.

5 REDIRECT EXAMINATION

6 MR. GALATI: I apologize Mr. Snell, I forgot to
7 ask you to introduce yourself and your relationship with
8 the county for your opinion.

9 MR. SNELL: I'm a practicing civil engineering,
10 professional engineer in the State of California, and I'm
11 also a planning commissioner for Riverside County, which
12 I've held for almost 16 years, it's 15 years currently.
13 I've worked with all the departments, and I've helped
14 establish many of the policies the county has, the general
15 plan, the zoning ordinance, a lot of the fee ordinances,
16 and the practices and guidelines in the county.

17 MR. GALATI: Thank you.

18 HEARING OFFICER VACCARO: Thank you. We have no
19 more for these witnesses.

20 So, Ms. Dyer, if you'd like to go ahead and have
21 your witness sworn in, and I will pose, as I indicated,
22 the same exact questions, which is why I gave everyone
23 advance notice to be prepared to answer the questions.

24 ///

25 ///

1 Whereupon,

2 SHAELYN STRATTAN

3 was called as a witness herein and, having been first duly
4 sworn, was examined and testified as follows:

5 THE REPORTER: Please state and spell your name
6 for the record.

7 MS. STRATTAN: Shaelyn Strattan, S-h-a-e-l-y-n,
8 S-t-r-a-t-t-a-n, as in Nancy.

9 HEARING OFFICER VACCARO: So as I mentioned to
10 people at the beginning of this proceeding, you can assume
11 that the Committee is aware of your testimony and has read
12 all that you have to say, and really the specific
13 questions for you are the same as just posed to the
14 applicant's witnesses; but since you heard my question, we
15 can probably cut through some of that.

16 What I'd really like to hear about is your
17 understanding of the application of Riverside County's
18 development impact fee to this project, notwithstanding
19 the Commission's authority.

20 MS. STRATTAN: Notwithstanding the Commission's
21 authority, Riverside County has enacted an ordinance, 659,
22 plus amendments that required development impact fees that
23 would go to supporting all of the county services within
24 the county itself. It's an across-the-board determination
25 on what areas it goes into, but it's primarily public

1 facilities in the area.

2 The understanding that we have, I spoke
3 repeatedly with Mr. Ray Juarez -- he is the Riverside
4 County Urban Regional Planner and is also the lead for the
5 renewable energy projects in the area -- in a letter that
6 we sent to in Juarez in April, April 28th of this year,
7 followed up by e-mail request in March -- or prior to that
8 in March, we asked specific information about the
9 development impact fee.

10 On a return call to Mr. Juarez, which was
11 docketed in May of -- May 11th of 2010, he indicated that
12 the fees -- that the project site is in the desert center
13 CVDIF area that -- the development management fee area
14 would be based on commercial development at \$12,367 per
15 acre based on the August 20th, 2009, fee schedule.

16 He indicated that those fees would be set at the
17 time of licensing, that the acreage would include all
18 power block facilities and all primary paths of travel
19 leading to the production plant areas. That would include
20 access roads, but did not include the solar heliostat
21 roads or the heliostat fields. And they would require
22 that the applicant or the project owner at that time
23 provide an exhibit showing all applicable roads and
24 facilities, including acreages. And that would be
25 submitted to the county at the time that they determine

1 the exact amount of the fee that would be due.

2 In response to that, in the staff's analysis,
3 there's a condition of certification, Land 6, which
4 basically mirrors that information. It states that prior
5 to the start of commercial operation, upon final
6 inspection or issuance of a certificate of occupancy, that
7 the project owner would be required to pay the development
8 impact fee that we've noted earlier, consistent with
9 ordinance 659.

10 There was no mention at the times I spoke with
11 Mr. Juarez about it being a 50-percent discount that was
12 going to expire at a particular date. And as far as I
13 know, there is nothing on their web site or on their
14 posted fee schedule that indicates that expiration date,
15 that special consideration.

16 And I think that's pretty much all I have on
17 that.

18 HEARING OFFICER VACCARO: Okay. Thank you. That
19 really does clarify a lot of what the confusion was that I
20 had in reading those two different technical area
21 sections.

22 Just to be clear, you're saying ordinance
23 number 65 as it's been amended and a certain resolution
24 dated August of '09 are the operative documents relating
25 to the county's development impact fee program?

1 MS. STRATTAN: It's ordinance 659.

2 HEARING OFFICER VACCARO: 659, thank you.

3 MS. STRATTAN: It is a -- it is their fee
4 schedule that was adopted by the board of supervisors on
5 August 20th, 2009.

6 HEARING OFFICER VACCARO: Okay. Thank you.

7 And I'll ask you the same question that I asked
8 the applicant's witnesses. Is it your understanding that
9 this project will pay property taxes?

10 MS. STRATTAN: I do not have the property tax
11 information. It is my understanding, but that isn't in my
12 section, it's handed off to the socio section.

13 HEARING OFFICER VACCARO: Thank you.

14 Any other questions for this witness?

15 PRESIDING MEMBER WEISENMILLER: I just wanted to
16 double check on whether the fee you cited was roughly half
17 the fee the applicant's witness cited?

18 MS. STRATTAN: That's correct, it is half, but as
19 I said, I didn't see any stipulation that it was to expire
20 or that it -- my understanding is it was just a decision
21 on the basis of the board's determination of reducing the
22 fees to encourage business development within the county.

23 PRESIDING MEMBER WEISENMILLER: Thanks.

24 MR. GALATI: I could offer something to clarify
25 that question. I actually think I now see where the

1 disconnect is.

2 And, Mr. Snell, correct me if I'm incorrect, but
3 I think there's a difference between the commercial
4 designation and the industrial designation, that is a
5 different fee. And then --

6 HEARING OFFICER VACCARO: You can go ahead and
7 answer.

8 MR. SNELL: The industrial designation is half of
9 the commercial designation.

10 And actually, we entered into it thinking this is
11 an industrial usage, should be charged the industrial
12 rate, and that's what we assumed for a long time. As we
13 worked closer with staff, and we're very familiar with
14 Mr. Juarez, it became clear staff would be assessing this
15 as a commercial designation. The fee is not based on
16 anyone's discretion, it's based on the ordinance. It's
17 not set when we're licensed, it's due when we go to
18 certificate of occupancy; and at that time you will submit
19 the plans, review the areas, come to agreement with staff
20 on how it's to be assessed.

21 HEARING OFFICER VACCARO: Okay. Thank you.

22 I don't think we have any more questions for the
23 land use witnesses. Thank you.

24 So I believe that the applicant and staff wanted
25 to submit information to the Committee on the topic of

1 cultural resources.

2 Have you had the opportunity to look that over
3 and confer, or do you still need to do that?

4 MR. GALATI: I can do that; but, Ms. Vaccaro,
5 could I please cross this witness for a minute?

6 HEARING OFFICER VACCARO: Oh, I am so sorry, yes.

7 MR. GALATI: I messed you up when I brought
8 another witness up; my fault.

9 HEARING OFFICER VACCARO: Yes, go ahead. I'm
10 sorry.

11 CROSS-EXAMINATION

12 MR. GALATI: Ms. Strattan, if the Committee Chose
13 to make a finding of override for visual resources, do you
14 believe that that finding of override will also take care
15 of any finding that you believe is necessary for land use?

16 HEARING OFFICER VACCARO: Ms. Strattan, I'm
17 sorry, it's -- I know you're looking to Ms. Dyer to give
18 you some assistance, but when Mr. Galati is asking a
19 question, the attention has to be focused on the person
20 asking, and then before you answer, if you need to confer
21 with legal counsel, you may do so; but I think -- let's
22 let the whole question be asked first, and then we'll
23 figure out what you might need to do before you answer.

24 MS. STRATTAN: I think my first question is we
25 have not had direct on land yet. So I'm curious as to

1 where we're going with this.

2 MS. DYER: And that would have been my statement
3 at that point, that we haven't established Ms. Strattan's
4 testimony at this point.

5 HEARING OFFICER VACCARO: Well, I guess as a
6 point of clarification, I disagree, because you submitted
7 all of the land use testimony this morning, it was done
8 without objection of the applicant. The direct is
9 submitted into the record. You do have the opportunity if
10 you feel that you need to do some sort of preliminary
11 direct, and we did give you that opportunity to carve that
12 out, but her testimony is in the record as of a couple of
13 hours ago, and everything within her testimony is now
14 subject to questioning by Mr. Galati.

15 But if for the purposes of frame of reference or
16 context you would like to take a moment, have Ms. Strattan
17 summarize her testimony and give some context for
18 Mr. Galati's question, I think the Committee, I think,
19 would be fine with that, but the testimony is in the
20 record.

21 MS. DYER: I'm sorry, I misspoke on that. I
22 meant we didn't -- we had not yet had any direct
23 examination before we had cross. I just wanted to
24 introduce what she was saying before we address it on
25 cross.

1 HEARING OFFICER VACCARO: Okay. Mr. Galati, do
2 you have any objection to our just moving, taking a few
3 steps back and covering that procedural hurdle to set up
4 your question in a way that gives everyone greater
5 context?

6 MR. GALATI: Yeah, no problem. I'd like to
7 apologize to everybody. It was when I brought somebody
8 out of order that got us out of order. I apologize.

9 Yes, Ms. Strattan, I think you should be able to
10 explain direct.

11 MS. DYER: Thank you.

12 DIRECT EXAMINATION

13 MS. DYER: Ms. Strattan, your testimony states
14 that the project would not comply with all applicable
15 laws, ordinances, and standards. And would you please
16 explain that?

17 MS. STRATTAN: There are a number of general plan
18 land use element policies and also a policy within the
19 multipurpose open space element that refer primarily to
20 scenic and visual impacts. And as noted in the visual
21 section of our staff analysis, there are significant
22 visual impacts that were judged to be -- that we were
23 unable to mitigate to a less than significant impact. And
24 those were discussed both in the land use and in the
25 visual resources section of the document. They included

1 Land Use 6.1, 13.1, 13.3, 20.1, 20.2, 20.4, and 30.1.

2 And as a point of reference, Land use 4.1 was
3 also identified as a significant impact but did not make
4 it onto the list of -- it's in the text, but it's not on
5 the list of summary of conclusions at the beginning of the
6 document. So it would also include Land Use 4.1

7 MS. DYER: So your conclusions of a finding of
8 significance in your land use testimony relates only to
9 the visual impacts that were identified for the project;
10 is that correct?

11 MS. STRATTAN: Yes, that's correct.

12 Like I said, some of them were identified in
13 visual resources section, and I also identified them
14 within the land use section.

15 MS. DYER: Okay. Thank you.

16 That's all the questions I have at this time.

17 CROSS-EXAMINATION

18 MR. GALATI: Ms. Strattan, with that being said,
19 would you believe that if the Committee either found there
20 were no significant impacts in visual or the Committee
21 chose to override the impacts in visual, that both of
22 those findings would satisfy compliance with LORS and
23 significant impacts for land use?

24 MS. STRATTAN: Yes, it would.

25 MR. GALATI: No further questions.

1 HEARING OFFICER VACCARO: Okay. I think we're
2 finished.

3 Thank you.

4 So now can we turn to cultural?

5 MR. GALATI: Yes, we can.

6 HEARING OFFICER VACCARO: Okay. So I know that
7 we had indicated early on that you might need some time to
8 confer. I don't know if we're still at that point and if
9 at a natural break, which is lunch, which is coming, for
10 you to confer, or if we can put the issue of cultural
11 resources to rest at this point.

12 Mr. Galati, we'll hear from you first, and then
13 Ms. Dyer, or Ms. Dyer first, however.

14 MR. GALATI: First of all, I want to thank staff
15 for continuing to work with us.

16 You know, to give the Committee just a quick
17 little background on this agreement, the applicant agreed
18 from the very beginning to engage in a mitigation program
19 that would be substantial and something important for the
20 Camp Rice and Army -- Rice Army Airfield. So the real
21 question that we've been talking about the whole time is
22 not whether, but what. And so we have come to an
23 agreement, I think, working in through yesterday's
24 workshop and today.

25 And that agreement is -- we probably need to

1 identify these documents into the record, but we'll start
2 with cultural resources rebuttal testimony, and then there
3 was modifications made to Cultural 13 and 14 most recently
4 in an exhibit that we need to identify that are acceptable
5 to the applicant. So we have, I think, complete agreement
6 on the conclusions, findings, and the conditions of
7 certification for cultural.

8 HEARING OFFICER VACCARO: Ms. Dyer, is that your
9 understanding as well?

10 MS. DYER: It is my understanding. We also
11 had -- we also reached an agreement on CUL 7, I believe.
12 So it would include CUL 7, 13, and 14. And these
13 documents were just finalized this morning, and we would
14 be willing to offer them into evidence to replace those
15 portions of staff's Exhibit 200, the staff assessment.

16 HEARING OFFICER VACCARO: Okay. So why don't we
17 have that -- do you have copies for us?

18 MS. DYER: Yes.

19 HEARING OFFICER VACCARO: Okay. So once we have
20 the document before us, Ms. Dyer, you can explain to us
21 what we have before us so that the record is clear; but I
22 believe this is going to be staff's 210; is that correct?
23 I think we ended at 209, so now we're looking at staff's
24 210.

25 MS. DYER: Yes, that's correct.

1 HEARING OFFICER VACCARO: Okay. So if you could
2 go ahead and distribute and then tell us what's before us,
3 we'll make sure we have a clean record.

4 MS. DYER: So included in staff's Exhibit 210 are
5 modifications to condition of certifications CUL 7,
6 CUL 13, and CUL 14, clarifying the method of mitigation
7 for impacts to the Rice Army Airfield. And it was the
8 result of considerable work between staff and the
9 applicant, and we believe we've reached an agreement on
10 this. And we would offer a clean, complete copy at some
11 point in the next day or two for the Committee. And I
12 think that's -- I think that sums it up.

13 HEARING OFFICER VACCARO: Okay. Thank you.

14 So it looks like what we have is a joint motion
15 to submit into the record staff's Exhibit 210; is that
16 correct?

17 MR. GALATI: That's correct.

18 MS. DYER: Yes.

19 HEARING OFFICER VACCARO: Okay. Then it's deemed
20 admitted. Thank you.

21 (Staff's Exhibit 210 was marked for
22 identification and admitted into evidence.

23 HEARING OFFICER VACCARO: And thank you both for
24 working out those cultural issues, because I think that
25 puts us in a very good place as we head off to lunch,

1 which is that we come back and we deal with the issue of
2 Worker Safety and Fire.

3 I do have a question though, Mr. Galati, for you,
4 because even though you indicated that socio was not
5 something -- a topic where you had a dispute, my
6 recollection is that staff analysis does reference Worker
7 Safety 7 and 8 within the text of the socio analysis.

8 So with the caveat of you -- applicant still
9 objecting to the inclusion of Worker 7 and 8, you
10 otherwise agreed with the socioeconomic analysis, and but
11 that that's something that still needs to be resolved at
12 the conclusion of these proceedings, however the Committee
13 addresses Worker 7 and 8.

14 MR. GALATI: That is correct. We -- Worker 7 and
15 8 are the only disputes we have with staff at this time.

16 HEARING OFFICER VACCARO: Okay. Unless there's
17 anything we need to address right now, I would suggest
18 that we all go to lunch, and I believe we should come back
19 at -- I don't know, you tell me what time.

20 Okay. 1:15, we'll see you then. Thank you.

21 (Lunch recess.)

22 HEARING OFFICER VACCARO: Okay. We're back on
23 the record. We just completed a lunch break.

24 We've been moving along very efficiently, so it
25 appears we only have one more topic to address. Before we

1 get to it, I just want to make sure of a couple of things.

2 Over the lunch break Ms. Dyer was kind enough to
3 print out for all of us the e-mail that was referenced
4 this morning on the testimony regarding the FDOC. So what
5 I have before me is the document that I've identified as
6 Exhibit 206A.

7 Mr. Galati, have you taken a look at it?

8 MR. GALATI: Yes, I have. We have no objection
9 to its admission.

10 HEARING OFFICER VACCARO: Okay. Staff?

11 MS. DYER: We have no objection.

12 HEARING OFFICER VACCARO: Okay. So we'll go
13 ahead and enter this into the record. We did it
14 tentatively earlier, but now actually have the physical
15 document, and that is identified as 206A.

16 The other thing I noticed during lunch is that
17 the applicant did follow through on the representation
18 that there would be some letters docketed. And we
19 discussed earlier this morning the possibility of having
20 those come in as public comment and if we might consider
21 them coming in in some other fashion. I think the leaning
22 is that we'll take them as public comment, just as we took
23 the earlier oral comments, but that we are aware of the
24 letters of support on the topic of overrides.

25 MR. GALATI: Thank you.

1 HEARING OFFICER VACCARO: Ms. Dyer?

2 MS. DYER: We have received a letter from the
3 Western Area Power Administration. One of the issues that
4 remained open when we filed our opening testimony was
5 whether or not Western was going to be requiring a fiber
6 optics line, and so that left open --

7 (Interruption in the proceedings.)

8 MS. DYER: So we have received an e-mail from
9 Matt Mueller essentially setting out that -- where did it
10 go -- that they can state with some certainty that it's
11 highly unlikely that Western will need to have a -- put in
12 a transmission line. So I was wondering if we could --

13 HEARING OFFICER VACCARO: The fiber optic
14 telecommunications.

15 MS. DYER: The fiber optics, yes.

16 HEARING OFFICER VACCARO: Okay. So there were
17 roughly three to four options that were presented, and
18 this is one of the options then that is no longer needing
19 to be fully evaluated or considered, so that it now -- I
20 think and that's why your biological resources put a
21 placeholder for the possibility of the need for a
22 fiber-optic line.

23 MS. DYER: Correct. And so there will be no need
24 to amend the biological testimony to that regard.

25 HEARING OFFICER VACCARO: Okay. Thank you.

1 Any questions or comments about that, Mr. Galati?

2 MR. GALATI: No.

3 HEARING OFFICER VACCARO: Great. Thank you for
4 that clarification.

5 You know, we were just having a brief
6 conversation about whether or not that's testimony to go
7 into the record. I don't see that as such, but I think
8 you need to docket it. And there are a number of
9 representations in the record by both the applicant and
10 staff in what you've submitted referencing the possibility
11 of this and what Western's tentative position was; but if
12 you would just go ahead and ensure that it is docketed,
13 and you have made the representation basically as an
14 officer of the court, as an attorney, that this is what it
15 says, we'll verify that's what it says, and we'll use that
16 moving forward in looking at the sufficiency of the
17 documents submitted by both staff and the applicant.

18 MS. DYER: Thank you.

19 HEARING OFFICER VACCARO: All right. So I think
20 we're ready to move forward with worker safety and fire
21 protection. We'll start with the applicant.

22 I don't know, is everybody here in person, anyone
23 on the telephone, or is it Mr. Snell?

24 MR. GALATI: It's actually a panel of four
25 witnesses.

1 HEARING OFFICER VACCARO: Okay.

2 MR. GALATI: And if I could have my worker safety
3 fire protection panel come up. Mr. Snell, Mr. Alston,
4 Mr. Kaminski --

5 HEARING OFFICER VACCARO: And I notice
6 Mr. Snell's been sworn.

7 MR. GALATI: And Mr. Anders.

8 HEARING OFFICER VACCARO: I think too Mr. Anders
9 and Mr. Snell have been sworn, but the other two, we do
10 need to go ahead and swear you in.
11 Whereupon,

12 WES ALSTON, SCOTT KAMINSKI
13 were called as witnesses herein and, having been first
14 duly sworn, were examined and testified as follows:

15 THE REPORTER: State and spell your names
16 respectively.

17 MS. ALSTON: Wes Alston, A-l-s-t-o-n.

18 MR. KAMINSKI: Scott Kaminski, S-c-o-t-t,
19 K-a-m-i-n-s-k-i.

20 DIRECT EXAMINATION

21 MR. GALATI: I'm going to ask a question for each
22 of you to describe very briefly your qualifications and
23 your role on the project.

24 MR. SNELL: I think mine are in the record.

25 MR. KAMINSKI: Scott Kaminski, I'm the -- I'm a

1 project manager for Solar Reserve on this project. I'm
2 acting as the senior project engineer and have been
3 directly involved in preparation of several of the
4 sections as well as some of the -- some of the additional
5 documents that have been submitted.

6 MR. ANDERS: My name is Bob Anders. I'm a
7 licensed civil engineer practicing for 26 years in all
8 forms of engineering. I've worked on the engineering
9 description and engineering portion of the project.

10 MS. ALSTON: Wes Alston with Pacific Development
11 and Solutions Group. We're a firm that does fire
12 protection analysis and land use analysis for developers.
13 I had 32 years of service with the Riverside County Fire
14 Department and CAL Fire. And I wrote the fire needs
15 analysis.

16 MR. GALATI: And did you gentlemen each prepare
17 Exhibit 49, which is the opening testimony of worker
18 safety fire protection?

19 MR. SNELL: Yes.

20 MR. ANDERS: Yes.

21 MR. KAMINSKI: Yes.

22 MS. ALSTON: Yes.

23 MR. GALATI: And also, did you each prepare the
24 portion of Exhibit 52 which is the worker safety fire
25 protection rebuttal?

1 MR. SNELL: Yes.

2 MR. ANDERS: Yes.

3 MS. ALSTON: Yes.

4 MR. KAMINSKI: Yes.

5 MR. GALATI: And lastly, primarily for Mr. Snell
6 and Mr. Alston, did you prepare a Fire Needs Assessment
7 and a revised Fire Needs Assessment, specifically
8 Exhibit 50?

9 MR. SNELL: Yes.

10 MS. ALSTON: Yes.

11 MR. GALATI: And, Mr. Alston, do you have any
12 changes or corrections to either Exhibit 50 or your
13 testimony on Exhibit 52?

14 MS. ALSTON: Exhibit 52 on page 9, under
15 "Inspections," second line, that should be ordinance 787.
16 And then service would you paid through ordinance 671.18.

17 MR. GALATI: Any other changes?

18 MS. ALSTON: No.

19 MR. GALATI: Okay. I'm going to ask you, and
20 maybe start with Mr. Alston, if you could -- first of all,
21 let me know, have you reviewed the staff assessment and
22 the staff rebuttal testimony on worker safety fire
23 protection?

24 MS. ALSTON: Yes, I have.

25 MR. GALATI: Including what we're calling the

1 response matrix?

2 MS. ALSTON: Yes.

3 MR. GALATI: And do you agree with the staff
4 conclusions in those documents?

5 MS. ALSTON: I don't agree with both the staff's
6 assessment and the nexus.

7 MR. GALATI: Okay. The Committee has read your
8 direct testimony, but I would like you to summarize the
9 main points of the disagreement if you could.

10 MS. ALSTON: Well, we were asked by Solar Reserve
11 to come in and do a Fire Needs Assessment based off the
12 original Fire Needs Assessment that was done by the CEC
13 staff. We took a look at the entire fire department
14 ability to respond, we took a look at the risk at the
15 site, we took a look at the risks at other sites, at other
16 plants, we took a look at the accidents that can occur
17 based on trips per day on the road that come in to the
18 site, we looked at the history of accidents that usually
19 occur at other plants throughout California, and we put
20 together a Fire Needs Assessment. And that Fire Needs
21 Assessment was -- really got down to one basic thing, or
22 actually two basic things; the need for EMS service at the
23 site and the drawdown element to the county fire
24 department.

25 So we made recommendations to staff based on

1 their initial document that required paramedics or some
2 type of advanced life support at the site during
3 construction and operation, and we looked at how that
4 would impact the fire department and how we could reduce
5 the drawdown aspect of the fire department.

6 If we continue -- if we accept the
7 recommendations of staff through probably the county fire
8 department, what would happen today if there was an injury
9 out there, basically the client would pay "X" amount of
10 dollars over a period of time, there would be no advanced
11 life support out there, there would be simple first aid,
12 it would be an hour and 20 minutes for a fire department
13 unit to respond.

14 Once they get there, they would do their
15 assessment, they would determine if a helicopter would
16 need to be brought in. Also there would be an ambulance
17 company responding from Blythe. That may take up to an
18 hour and 10 or 15 minutes, and meanwhile that patient or
19 that employee doesn't have advanced life support. That's
20 based on the staff's recommendation today.

21 The initial recommendations by staff was to have
22 some type of advanced life support out there. So what we
23 did was we looked at a way to make that happen. And we
24 put together a plan to make that happen and sent that
25 recommendation in to staff.

1 There was a letter from county EMS that said
2 there was some points within that plan that had to be
3 resolved, and that was basically, you know, how we were
4 going to use advanced life support systems within the
5 county EMS system. And a letter was sent to Jason Neuman.
6 And that basically removed the Worker Safety 10 and 11
7 from the report.

8 We went back and had some additional
9 correspondence with the county staff and were able to get
10 an understanding that if we provided advanced life support
11 systems through their contracting ambulance companies,
12 that we could basically do what we initially wanted to do
13 in Worker's 10 and 11 and have some type of advanced life
14 support on site.

15 MR. GALATI: So, Mr. Alston, you described what
16 would happen with staff's current mitigation identified.
17 Could you describe what would happen with advanced life
18 support system on the site and how that would work?

19 MS. ALSTON: County staff, county EMS staff feels
20 that we have to use their contracting purveyor out there,
21 which is Blythe Ambulance. So Solar Reserve could
22 contract with them, there would be an ambulance on site
23 and advanced life support staff on site. That if there
24 was an injury at the site, they could immediately start to
25 treat the patient, that they could call Riverside County's

1 command center and start the helicopter out there and/or
2 they could start to transport that person toward a
3 hospital immediately rather than having to wait for the
4 county fire department to respond.

5 Also, this gets back to the whole issue of
6 drawdown. The county fire department's concern is if they
7 start sending a unit an hour and a half away, that that's
8 going to take time for them to backfill that unit. That
9 unit's going to be out of service for up to two or three
10 hours while it's responding to our site. With advanced
11 life support on site, it eliminates that concern for the
12 county fire department; it also provides better service to
13 our employees.

14 MR. GALATI: So would it be fair to say that if
15 you did -- if the Committee adopted staff's
16 recommendation, would you believe that would provide
17 better or worse protection for workers?

18 MS. ALSTON: Well, if adapted, staff's
19 recommendation, it would be up to an hour, between an hour
20 and 10, hour and 15 minutes, depending on what report you
21 get from county fire, before any type of advanced life
22 support would be at our plant.

23 MR. GALATI: Can you describe for us, when you're
24 using the word "drawdown," what "drawdown" means and how
25 that works?

1 MS. ALSTON: Well, drawdown is when fire engines
2 respond to an incident, they need to be filled in behind
3 or there's going to be a gap left in service. Really when
4 you do fire planning, you only worry about one incident at
5 a time, but you also have to consider what happens to the
6 overall county.

7 So the closest engine responds, they have to move
8 up and cover additional resources, but essentially that
9 equipment is out of service for the length of the
10 incident. That could happen due to a traffic collision at
11 Highways 177 and 62. That probably happens every day in
12 the county where there's multiple incidents throughout the
13 county within a large geographical area. And there may be
14 an open station, so the command center does its best that
15 it can to make sure that a few of the key stations are
16 covered so that they continue operations within the
17 county.

18 MR. GALATI: And your understanding is that the
19 impacts are not that Riverside County can't respond to an
20 incident, it's that if they do, they're on the road so
21 long that there is a possibility that some other incident
22 is taking place that they can't respond to; is that
23 correct?

24 MS. ALSTON: Well, that's correct.

25 And the county does have the capability for

1 rescue, they do have the capability for advanced life
2 support, they do have the capability for fires at the
3 site; it's the length of time it takes to get there. And
4 that's why through the Fire Needs Assessment we were able
5 to put together a way that would serve the EMS, the fire
6 protection needs, and the rescue needs at the site without
7 having to involve the county fire department to the extent
8 that it would cause a drawdown to their resources.

9 MR. GALATI: Can you say definitively that the
10 fire department will never have to respond to the Rice
11 Solar Energy Project?

12 MS. ALSTON: No. I can say, you know, at some
13 point they may have to respond, but what we want to do is
14 we want to take the likelihood of that response and
15 minimize it to the point where it wouldn't be an impact on
16 the day-to-day operations of the fire department.

17 MR. GALATI: Now, you testified just a little bit
18 ago about the county EMS letters, because in staff's
19 rebuttal testimony it seems that the county EMS letters
20 were a reason for them to believe we could not accomplish
21 what we can accomplish.

22 Could you please describe again if you believe
23 it's possible and the legal means to be able to provide
24 advanced life support system on the site?

25 MS. ALSTON: We initially got a letter from

1 Cindy -- from Cindy Stoll for county EMS suggesting a
2 change in the language in EMTP to advanced life support.
3 And that's what -- that and some other changes to rescue
4 is what made the changes to our evidentiary item 50.

5 MR. SNELL: Advanced life support service?

6 MS. ALSTON: Right. Right.

7 Well, what happened is -- advanced life support.

8 And that set off a series of e-mails. She
9 started to e-mail me letters to Jason Neuman regarding the
10 fact that the way the system that we had originally
11 written it would not work within the county's ordinance
12 system.

13 So we went back and we sent her some e-mails --
14 and we have those e-mails here -- that asked her the
15 question, if we contract with an existing ALS, or advanced
16 life support purveyor, which happens to be Blythe, and had
17 that unit on scene, would that satisfy the requirements of
18 county EMS, and then we could activate the EMS system
19 without having to go through the county fire department,
20 that the only county fire department involvement would be
21 the dispatch of the airship. And she agreed that if we
22 contract with an approved advanced life support company,
23 that we wouldn't need to have involvement of the county
24 fire department.

25 MR. GALATI: Did you make any other

1 recommendations about avoiding the need to call the county
2 for technical rescue?

3 MS. ALSTON: We did. And even though the county
4 fire department has a great technical rescue division and
5 they have the capabilities to do technical rescue, if we
6 were to have a low angle, a confined space, or any of the
7 other technical rescue needs on the site, their response
8 would be so lengthy, it really wouldn't do our workers any
9 good.

10 So one of the conditions that we wrote in or one
11 of the recommendations was that our staff, as part of
12 their maintenance, if they had to put their people in a
13 situation where it was a technical rescue may be needed, a
14 technical rescue team would be available on site to
15 immediately react to any incident that may happen, you
16 know, thus eliminating the need for the county fire
17 department to respond and eliminates that whole drawdown
18 issue.

19 HEARING OFFICER VACCARO: Mr. Galati, I don't
20 want to throw off your flow, but I think for me to be able
21 to continue following the rest of the narrative, I want to
22 clarify two things that you just said.

23 This team, who would the team be for the
24 technical rescue? Who would it be comprised of?

25 MS. ALSTON: Well, Riverside County has truck

1 companies and heavy rescue teams.

2 HEARING OFFICER VACCARO: And that's who --

3 MS. ALSTON: But those -- but those -- that
4 equipment is not in the immediate area or is not even
5 available to the three stations that are closest to our
6 facility. So they would have to travel quite a distance.

7 And so there's a high-angle rescue where a guy
8 would fall off and be protected by his safety equipment,
9 but he would still need to be rescued. So you'd have to a
10 have a specific technical rescue team that's certified by
11 NFPA that would be able to be on the scene to be able to
12 rescue that individual.

13 HEARING OFFICER VACCARO: And I understand that,
14 thank you. I'm asking who would that be in this case on
15 site at this facility.

16 MS. ALSTON: That would be part of their
17 contractor with their contracts.

18 HEARING OFFICER VACCARO: Okay. A separate
19 contract from the ALS contracts; we're talking two
20 different contracts?

21 MS. ALSTON: No, it would be a separate contract.
22 The contractor would have to provide a team that's
23 certified in the specific rescue -- or in the specific
24 task -- a rescue for the specific task they were doing.

25 So if they were doing confined space, they would

1 have -- cleaning boilers or whatever, they would have to
2 have a team that would be available to go in and do a
3 confined-space rescue.

4 HEARING OFFICER VACCARO: Okay.

5 MS. ALSTON: And if they're working on the top of
6 the tower and they're in an unsafe condition or a
7 condition where they're on safety lines, they would have
8 to have a team that's trained to -- high-angle rescue.

9 HEARING OFFICER VACCARO: Okay. Thank you.

10 Sorry about that. Please go ahead.

11 MR. GALATI: And, Mr. Alston, you made those
12 recommendations to Solar Reserve?

13 MS. ALSTON: Yes.

14 MR. GALATI: And to your knowledge did Solar
15 Reserve agree to those recommendations?

16 MS. ALSTON: Yes, they did.

17 MR. GALATI: Do you believe that having those
18 appropriately-trained people as part of the contractor on
19 site will provide better service than the county can
20 provide for technical rescue?

21 MS. ALSTON: Absolutely. I mean, the county's
22 asking us to pay 590 and \$260,000 a year, but they'll
23 still be an hour and a half away from our site and can't
24 provide the service to our employees.

25 MR. GALATI: Are you familiar with the portion of

1 staff's recommended worker safety conditions that allow if
2 there is no agreement between Riverside County Fire
3 Department and Solar Reserve on an amount of funding, that
4 there could be an independent Fire Needs Assessment
5 performed?

6 MS. ALSTON: Yes.

7 MR. GALATI: Do you believe that the study that
8 you've done now, the Fire Needs Assessment and the revised
9 Fire Needs Assessment, meet that criteria?

10 MS. ALSTON: Absolutely.

11 MR. GALATI: I have no further questions.

12 MR. SNELL: Could --

13 MR. GALATI: Yes, Mr. Snell, go ahead.

14 MR. SNELL: I did a little research at lunch, and
15 in my earlier testimony I stated that the 50 percent
16 reduction expired this year. It's been extended till
17 September of next year. And so I just wanted to make that
18 on the record. So 50 percent reduction is good till
19 September 2011.

20 HEARING OFFICER VACCARO: And what's the source
21 of that information?

22 MR. SNELL: The ordinance, the board of
23 supervisors has amended it through 659.9, which added that
24 extension. And I imagine that was done in August and it's
25 effective now.

1 MR. GALATI: And we actually have obtained a copy
2 of that, and my office is bringing over ten copies as soon
3 as they can. And I'll mark those.

4 HEARING OFFICER VACCARO: I have a couple of
5 questions, if you don't mind, before you go to cross.

6 The first has to do with the e-mails that you
7 were referring to. You know, often when we see the
8 testimony that gets submitted in the AFC, the Fire Needs
9 Assessment report as well as the staff assessment,
10 sometimes we have to look elsewhere to find some of this
11 source material that's being relied on.

12 To your knowledge, have you submitted those
13 e-mails in anything you've presented in the testimony that
14 you presented, or are those things, Mr. Galati, that have
15 been docketed, because I don't recall seeing those? That
16 does not mean that they're not already somehow in the
17 record.

18 MR. GALATI: No, they weren't.

19 What happened is when I saw that staff would not
20 be bringing Ms. Stoll -- I have not docketed these, I was
21 going to intend to use them as cross-examination of a
22 witness. But since I believe that her letters are part of
23 their testimony and they're admitted, they are hearsay and
24 this is hearsay. So if the Committee would like, I have
25 copies, and I can enter them as an exhibit and docket

1 them. I wasn't intending to do that.

2 HEARING OFFICER VACCARO: I think -- you're going
3 to use it as part of your cross-examination?

4 MR. GALATI: I was, that was my intention,
5 because -- but I know that -- I don't believe that
6 Ms. Stoll's going to be here.

7 HEARING OFFICER VACCARO: And perhaps, though,
8 Mr. Lesh might be familiar with these correspondence and
9 might be able to speak to it.

10 So I think what we'll do is if you're going --
11 we'll see if you're able to use them or not in the context
12 of your cross, and if not, we will address how they're
13 going to be brought into the record at that point.

14 So less on procedure, more on substance, during
15 the land use testimony, there were a few questions posed
16 relating specifically to the application of the county's
17 development impact fee. So let's assume that for the sake
18 of argument that that's going to apply to this project.

19 How does that affect the amount of money that's
20 being requested by way of Worker Safety 7 and Worker
21 Safety 8? It looks like there is a disproportionate
22 amount of money there, but I may be speaking out of turn,
23 so maybe you can educate me.

24 MS. ALSTON: We'll tag team on this one.

25 I guess to start with, you know, the county fire

1 department has a fire department master plan that was
2 adopted back in '87, and that establishes fire needs
3 throughout the county. And what came out of that was the
4 fire department mitigation fee that originally was stand
5 alone, and that was part of this ordinance --

6 MR. SNELL: 659.

7 MR. ALSTON: -- 659. So any industrial project
8 that would come into the county would have to pay this
9 mitigation fee. And with the fee that the department is
10 asking over and above that today is just an arbitrary fee
11 that they're asking for development of fire stations that
12 may or may not be built that may not even impact our site.

13 MR. SNELL: And additionally to the point of
14 this, I think what your question is, we've had discussions
15 with the fire department about our property taxes and the
16 portion of that property tax known as the structural fire
17 protection tax. The fire department would recognize that
18 tax and discount the amount we have to pay on an annual
19 basis.

20 We haven't had discussions that I recall dealing
21 with the one-time fee versus the DIF fee and how those
22 relate together. It would be reasonable though to assume
23 that one-time fee could be reduced by the amount we pay on
24 the DIF fee that's directly proportional to fire.

25 HEARING OFFICER VACCARO: Okay. So let's take

1 away the initial assumption that I built into the
2 question, and I'll rephrase this entirely differently.

3 Is the project owner anticipating that it will be
4 paying development impact fees --

5 MR. SNELL: Yes.

6 HEARING OFFICER VACCARO: -- or is that something
7 that you thought might be a question mark?

8 MR. SNELL: It's not a question in our mind that
9 the applicant, the developer anticipates paying that fee.

10 HEARING OFFICER VACCARO: Okay. Thank you.

11 Ms. Dyer, if you want to go ahead with your
12 cross. Thank you for letting me intervene.

13 MS. DYER: Thank you.

14 CROSS-EXAMINATION

15 MS. DYER: Mr. Alston, I just -- this may be a
16 duplicative question, I just wanted to make certain. You
17 said you had a letter, I thought the hearing officer
18 referred to e-mails, that said you wouldn't need -- you
19 wouldn't be required to call the fire department. Is that
20 the same communication that --

21 MR. ALSTON: Yeah, we had a series of e-mails --

22 MS. DYER: Okay.

23 MR. ALSTON: -- after I got the second letter to
24 Jason Neuman.

25 MS. DYER: Okay. Thank you.

1 Under your proposed plan to have your rescue team
2 on site, how many people would you have on site at the
3 various times during construction and that would be
4 trained to provide rescue?

5 MR. ALSTON: Well, if there's a specific task
6 that needs to be done, say, confined space to clean a
7 boiler out, then in addition to the people, the two-in
8 two-out, there would be the number of people that would be
9 required to perform a technical rescue in a confined-space
10 environment per NFPA.

11 MS. DYER: Okay. And when -- can you tell me who
12 hired you to do the Fire Needs Assessment?

13 MR. ALSTON: Solar Reserve.

14 MR. SNELL: Actually, I'm hired by Solar Reserve
15 as Aurora Consulting. I subcontracted to PDSG. So he was
16 hired by me.

17 MS. DYER: Okay. And at the time that you agreed
18 to do the Fire Needs Assessment, were you given any type
19 of direction as to -- as to what the desired outcome of
20 the Fire Needs Assessment would be?

21 MR. SNELL: Can I go?

22 We were given -- we were familiar with the
23 project, we were familiar with the process, we were
24 familiar with the challenges that set a background. We
25 did have questions about the formatting, the topics that

1 have to be covered. We were provided an example study,
2 which I believe was on the Colusa project, and we used
3 that to kind of set the parameters, the topics that needed
4 to be covered as well as the things that we uncovered as
5 we went along.

6 So we weren't really given any specific direction
7 by the client, we actually gave them a proposal, told them
8 what we planned to do, and then did it through the process
9 that we went through.

10 MS. DYER: No further questions. Thank you.

11 HEARING OFFICER VACCARO: Let's just go back to
12 the e-mails for a moment. I know you were going to use
13 them as an exhibit for cross, but you've already started
14 to have the witness lay the foundation for these e-mails,
15 so why don't you go ahead and develop further foundation
16 for these e-mails. Although they are, you know, hearsay,
17 the witness appears hears to have personal knowledge of
18 receiving them and having involvement in these e-mails.
19 So why don't you lay the foundation for that, and we'll go
20 ahead and mark those as applicant's next in order. I'm
21 not sure what that is, but I'll check.

22 MR. GALATI: Let me -- again, since I wasn't
23 going to admit them into the record, I hadn't given
24 counsel copies, so --

25 HEARING OFFICER VACCARO: That's why you're going

1 to --

2 MR. GALATI: -- I'll do that now.

3 HEARING OFFICER VACCARO: You'll identify them
4 right now, you'll lay the foundation, she'll get hers, she
5 can take a look at it. And then all the rest of us will
6 get a copy as well.

7 REDIRECT EXAMINATION

8 MR. GALATI: Mr. Alston, I handed to you exhibit
9 marked for identification, I believe it's -- next is
10 Exhibit 54.

11 (Applicant's Exhibit 54 was marked for
12 identification.)

13 MR. GALATI: It is a three-page document, and it
14 appears to be a series of e-mails. Are you familiar with
15 that, these e-mails or this three-page document?

16 MR. ALSTON: Yes.

17 MR. GALATI: And is this three-page document the
18 e-mails to which you were referring?

19 MR. ALSTON: Yes.

20 MR. GALATI: And does this represent a true and
21 correct copy of the e-mails that you received?

22 MR. ALSTON: Yes.

23 HEARING OFFICER VACCARO: Thank you.

24 Okay. So if we finished with direct and cross
25 with these particular witnesses, Ms. Dyer, now that you

1 have these in front of you, if there's anything that you
2 might want to ask, you're certainly welcome to do so. If
3 you need a moment to take a look at them, let's take about
4 like four minutes off the record, why don't you take a
5 look. If they bring to mind any questions that you might
6 want to pursue.

7 So let's go off the record for a few moments.

8 (Recess.)

9 MS. DYER: I'm looking at the e-mail, and the
10 e-mail string starts with an e-mail from Cindy Stoll
11 saying she was asked to clarify several points of a 911
12 response, please see attached letter.

13 Is that letter the October 27th letter that staff
14 attached to their testimony; do you know? I'm trying to
15 put it in context.

16 MR. ALSTON: Yes.

17 HEARING OFFICER VACCARO: Ms. Dyer, for our
18 purposes, would you identify what exhibit that letter is
19 attached to?

20 MS. DYER: Yes, they were two letters that were
21 attached to staff's rebuttal testimony, Exhibit 207.

22 HEARING OFFICER VACCARO: Okay. So the letter
23 that is referenced by way of the e-mail that you just
24 identified is attached to staff's testimony, and the
25 witness agrees that that is the subject letter as well.

1 Do you need to see it again, or are you certain
2 that that is the letter?

3 MR. ALSTON: That is the letter.

4 HEARING OFFICER VACCARO: Okay.

5 MS. DYER: Okay. I'm trying to understand what
6 it is that the author is saying. Is she saying that if
7 you were to have a life-threatening emergency on the site
8 and you had an EMT on site, you would not be required to
9 dial 911?

10 MR. ALSTON: That's correct.

11 MR. SNELL: I think we should expand it.

12 MR. ALSTON: Yeah, we need to clarify that a
13 little bit.

14 MR. SNELL: That's why the letters got written,
15 because we wrote it just the way you said, and what her
16 problem was was that EMT needs to be part of a larger
17 system that has a medical director, sets out policies and
18 guidelines, and is actually contracted with a provider
19 that's approved by the county EMS system. That's the nut
20 of the problem; that's why the letters got written. We
21 had said it too simply and didn't give enough
22 qualifications to that.

23 MS. DYER: So when the author says "The EMS
24 system is built upon the 911 system for a full response to
25 a scene call, since the solar facility is not a licensed

1 health care facility, it is a scene, therefore, the full
2 EMS system must be engaged," is it your understanding
3 she's talking about an EMS system that Solar Reserve would
4 develop and have on site?

5 MR. ALSTON: Well, no. The way it was originally
6 written in staff's assessment, yes, 10 and 11 kind of says
7 that. And we went back to refine that, because we're not
8 in the EMS business, we're in the electrical generation
9 business. So we went back and looked at a way that we
10 could do it on a contract basis.

11 The contract services that we discussed with her
12 was inappropriate in her eyes, and because they have an
13 exclusive area agreement with Blythe Ambulance, we would
14 have to go to Blythe Ambulance to provide that ALS
15 service. Once that ALS service is at the site, then they
16 can do everything they need to do under the direction of
17 their licensing and their medical director, and we don't
18 need to have the fire department respond.

19 MR. SNELL: Wes, let's expand that and let's talk
20 about an example.

21 Someone gets hurt, they're treated, they go in
22 the ambulance, they're on the way to the hospital; why
23 would the fire department come to the site an hour later?
24 I mean, they've done the duty that needs to be done and
25 they're on their way to the hospital.

1 MR. ALSTON: They're gone already.

2 So, and actually, the ALS staff on site had the
3 choice of staying there and will have a safe and secure
4 helipad to call through 911. And they wouldn't be 911, it
5 would be just a notification from Blythe Ambulance to the
6 command center that they need to have the airship respond,
7 and because they have a safe and secure pad, they have
8 redundancy because they have an ambulance on site, there
9 would be no need for county fire department to respond.

10 County fire department feels they need to respond
11 if it's not a safe and secure site and if there's no
12 redundancy built into the response in case there's a
13 failure of the helicopter.

14 MS. DYER: Thank you for that clarification.

15 I don't have any further questions at this time.

16 HEARING OFFICER VACCARO: I think the Committee
17 has a few questions before we have you redirect.

18 MS. ALLEN: In the discussion about Blythe
19 Ambulance being available, does this concept apply to both
20 the construction and the operational phase?

21 MR. ALSTON: We're going to have to work out
22 details on the operational phase, but it would apply
23 during the construction phase.

24 MS. ALLEN: Okay. This is a related project
25 description question.

1 Is Solar Reserve planning to have construction
2 around the clock sometimes, so, therefore, would you be
3 envisioning that there would be an EMT on site 24/7?

4 MR. SNELL: We anticipate whenever there's
5 construction activities, the ambulance will there, the EMT
6 people will be there, the -- we anticipate a medical
7 trailer will be staffed.

8 MS. ALLEN: Thank you.

9 HEARING OFFICER VACCARO: Mr. Galati, you
10 indicated that you wanted to redirect?

11 MR. GALATI: Yes.

12 REDIRECT EXAMINATION

13 MR. GALATI: Mr. Alston, Ms. Dyer asked you a
14 series of questions about who paid you to do the work and
15 how the contract worked. Under Worker Safety 7 where
16 there's an independent assessment, who pays for that?

17 MR. ALSTON: Applicant.

18 MR. GALATI: No further questions.

19 HEARING OFFICER VACCARO: Okay. So let's follow
20 up with this Exhibit 54. Appropriate foundation has been
21 made with respect to this e-mail string. I don't see a
22 basis for objection, although I'm certainly willing to
23 hear if you have an objection to what's been identified as
24 applicant's number 54 coming in, Ms. Dyer.

25 MS. DYER: I don't have an objection.

1 HEARING OFFICER VACCARO: Okay. Would you like
2 to make a motion?

3 MR. GALATI: Yes, I'd like to move Exhibit 54,
4 which is a series of e-mails, three pages, into the
5 record.

6 HEARING OFFICER VACCARO: Thank you. It's
7 admitted.

8 (Applicant's Exhibit 54 was admitted into
9 evidence.)

10 HEARING OFFICER VACCARO: I think, are we
11 finished with this panel of witnesses at this point?

12 MR. GALATI: Yes, we are.

13 HEARING OFFICER VACCARO: Okay. Thank you,
14 gentlemen.

15 Ms. Dyer, whenever you're ready.

16 MS. DYER: Thank you.

17 Staff would like to call Mr. Lesh to testify on
18 behalf of worker safety and fire protection. He needs to
19 be sworn.

20 Whereupon,

21 GEOFFREY LESH
22 was called as a witness herein and, having been first duly
23 sworn, was examined and testified as follows:

24 THE REPORTER: State and spell your name for the
25 record. On the microphone, if you could.

1 MR. LESH: Geoffrey Lesh, G-e-o-f-f-r-e-y,
2 L-e-s-h.

3 I'm an engineer working in the siting division of
4 the Energy Commission in the engineering office, and I
5 worked on the worker safety and fire protection section,
6 Rice Solar siting.

7 HEARING OFFICER VACCARO: I think, Ms. Dyer, I'll
8 turn it over to you to ask your witness questions.

9 MS. DYER: Thank you.

10 DIRECT EXAMINATION

11 MS. DYER: Mr. Lesh, did you -- so you prepared,
12 you just said you prepared the worker safety and fire
13 protection for the staff assessment. Did you also prepare
14 the revised worker safety conditions of certification
15 submitted as Exhibit 202 for staff?

16 MR. LESH: Is that the one we call --

17 MS. DYER: Dated October 21st, 2010?

18 MR. LESH: Yes, I did.

19 MS. DYER: And then you also prepared a rebuttal
20 testimony docketed on October 27th that is titled staff's
21 Exhibit 207; is that correct?

22 MR. LESH: Yes.

23 MS. DYER: Okay. Thank you.

24 Can you please explain your methodology and how
25 you reached your conclusions in the staff assessment and

1 the subsequent rebuttal testimony as far as what would
2 need to be done to mitigate for any impacts to worker
3 safety and fire protection?

4 MR. LESH: When we start out to do an analysis
5 for a power plant, and in this case, solar power plant, we
6 look at the proposal from the applicant, and we contact a
7 local fire marshal or fire department to ask if they feel
8 adequately equipped and staffed to support the increased
9 needs that they expect to come from the power plant.

10 In this case they said they would have
11 significant impacts, both direct and cumulative. Because
12 we were siting other power plants in Riverside prior to
13 working on Rice, there had been some consideration by the
14 fire department of the total impacts of four solar power
15 plants.

16 So they -- their strategic planning director, or
17 a person in the strategic planning office, Jason Neuman,
18 had been looking at how to accommodate for solar power
19 plants. And they decided at that time that they needed to
20 add one fire station and staffing and equipment, that they
21 could use to, I think, handle drawdown and backfill of
22 people if they had to respond to any of those four power
23 plants.

24 At that time I think their consideration was to
25 take the four power plants and allocate the cost of that

1 mitigation that they thought they would need, one quarter
2 to each of the four power plants.

3 We took a look at the -- we developed over the
4 last year, I guess, the decision matrix that's purpose is
5 to allocate proportionally a cost for some mitigation
6 between different power plants by looking at their
7 relative expected demands on the fire department.

8 In this case, staff looked at the design of Rice
9 and decided that they didn't have to a large degree the
10 same risks that were presented by the other plants because
11 they didn't have the hydrocarbon-based heat transfer
12 fluid, they weren't -- they didn't have the piping that
13 ran throughout the entire solar field; so most of their
14 risks were confined to either during construction, during
15 a melting phase when they melt their salt, they have
16 propane and they have ammonia on site, but after that, the
17 risks are, in our opinion, less from a potential for a
18 large conflagration that's going to demand large resources
19 over, you know, a multi-day burning period perhaps than
20 the other power plants.

21 The one thing against Rice that shows up in the
22 matrix is their extreme remoteness, the fact that to get
23 there from any of the existing fire stations takes more
24 than an hour.

25 The fire department felt that their proposal

1 accommodated this from the point of view that if they had
2 to commit a response out to Rice that might take in most
3 cases, if there's a confirmed fire, that means six engines
4 and a battalion chief, which would be committed probably
5 for the entire day, a minimum of probably five hours
6 considering it's going to be an hour and a half out, an
7 hour and a half back, and probably two on site, that this
8 would -- the addition of the other firehouse would give
9 them the capability of backfilling to the stations that
10 responded. So they put together the cost structure as I
11 described, and we allocated that.

12 When we looked at Rice, we decided that we didn't
13 think it really deserved its full 25 percent of that total
14 cost, and initially we looked at it and said maybe 22
15 percent.

16 At a workshop the applicant proposed in their
17 Fire Needs Assessment that they could do some of that
18 response capability on site themselves, at which point we
19 looked at what they were proposing to do and thought that
20 that's meritorious, actually. It would be a benefit to
21 the workers on site to have faster response, and if they
22 could achieve their goals of not having to dial 911 and
23 involve the county's response system, that would be
24 mitigating toward what the county was concerned about.

25 So in the next revision of the matrix, we

1 accommodated those plans that were put into the initial
2 Fire Needs Assessment and we wrote into that then the
3 conditions, Worker Safety 10 and 11, which said that they
4 would have what they proposed in the Fire Needs
5 Assessment, which were essentially EMTs on site, an
6 ambulance during construction, and a contract that would
7 enable them to have their on-site people call directly an
8 air ambulance any other time so they could get faster
9 response.

10 During that time those Fire Needs Assessments and
11 proposals, and, of course, ours were reviewed by the fire
12 department, and they felt that they weren't going to help,
13 and they told us that they would still have to respond and
14 that the applicant's people on site would still have to
15 dial 911 at which point the fire department would still
16 have to respond.

17 We redid the matrix and accommodated those things
18 and came out with smaller numbers. And we've since gone
19 back and forth.

20 At the workshop we told the applicant, subsequent
21 workshop I think, we said, you're still potentially
22 involving the fire department because of rescue needs, and
23 that hasn't been addressed, and they have long lead times.
24 So the applicant then came with the revised Fire Needs
25 Assessment where they proposed to have rescue capability

1 on site.

2 About the same time we got the letters from the
3 county, our EMS and letter from the fire department saying
4 that what they're proposing to do with the medical
5 personnel won't really mitigate for us, we will still have
6 to respond, they indicated that they didn't think it was
7 compliant with LORS, and at which point we looked at it
8 and said, well, it's best then to deal with this rather
9 than trying to ensure that for the next 30 years that the
10 Energy Commission was making sure that we have response
11 capability on site for medical and rescue, that we put it
12 back into Worker Safety 7 and 8 and encourage the
13 applicant and the fire department to negotiate a way to do
14 this, either directly by paying the mitigation demanded by
15 the fire department, or coming to a contract to do your
16 own on-site mitigation with your own teams and getting
17 compensation, an allowance from the fire department for
18 that.

19 We've from the beginning encouraged the applicant
20 to negotiate with the fire department and tried to provide
21 options that if that doesn't work, at least there's a
22 high-water limit, which would be the number that the
23 Energy Commission has reduced from what the fire
24 department initially requested. And the third option
25 would be that if none of those are acceptable, then to go

1 to an independent third-party consultant to look at the
2 fire needs as well as the fire risk so we can have another
3 party come up with a number.

4 MS. DYER: And, Mr. Lesh, the letters that you
5 referred to were attached to your testimony which is
6 Exhibit 207; is that correct?

7 MR. LESH: Yes.

8 MS. DYER: So the applicant's exhibit that we
9 just received, was that 54? The e-mail chain is from the
10 same individual that wrote two of the letters.

11 Do you feel that the e-mail is consistent with
12 what we have received in letter form from the EMS, or
13 there's still some questions as to what's required?

14 MR. LESH: There's still some question in my
15 mind.

16 The e-mail chain from the applicant, this is the
17 first I've seen it, and when I first read through it I had
18 it in reverse order, but I see the last date on it is
19 October 27th at 9:00 in the morning. And the letter I
20 have that's also addressed that was in my revised
21 testimony, the rebuttal testimony, was also written on
22 October 27th to Jason Neuman of the fire department.

23 Frankly, it's difficult for me to understand from
24 the letter exactly what is required in terms of whether
25 it's advanced life support ground or basic life support

1 air and various other things, but essentially the comment
2 coming from the fire department was they didn't think it
3 was workable. And the letter says that the 911 system
4 will still be activated any time anybody is moved off
5 site. That was my understanding from this letter.

6 At which point the -- our conclusion is that the
7 mitigation proposed to work outside the existing response
8 and emergency system of the county may not be workable.
9 We're not the experts to intervene in how the county does
10 that, and so we really can't set up a condition to manage
11 this kind of a response outside the existing regulatory
12 framework that exists in the county.

13 MS. DYER: Thank you.

14 I don't have any further questions.

15 HEARING OFFICER VACCARO: Before we move on to
16 cross, I have a couple questions, and the Committee might
17 have some in a second.

18 This is more a point of clarification because I'm
19 trying to understand, and so if it's very direct, it's
20 just because that's my manner of speaking, but it's not
21 intended in any way to put you on the hot seat.

22 There are a couple of terms of phrase that you
23 used. You talked about the mitigation demanded by the
24 county, that was a word choice. And you also used some
25 phrasing that suggested either that the county says

1 something is not allowed or that the county has a
2 preference that something not be done. And I think I need
3 some clarification on those points.

4 And if you want more context, I think you recall
5 the context in which you said those things, but to me
6 there is a difference between what a regulatory framework
7 requires, and you referenced that at the very end, versus
8 what the county is agreeable to or not agreeable to versus
9 also a mitigation demand made by the county, that I'm
10 hopeful staff objectively reviewed and made its own
11 determination that the mitigation demand is reasonable and
12 is consistent with staff's own evaluation analysis of what
13 it perceives the impacts and needs to be.

14 So if you could address all of that, I would
15 greatly appreciate it.

16 MR. LESH: Okay. Yeah, the word "demand" is
17 regrettable. They suggest this is the amount we think is
18 needed to mitigate. And initially that amount was
19 25 percent of the total that they thought they needed for
20 the county. Initially we looked at the numbers and said
21 22 looked more realistic.

22 As the Fire Needs Assessment came in and we
23 looked to accommodate the suggestions that were made, our
24 numbers using the matrix varied from initially our 22
25 percent to at one point about 10 percent.

1 You know, we're really not trying to track with
2 the county, we're advisors to the process. We rely on
3 officials of the county to give us advice as to the
4 legality of various things, and when they have given us
5 feedback, I wouldn't say we are -- when they give us
6 feedback after reviewing either our documents or documents
7 that have been submitted into the docket and it's legal,
8 it's their interpretation of whether something is legal
9 according to the county codes. Personally, I'm not a
10 person who is equipped to deal with that, I'm not a
11 lawyer. So I rely on what I -- from an engineering point
12 of view, as a mechanical engineer and a metallurgist who's
13 been working in safety and fire for the last eight years,
14 just to say does this look reasonable from the engineering
15 point of view. And that's where the numbers come from.

16 HEARING OFFICER VACCARO: Thank you. I think
17 that provided some important clarification.

18 I think we're going to interrupt the flow just a
19 little bit more to ask a few questions before you get to
20 your cross-examination.

21 Okay. Mr. Lesh, there's a follow-up question,
22 and actually it flows very well from what I was just
23 asking you, the difference between sort of a regulatory
24 framework, staff doing its own objective analysis.

25 Just looking purely from staff's perspective at

1 the issue of protecting the lives of the workers and
2 worker safety, the proposal that's been made by the
3 applicant to have these on-site services, in staff's
4 estimation, would that be adequate to protect the workers,
5 notwithstanding anything that the county might say about
6 who truly has jurisdiction, but the concept itself and the
7 idea of having these on-site services, and this response
8 time.

9 MR. LESH: From the point of view of worker
10 safety, having faster response to any kind of emergency
11 that comes up that requires first-aid treatment, faster
12 response is always better, provided it's available and
13 it's adequate. So from a LORS point of view or OSHA
14 requirements for worker safety, they're both -- and
15 whether they have an on-site team or not, they can be made
16 adequate; but it would be better from a worker safety
17 point of view to have a response team on site. There's no
18 question about that.

19 From the other point of view of impacts to public
20 safety, from the concern of having an event at the power
21 plant that would take resources from the county, then
22 there would be -- with drawdown, the concern isn't, as was
23 mentioned earlier, that the county couldn't respond to
24 something on I-10 or at one of the other power plants or a
25 car wreck somewhere, the concern is that until a backfill

1 and cover is done with personnel and equipment, response
2 times to any of those other events would be extended. So
3 in the same way that we're benefiting the workers on site,
4 we might be putting the public at increased risk because
5 the response time is critical. So that's the other thing
6 that we are holding in the balance.

7 HEARING OFFICER VACCARO: So just as a -- to
8 understand, if we have the on-site services as proposed by
9 the applicant, that would be detrimental to the public --
10 or that would actually be beneficial to the public because
11 the county would not then be required to come out and
12 address those issues and, in fact, the drawdown and
13 backfill issues wouldn't be triggered in the first place?

14 MR. LESH: If -- it's beneficial to the workers.
15 And if the fire department is relieved of having to
16 respond, either in frequency or in magnitude, then it's
17 also beneficial to the public.

18 HEARING OFFICER VACCARO: Okay. Why don't you go
19 ahead and do your cross, and if the Committee has any
20 further questions, we'll hold them until after you do your
21 cross-examination.

22 CROSS-EXAMINATION

23 MR. GALATI: Mr. Lesh, thanks. You had made a
24 comment earlier in sort of maybe how the development of
25 the matrix, and you said that the county had provided you

1 with what they thought they needed in the terms of
2 monetary compensation to mitigate impacts from four
3 projects.

4 Do you remember that?

5 MR. LESH: Yes.

6 MR. GALATI: Are you sure that at the time they
7 made that request, they were talking about the Rice
8 project as the fourth project?

9 MR. LESH: I'm not certain.

10 MR. GALATI: Are you familiar with a project
11 called Desert Sunlight, which is also along the I-10
12 corridor, but it's a photovoltaic project?

13 MR. LESH: No.

14 MR. GALATI: I want to talk a little bit about
15 the Fire Needs Assessment.

16 You've reviewed the Fire Needs Assessment,
17 correct?

18 MR. LESH: Yes.

19 MR. GALATI: And then you reviewed the revised
20 Fire Needs Assessment.

21 MR. LESH: Yes.

22 MR. GALATI: Is there anything about that
23 assessment that you see that is not addressed or that
24 shows or gives you some reason to believe it's biased?

25 MR. LESH: In my opinion, the initial Fire Needs

1 Assessment didn't address rescue. The other portions of
2 the initial Fire Needs Assessment was somewhat vague in
3 the sense that it asserted that an on-site first-aid
4 person could call in a helicopter. And then we -- at the
5 same time it said that it would be required to call in a
6 helicopter, an EMT paramedic.

7 So we revised some of the proposals that were in
8 that initial Fire Needs Assessment so it would be
9 self-consistent. And that's where worker safety
10 conditions 10 and 11 came from that required sufficient
11 personnel on site and an ambulance such that it was
12 self-consistent to the point that what it was proposing to
13 do was described therein.

14 MR. GALATI: So you're familiar with what's in
15 Worker Safety 7, staff's current proposal; there are
16 possibly three ways to comply, right?

17 MR. LESH: Yeah.

18 MR. GALATI: You can pay the money, you can get
19 an agreement, or you can do an independent Fire Needs
20 Assessment, correct?

21 MR. LESH: Yes.

22 MR. GALATI: And that you would do the
23 independent fire needs assessments, submit it to the
24 Energy Commission, and then the Energy Commission would
25 determine if it's adequate; and if it found it was

1 adequate, wouldn't it impose the mitigation from the Fire
2 Needs Assessment? Isn't that how the condition works?

3 MR. LESH: Pretty much.

4 MR. GALATI: Okay. So what it is about the
5 revised Fire Needs Assessment, since it now addresses
6 technical rescue, that makes it not comply with this
7 condition? Because if this assessment was submitted as
8 part of compliance, why wouldn't it determine what the
9 mitigation is?

10 MR. LESH: In -- staff believes that the depth of
11 rescue capability that could be applied much of the time
12 when it's needed either would be not there or inadequate,
13 or if that if there were a multiple-injury event that
14 occurred at this site, 911 would still need to be called
15 most times, and a response from the local fire and
16 emergency services district would still need to be
17 involved, in which case the mitigation component that the
18 Fire Needs Assessment is directly targeting wouldn't be
19 met.

20 MR. GALATI: Okay. Let's explore that just a
21 bit.

22 How often do you think that's going to happen
23 during construction?

24 MR. LESH: I couldn't say. With 400 people --

25 MR. GALATI: If the fire department --

1 MR. LESH: With 400 people, I don't know.

2 MR. GALATI: Right. So we're not talking about
3 making sure the fire department has the equipment
4 necessary to respond to such an event; so if they didn't
5 have it, once might be significant, correct?

6 MR. LESH: I'm sorry, would you say that again?

7 MR. GALATI: We're not talking about if they have
8 to respond one time, they don't have the equipment or
9 personnel to respond, so the impact is make sure they have
10 the equipment and personnel to respond, right, that's not
11 what we're talking about?

12 MR. LESH: I don't know if that's true or not.
13 There's --

14 MR. GALATI: I thought you said in your revised
15 testimony that they were capable, in fact, highly capable,
16 more capable than the applicant to respond to technical
17 rescue.

18 MR. LESH: I believe that is so.

19 MR. GALATI: Okay. So what has to occur is this
20 event that overloads what's on site, then the fire
21 department has to respond, and then there are other things
22 in the county that need response that these particular
23 technical rescue units cannot respond to for there to be
24 an impact to the county, correct?

25 MR. LESH: If we were going to call it an impact,

1 yes.

2 MR. GALATI: And so the mitigation you proposed
3 is some percentage of a number given to you by Riverside
4 County Fire Department, correct?

5 MR. LESH: Yes.

6 MR. GALATI: Where did the number come from? I
7 mean, what's it based on?

8 MR. LESH: It's based on the cost of building a
9 fire station, I think a fire engine, and staffing it with
10 three people.

11 MR. GALATI: Okay. Do you think that that's a
12 reasonable mitigation if the events I already laid out
13 happen once throughout the two and a half years of
14 construction?

15 MR. LESH: I would say that if you could
16 guarantee that you will only have one event -- I still
17 couldn't say it's not reasonable because I'm not in the
18 business of running rescue teams or fire departments or
19 county services.

20 MR. GALATI: Okay. Well, let's take it to the
21 next level.

22 Let's say the applicant agrees with Worker
23 Safety 7 and 8 and pays the \$590,000 and the annual
24 payment. What will Riverside County do with that money?

25 MR. LESH: I have to assume that they will use it

1 for operational costs, capital costs, and personnel.

2 MR. GALATI: So they would actually backfill the
3 drawdown; is that what you're suggesting would happen?

4 MR. LESH: No.

5 MR. GALATI: I may be using the wrong word then.
6 Would they build a fire station?

7 MR. LESH: They have said that that was where
8 they got the figure for the amount of mitigation they
9 needed.

10 MR. GALATI: Okay. So when you used the response
11 matrix, it assumes that the project does impact Riverside
12 County Fire Department; no matter what the numbers are, it
13 assumes that there will be some impact to Riverside
14 County, doesn't it?

15 MR. LESH: It -- yeah, it assumes there is based
16 on -- well, no, it assumes that there potentially is.

17 MR. GALATI: Okay. But there is no way in using
18 the response matrix to get a condition that says you don't
19 owe Riverside County anything, correct?

20 MR. LESH: No.

21 MR. GALATI: How would you get such a condition?

22 MR. LESH: I think if you have zeros in all the
23 places, you would -- you would have no demand.

24 MR. GALATI: Let's turn to it. Let's look at
25 Appendix A to your rebuttal testimony, which is

1 Exhibit 207.

2 You have in your response criteria, you have item
3 number 1 called "Inspections."

4 MR. LESH: Yes.

5 MR. GALATI: And you rated it as a minimal need.

6 MR. LESH: Yes.

7 MR. GALATI: Does inspections cause drawdown such
8 that if somebody is inspecting, the county cannot provide
9 service to other areas?

10 MR. LESH: This is not a drawdown matrix.

11 MR. GALATI: But the impact is all based on
12 drawdown, correct?

13 MR. LESH: That's the principle, not drawdown.

14 MR. GALATI: You didn't say the impact is --

15 MR. LESH: It's utilization of resources, it's
16 the fact that having an event there, because of the remote
17 location and the long durations, that any response is --
18 ties up local resources for longer than it would be to a
19 plant that was next door to the fire department.

20 MR. GALATI: No, there's no question. But let's
21 go to item 1, Inspections.

22 Why didn't you mitigate by requiring the
23 applicant to pay fees for inspections?

24 MR. LESH: We've allocated using a consistent
25 method between all the power plants.

1 MR. GALATI: Correct, which assumes that all the
2 power plants cumulatively contribute to an impact,
3 correct?

4 MR. LESH: You were assuming that, yeah,
5 inspections is one component of utilization of the fire
6 department's resources.

7 MR. GALATI: Right. We're going to get to the
8 rest of them, but I wanted to single them out here.

9 So it's impossible to get a zero.

10 MR. LESH: No, it's not impossible. If we could
11 reasonably convince ourselves that you would never need
12 inspections or a need for a fire department to come out to
13 do either training, spill response, inspection after a
14 response, inspections or reporting after an injury, or
15 have any other reason to come out to do anything we would
16 term an inspection, then we would give it a zero. And, in
17 fact, through the iteration of revising the matrix over
18 the last several months here, we have at different times
19 put zeros in different categories. Because as we say,
20 this is a guideline that we use as part of the process.

21 MR. GALATI: So under that scenario though, every
22 power plant would always contribute to drawdown if it used
23 services in any way, shape, or form, correct?

24 MR. LESH: No.

25 MR. GALATI: What is it about inspections here

1 that cause an impact to the county, beyond, let's say, of
2 a project closer to the fire department?

3 MR. LESH: Say that again.

4 MR. GALATI: Let's say two projects, and let's
5 compare them, a project that's right next to the fire
6 department and a project that's far away from the fire
7 department.

8 How do inspections cause a different impact?
9 It's drawdown, correct?

10 MR. LESH: Drawdown, we don't consider to be
11 simply utilization. Drawdown is when you've utilized
12 sufficient resources that the fire department is required
13 to do backfill and to move people between stations because
14 they have reached the point where they can no longer
15 respond effectively in some stations.

16 MR. GALATI: And so would inspections cause that
17 at all for the Rice project?

18 MR. LESH: Inspections for drawdown, I don't
19 think they would be a component.

20 MR. GALATI: Okay. So if this were --

21 MR. LESH: They're just a utilization of
22 resources.

23 MR. GALATI: So shouldn't this be zero?

24 MR. LESH: It's not a -- it's not a drawdown
25 matrix. It's not simply a drawdown matrix.

1 MR. GALATI: Okay. So is the applicant
2 mitigating for anything other than the drawdown impact on
3 Riverside County Fire Department?

4 MR. LESH: They're mitigating, in my
5 understanding, for the increased demands, personnel and
6 equipment that they will need to adequately service both
7 the facility -- to service the facility as well as the
8 community where the stations are if there's, say, a large
9 event that would create drawdown.

10 MR. GALATI: So Riverside County does not have
11 enough personnel to handle inspections for the Rice
12 project and needs funds for that.

13 MR. LESH: I couldn't say.

14 MR. GALATI: Okay. I'm going to move on to
15 something else, because that one just confused me.

16 Let's go to item 2.

17 In your mind here, isn't this a relative -- item
18 2, which is fire, isn't it relative sort of risk as you
19 see it with respect to other projects like the Blythe or
20 Genesis or Palen projects?

21 MR. LESH: Risk of fire, yes.

22 MR. GALATI: Okay. So this has a low risk of
23 fire at the Rice project?

24 MR. LESH: We would say it has a middling risk.
25 It has flammables on site, it has diesel fuel on site, it

1 has hydraulic oil, it has transformer oils, and there are
2 large quantities of flammable materials, there will be
3 propane; so it's not zero risk and not necessarily minimal
4 risk.

5 MR. GALATI: Okay. With respect to other power
6 plants, let's take a natural-gas fired power plant or even
7 a solar project with HTF fluid and the Rice project.

8 Which project, just by its characteristics, has
9 the least fire risk?

10 MR. LESH: That's hard to say.

11 MR. GALATI: Well --

12 MR. LESH: I would --

13 MR. GALATI: -- I'm going to make you say it,
14 so --

15 MR. LESH: I would venture a guess that -- I
16 would expect there to be less fire risk at Rice and at a
17 gas-fired power plant and one with HTF in large
18 quantities; however, we're looking at here the risk of
19 fire to the public off site to some extent and workers as
20 well. And in a case where the gas-fired plant were close
21 to a fire station, we have -- we have very few fires at
22 them because there are thousands of them, even in the
23 U.S., there's 50 years of operating experience, there are
24 standard procedures, it's -- they're well managed.

25 MR. GALATI: Yeah, but wouldn't they even be more

1 well managed if you didn't have a gas pipeline or any sort
2 of combustion source on the site?

3 MR. LESH: If you're asking me would they have
4 fewer events, probably; but they have very few. There's
5 not really a statistical risk.

6 MR. GALATI: That's right. So is it really an
7 impact to the county for drawdown to respond to the
8 infrequent nature of a fire at something like the Rice
9 facility?

10 MR. LESH: It depends on the magnitude of the
11 fire.

12 MR. GALATI: Correct. So there could be a day or
13 two that there was some sort of drawdown, correct?

14 MR. LESH: Yes.

15 MR. GALATI: Okay. And so in the life of the
16 project, that is --

17 MR. LESH: Are we talking Rice?

18 MR. GALATI: Yes.

19 MR. LESH: Okay.

20 MR. GALATI: Let's say in the life of the
21 project, do you think it's reasonable that an applicant
22 should have to pay almost like having somebody stand by
23 for drawdown due to a very infrequent risk?

24 MR. LESH: I would say you're paying for the
25 capability of responding if that event occurs, the same as

1 I do for homeowners insurance.

2 MR. GALATI: Okay. I want to talk about that,
3 because I thought that's not what we're talking about.

4 The Riverside County Fire Department, according
5 to your testimony, has the capability right now to respond
6 to the Rice project for a fire. It has all of the
7 training, all of the equipment, the only thing is it's an
8 hour and 15 minutes away; isn't that correct?

9 MR. LESH: Yes.

10 MR. GALATI: So it wasn't that you didn't
11 identify that they didn't have a ladder truck so they
12 couldn't reach something high or their people weren't
13 trained to handle a particular material, that's not the
14 impact; the impact is when they come out, they can't
15 respond to something else, correct?

16 MR. LESH: No, it's not that they can't respond
17 to something else, it's that their response time to other
18 things could be extended, impacting public safety.

19 MR. GALATI: Okay. And so you think there's a
20 risk to public safety that the Rice project poses based on
21 the possibility that the Riverside County Fire Department
22 may have to respond sometime during its operations.

23 MR. LESH: There is a risk. If they respond, and
24 it's a major response, yeah, there's -- there is a risk.
25 A risk is a chance.

1 MR. GALATI: So any chance, from your
2 perspective, is -- gives rise to level of significance
3 under CEQA?

4 MR. LESH: No, I didn't say that.

5 MR. GALATI: But you're mitigating for that,
6 correct?

7 MR. LESH: We are using a standard methodology to
8 evaluate the potential size of a fire on site.

9 MR. GALATI: On technical rescue, you still have
10 technical rescue here, item number 4, as contributing to
11 the risk. Why?

12 MR. LESH: We don't believe that the depth of
13 potential response can be maintained by the power plant at
14 all times to the extent that you will never need to call
15 on the county's fire department.

16 MR. GALATI: So if we call the county fire
17 department once, that's an impact for you that you need
18 mitigation, correct?

19 MR. LESH: That's one of those responses that
20 you're helping to pay to ensure it's there when you need
21 it.

22 MR. GALATI: Well again, no, we're not; they're
23 there. You're telling me that we have to pay for them to
24 be able to respond and backfill to somebody else.

25 So in every one of your scenarios, there are two

1 events going on, one at the fire department -- I mean one
2 at the project site and one somewhere else that the fire
3 department can't or is delayed in responding to, correct?

4 MR. LESH: Not necessarily a rescue event.

5 MR. GALATI: Okay.

6 MR. LESH: Because we're talking resources, we're
7 talking just firefighters.

8 MR. GALATI: I'm having difficulty understanding
9 under any scenario why an emergency service on site with
10 trained employees to do technical rescue, that anyone
11 would pick up the phone, wait an hour and 15 minutes for
12 the person who needs to be rescued to be rescued by the
13 fire department. Can you think of a scenario where that
14 would occur?

15 MR. LESH: Yes. One where they can't get to the
16 guy, one where they don't have the skills or they don't
17 have sufficient people to dig somebody out, or somebody is
18 injured to the point that they say, we need help. That
19 could be on the tower, that could be in a ditch, it could
20 be pinned between a turbine anywhere. Where somebody says
21 we have a couple guys on every shift who have been trained
22 and they have a certificate, but they've never actually
23 done a technical rescue, they just have a certificate; at
24 which point when one happens, they would be very tempted
25 to say, we're calling 911.

1 MR. GALATI: Okay. So the concept's okay --

2 HEARING OFFICER VACCARO: Re-ask your question.

3 I'm going to interject just for a moment here
4 because if -- I apologize for interrupting the flow, but
5 there's a reason that I'm doing it, because I'm finding
6 that we're covering the same ground in a way, but in a
7 different -- a different question that's basically getting
8 at the same exact issue and the same point. And I'm
9 hopeful that maybe there are a few questions that can
10 really get to the heart of what you're getting at, which I
11 could be putting words in your mouth.

12 You've got significant issues with each of the
13 line items and the matrices numbers and the manner in
14 which staff arrived at those numbers. And what you've
15 done is shown us, using at least three examples now, where
16 you take issue. And there's also been testimony submitted
17 by the applicant that shows where you take issue.

18 This witness is not, I don't think, as he sits
19 here today going to change his position. He's going to
20 answer your questions. But I think you're making the
21 point. I don't know if we really feel we need to go
22 through each item and do a series of questions on one
23 point to further underscore what I think we're all
24 understanding and is becoming abundantly clear in this
25 interaction, but I leave that to you because there may be

1 something you're truly getting at, but I think you're
2 making your point.

3 MR. GALATI: Fair enough. One never knows when
4 they -- and I'm used to not making my point. And always
5 following a joke with something serious, it's just that
6 this is a very significant issue, and it's an extremely
7 significant cost to the project, so I want to make sure
8 that I don't leave any stone unturned so that the
9 Committee is aware of everything.

10 And many of the questions, the answers I did not
11 quite understand and had to ask a lot more to get to that
12 point, but I will hurry it up.

13 HEARING OFFICER VACCARO: No, that's fair enough.
14 And what I'm saying to you is it's not a matter of
15 hurrying it up, it's a matter of asked and answered. And
16 asking the same question perhaps ten different ways might
17 give you ten different answers, or you might get the same
18 answer all ten times.

19 So if you feel that your diligence for your
20 client requires you to continue, then please do; but I did
21 want you to know that your point is being made.

22 MR. GALATI: Let's move to the Riverside County
23 EMS letters. Specifically let's move to the October 27th
24 letter to Jason Neuman.

25 If I remember correctly, in your direct testimony

1 you testified that this letter was instrumental in you
2 revising the matrix to not give credit for the EMS
3 services in the way that the applicant's witness had,
4 correct?

5 MR. LESH: That's true.

6 MR. GALATI: Okay. And then we looked at some
7 e-mails, which I apologize for surprising you guys with
8 them. I actually didn't intend to do it that way, I
9 thought that maybe Ms. Stoll would be here, and she's
10 familiar with them.

11 So is it the sentence that says "911 system will
12 be activated" that makes you think that Riverside County
13 EMS objects to the concept of having a contract with an
14 approved service provider?

15 MR. LESH: I don't -- I don't have that opinion.
16 I don't know that they object to you having a contract
17 with an approved provider.

18 MR. GALATI: That's fair enough. I threw some
19 facts on you in that question. I apologize.

20 Do you believe that it's this portion of the
21 sentence -- I'm trying to figure out what it is that
22 causes the problem -- is the fact that you believe that
23 911 system has to be activated no matter what the
24 applicant has on site?

25 MR. LESH: My concern is the Fire Needs

1 Assessment says we will never have to contact the fire
2 department or the 911 system because we can call directly
3 for an ambulance. And in this, it kind of unwinds that
4 position, at which point I'm relying on the experts in the
5 county and encouraging the applicant to deal with the
6 county.

7 MR. GALATI: Yeah, I'm trying to understand what
8 it is about this letter that says that to you, because the
9 911 system activating doesn't mean that Riverside County
10 Fire Department responds to the site; isn't that correct?

11 MR. LESH: It doesn't necessarily mean that.

12 MR. GALATI: And, in fact, if you have an
13 ambulance service on site, and as Mr. Snell testified, you
14 might not call 911; but if you did call 911, wouldn't you
15 be saying, I'm bringing someone to the hospital?

16 MR. LESH: I don't know what I would say.

17 MR. GALATI: I'm just trying to walk through this
18 because -- or wouldn't you say, I have an ambulance but I
19 need the airship? Wouldn't that be the only two calls
20 that are made?

21 MR. LESH: I -- I don't know about the calls, not
22 being in that business. The response from the fire
23 department with these letters was that these don't
24 mitigate because we still have to respond.

25 And, in fact, the letter says, you know, the

1 decision of whether to respond is up to the fire
2 department. I don't know what they're going to do. This
3 basically says to me that you can't operate outside the
4 existing county emergency services network. And in the
5 fire needs, repeated very often, we don't need to call 911
6 or the fire department, and to which I say based on that's
7 letter, it doesn't appear that that's going to be
8 compliant with LORS. And I'm not in a position to finesse
9 or, you know, change the Fire Needs Assessment.

10 MR. GALATI: Understand that. I'm just going to
11 ask one final question, okay, and I want that if the
12 Committee were to adopt Worker Safety 7, which has the
13 ability to do it in a Fire Needs Assessment, I would like
14 staff to state on the record what needs to be done that is
15 not done in the Fire Needs Assessment before you so that
16 we have a chance of compliance.

17 So can you please answer what the revised Fire
18 Needs Assessment, how it would need to be modified to
19 provide the information necessary under Worker Safety 7?

20 MR. LESH: From my point of view, I would like to
21 see it vetted through the county agencies that concur that
22 this level of mitigation and -- well, not necessarily
23 level of mitigation, but that the proposal of what's to be
24 done is consistent with county policy and LORS.

25 MR. GALATI: I don't have any further questions,

1 unless -- I notice Jason Neuman's on the line. I do not
2 know if staff is going to call Riverside County Fire
3 Department as a witness, I didn't see them as a witness,
4 but it sure would be helpful; and I would have cross for
5 him if he testifies.

6 HEARING OFFICER VACCARO: You're a mind reader.
7 In fact, I did ask staff in advance of the proceeding in
8 preparing the witness list if they were planning on
9 calling a county representative, and Ms. Dyer indicated
10 that they were not.

11 We do have -- or I have a few questions for this
12 witness; and we would also like to hear from the fire
13 department on some of these issues that have been raised.

14 So I have a few more questions for you, and the
15 Committee might as well. And again, these are intended as
16 clarity so that I can ensure that I'm understanding what
17 it is that you're saying as you intend to say it.

18 Just breaking this down into construction impacts
19 and operations impacts, I'm just trying to get a sense of
20 truly what the concerns are or what we're talking about as
21 giving rise to the opinion that there will be direct and
22 cumulative impacts.

23 You had indicated from a construction perspective
24 that, at least speaking only about fire, not EMS, that
25 during construction you're looking at maybe the melting

1 phase is a possible area that would do, what, give rise to
2 a potential fire or might otherwise raise concerns? What
3 types of services would be required, EMS or fire?

4 MR. LESH: Well, potentially both. I suppose if
5 you have a fire, then you have EMS concerns. But during
6 that phase is when they are doing the melting of the large
7 salt bags to a liquid form. There's a couple of trailers
8 full of propane on site. The applicant's AFC states that
9 they may also have ammonia on site to mitigate NOx from
10 their burners at that time. So at that time we have
11 larger quantities of flammables, potential for explosion
12 or fire, and a haz mat spill.

13 HEARING OFFICER VACCARO: And when you say "at
14 that time," it's my understanding the construction phase
15 is roughly 27 to 30 months but that the salt commissioning
16 phase is not quite that long. So when you say "at that
17 time," you're meaning during salt commissioning. And what
18 is that? What's that window? How many months are we
19 talking about that we have a concern about these flammable
20 products being on site and being used?

21 MR. LESH: I believe the window of melting is
22 approximately three to four months.

23 HEARING OFFICER VACCARO: Okay. So we know that
24 we're not going to be salt commissioning during
25 operations, but there's the potential for fire. What's

1 the difference between the reference to sort of a major
2 fire versus, I guess, a garden-variety fire?

3 MR. LESH: Size and duration, I suppose.

4 HEARING OFFICER VACCARO: Okay. And how does
5 that then play out in terms of the projected impacts on
6 the county? Does the size of the fire make a difference,
7 whether it's a major fire or a garden-variety fire; how
8 does that flow with the analysis?

9 MR. LESH: In the case of Rice having perhaps
10 15,000 gallons of -- of ammonia or propane or some other
11 material on site, a major fire would be confined to the
12 propane. The risk there would, in most scenarios I think,
13 be a leak that would not be extinguished soon enough and
14 would overheat the tank into a potential bleve which would
15 cause multiple injuries, but would probably quickly burn
16 itself out.

17 HEARING OFFICER VACCARO: Okay. And again, we're
18 speaking of the propane; are we talking primarily the
19 construction phase, or are you talking about --

20 MR. LESH: Construction phase, yes.

21 HEARING OFFICER VACCARO: So then what are the
22 concerns for any greater potential, I guess, for a major
23 fire to occur during the operations phase, since we're no
24 longer going to be doing salt commissioning and using
25 these quantities of propane?

1 MR. LESH: Okay. During operations flammable
2 materials on site would be mostly oils. We have somewhere
3 probably shy of a hundred thousand gallons, I'm not sure,
4 maybe 50,000 gallons of oil in the transformers, lube oil
5 for the generators, those sorts of things.

6 HEARING OFFICER VACCARO: Okay. And has the
7 county in its conversations with staff or staff
8 independently sort of made an assessment that the risks
9 appear greater during construction versus operation, or
10 does the matrix or the analysis just sort of average
11 everything out and look at the project as a whole?

12 MR. LESH: The matrix looks at the project as a
13 whole; it doesn't distinguish between construction and
14 operational phases.

15 There was another part to your question. The
16 first part --

17 HEARING OFFICER VACCARO: I think you captured it
18 in your answer.

19 Basically I was trying to get a sense of are you
20 doing some sort of proportional weighting or are you just
21 averaging across the project as a whole.

22 MR. LESH: Oh. This averages across the whole.
23 I think the -- the justification, my understanding is, you
24 know, for -- there's a one-time payment up front, and
25 that's for acquisition of capital and equipment.

1 HEARING OFFICER VACCARO: Okay. And this is just
2 because I didn't quite understand.

3 A fire station, personnel, and, what, an
4 additional fire engine and apparatus, is that what we're
5 talking about?

6 MR. LESH: Engine and apparatus, whatever gear
7 they -- the firemen require.

8 HEARING OFFICER VACCARO: Okay.

9 MR. LESH: Breathing apparatus, I don't know what
10 all the equipment is, plus the firehouse itself.

11 HEARING OFFICER VACCARO: And the county came to
12 the determination that the acquisition of those items,
13 that equipment and those items and personnel would
14 mitigate for the cumulative impacts for what are perceived
15 as direct and cumulative impacts of the four solar
16 projects, because that really only relates to four solar
17 projects; is that correct? And that's mitigation for the
18 impacts from four solar projects.

19 MR. LESH: That's correct.

20 HEARING OFFICER VACCARO: And that -- so I guess
21 that wouldn't be direct impacts, that would probably be
22 looking more at the cumulative impacts are mitigated by
23 the acquisition of these things. And instead of dividing
24 by four and apportioning a quarter to each, the other
25 three projects are supposed to pay a little bit more than

1 Rice because Rice has the salt as opposed to the
2 quantities of ammonia or HTF or whatever other.

3 MR. LESH: I'm not sure what the other power
4 plants will end up paying. The initial rationale was to
5 divide it by four. As I look at the matrix now, the
6 allocation, because Rice is lower than the others, the
7 allocation of the others is -- it sums to more than 75
8 percent for the other three. So either they pay more or
9 they got a deal. And if they got a deal, or get a deal,
10 then the Riverside Fire Department is going to come up
11 short of what they said they needed for mitigation.

12 HEARING OFFICER VACCARO: And just one final
13 question.

14 The development impact fee payment isn't intended
15 in any way then to address these environmental impacts of
16 projects to the --

17 MR. LESH: It --

18 HEARING OFFICER VACCARO: -- fire -- the ability
19 of the fire department to provide fire services or
20 emergency services?

21 MR. LESH: It is intended for that. The fire
22 department has told me from the beginning that any DIF
23 fees paid or property taxes paid, portions thereof that go
24 to the fire department, they would use to offset what they
25 were requesting for mitigation.

1 HEARING OFFICER VACCARO: So do the figures in
2 Worker Safety 7 reflect the payment of property taxes and
3 development impact fees by this project? And I'm not
4 talking -- and on top of that, this project's reduced
5 amount of that initial 25 percent?

6 MR. LESH: The matrix does not reflect the
7 existence of any DIF fees or taxes, so the amount that's
8 actually being requested should be offset by whatever gets
9 trickled down to the fire department through DIF fees and
10 property taxes.

11 HEARING OFFICER VACCARO: Okay. Thank you.

12 PRESIDING MEMBER WEISENMILLER: I have questions
13 in two areas. I guess the first one following up a little
14 bit on those questions.

15 Typically in a risk assessment you look at
16 probability and you look at consequences. And so in terms
17 of consequences are to see a consequence is associated
18 with the remote access here; in terms of probability, you
19 talked about considering the impacts of the different
20 working fluids in the different pipeline structures.

21 Now, did you also consider -- I'm going to
22 characterize it as size in the sense that with a larger
23 project, presumably you have a much bigger footprint, you
24 have more workers. Did you capture that in the
25 allocations?

1 MR. LESH: In the matrix, the size of the power
2 plant would factor in through the amount of hazardous
3 materials and the amount of flammables on site and
4 potential through the frequency and complexity of
5 inspections, it would have to be done by the fire
6 department. In things like inspections, you know, we can
7 consider also the probability of there being a necessity
8 for the fire department to come out and train at the
9 facility if it's more complex. So I guess I'm saying not
10 explicitly but probably implicitly it's being considered.
11 There isn't a component in there that we consider to be
12 probability in the risk assessment.

13 PRESIDING MEMBER WEISENMILLER: So if the number
14 of workers were related to the amount of working fluid,
15 then you'd capture the potential of that having, say, ten
16 times as many workers might have, you know, higher
17 probability of something occurring to those workers.

18 MR. LESH: Yeah.

19 PRESIDING MEMBER WEISENMILLER: But if they're
20 not proportional, then obviously it could be skewed,
21 because this is one of the -- of the projects down there,
22 this is one of the smaller -- along with having a
23 different working fluid and different pipes, it's
24 obviously smaller, substantially smaller than some of the
25 others.

1 MR. LESH: Yes.

2 PRESIDING MEMBER WEISENMILLER: The other
3 question was when you talked about having the county look
4 at the risk assessment study, were you saying the county
5 should be able to comment, or were you saying the county
6 should be able to approve that study?

7 MR. LESH: The county should comment, and the
8 comment should include certainly whether the application
9 of the proposals that come from the new Fire Needs
10 Assessment meet the existing LORS or whether it would be
11 potentially disruptive or have some other impact upon the
12 county, but not -- not the right to approve or disapprove
13 of -- or the acceptability of the Fire Needs Assessment.

14 HEARING OFFICER VACCARO: Ms. Dyer, did you want
15 to do any redirect?

16 MS. DYER: Yes. I have just a couple of
17 questions on redirect, please.

18 REDIRECT EXAMINATION

19 MS. DYER: My question goes to workers traveling
20 to and from the site and the increased burden that that
21 might place on both the fire department and the rescue
22 system of Riverside County. Is that factored into this
23 emergency response matrix? And if so, where is it, which
24 section?

25 MR. LESH: It's not explicitly captured in an

1 item here other than through judgment of the evaluators in
2 terms of the size of the workforce, the distance they
3 travel, the nature of the roads to some extent. And in
4 this case of Rice, it's the fact that they're -- you know,
5 they will have to haul out 17,000 heliostats. So besides
6 the workers commuting over the 60-mile distance on
7 two-lane roads, there's going to be trucks during the
8 construction period and a sizable number of materials
9 you're bringing to build a power plant. If -- it's a
10 consideration. It's not a line item.

11 MS. DYER: Okay. But that is definitely
12 something that Riverside County would deal with should
13 there be an incident on the road due to any of those.

14 MR. LESH: Yes, they would be the responders,
15 whether it was fire or rescue or emergency medical
16 services.

17 MS. DYER: Okay. And then one other question
18 regarding the duty of Riverside County to report any
19 incidents that may occur at the Rice site that did not
20 necessarily require Riverside County assistance.

21 Is there a responsibility for Riverside County to
22 document any health or safety or fire issues that they did
23 not respond to?

24 MR. LESH: My understanding from letters from the
25 county are that if there's an incident that involves

1 either a reportable spill, an injury, a significant injury
2 such that reporting has to be done as the authority having
3 jurisdiction, that would require personnel from the fire
4 department to come out and do the reporting, either to
5 whichever agencies it would be necessary for.

6 MS. DYER: That's it for me. No further
7 questions.

8 HEARING OFFICER VACCARO: Okay. Are you
9 intending to do any kind of recross?

10 MR. GALATI: Yes, she raised an issue that we had
11 not talked about, which was construction traffic.

12 RECROSS-EXAMINATION

13 MR. GALATI: Mr. Lesh, in the revised Fire Needs
14 Assessment, isn't there an analysis of the risk for
15 construction traffic accidents?

16 MR. LESH: Yes.

17 MR. GALATI: Is there complete tables of the
18 existing accidents that occur on those roads?

19 MR. LESH: There is data for some period of
20 years; I can't remember how many years it's for.

21 MR. GALATI: So does the fire department
22 routinely respond to traffic accidents?

23 MR. LESH: Yes.

24 MR. GALATI: Only ones with injuries and/or fire,
25 right?

1 MR. LESH: I can't say.

2 MR. GALATI: Okay. Would it surprise you if the
3 highway patrol was the person who's contacted when you
4 call 911 for traffic accidents in that area?

5 MR. LESH: That would not surprise me.

6 MR. GALATI: Okay. No further questions.

7 HEARING OFFICER VACCARO: Okay. Thank you,
8 Mr. Lesh.

9 I think we're at that point now where it looks as
10 though, Mr. Neuman, you are still on the phone. Thank you
11 for hanging out all day. We would like to hear from you,
12 but first I want to make sure that you can hear me and
13 that you truly are still there.

14 MR. NEUMAN: Yes, ma'am, I'm still here.

15 HEARING OFFICER VACCARO: Okay. What I'd like to
16 do, you're not really offered by either the staff or the
17 applicant, but as you're aware, your name has been used
18 several times throughout this proceeding, and there is
19 some information I think that the fire department could
20 provide directly.

21 So what I'd like to do is have you sworn in, if
22 you're willing to do so, so that this doesn't come in as a
23 public comment and truly comes in as testimony, have you
24 sworn in and make you available for questions by the
25 applicant, staff, and the Committee.

1 Are you agreeable to that?

2 CAPTAIN NEUMAN: Absolutely.

3 HEARING OFFICER VACCARO: Okay. So we'll have
4 you state your name, your position for the record, and the
5 court reporter will swear you in.

6 CAPTAIN NEUMAN: Jason Neuman, J-a-s-o-n, last
7 name N-e-u-m-a-n, fire captain, strategic planning,
8 Riverside County Fire Department.
9 Whereupon,

10 JASON NEUMAN
11 was called as a witness herein and, having been first duly
12 sworn, was examined and testified as follows:

13 THE REPORTER: Thank you.

14 HEARING OFFICER VACCARO: Okay. I think what
15 I'll do, Mr. Galati, is have you go ahead, even though,
16 you know, he's not summarizing any testimony, he's heard
17 it all, we know what he has to say in part from the staff
18 assessment, your own communication. So we can treat this
19 as, you know, a cross, but really it's just a matter of
20 getting questions answered directly from the fire
21 department as opposed to hearing it through a second-hand
22 testimony.

23 MR. GALATI: I have no problem proceeding in that
24 way. I would ask the Committee to indulge that if
25 Mr. Neuman comes up with new testimony, that I have

1 witnesses that can rebut that testimony, I'd like the
2 ability to recall them in rebuttal, since I don't know
3 what he's going to say.

4 HEARING OFFICER VACCARO: That's fair, of course.
5 And I want to make sure everybody has a full and fair
6 opportunity to be heard. So we'll listen to what he has
7 to say, and you and staff both can proceed as you see fit
8 with additional witnesses.

9 CROSS-EXAMINATION

10 MR. GALATI: Captain Neuman, this is Scott
11 Galati. Thank you for hanging on the phone for so long.

12 CAPTAIN NEUMAN: No problem, sir.

13 MR. GALATI: Let me ask you, have you reviewed
14 the revised Fire Needs Assessment?

15 CAPTAIN NEUMAN: Yes, I have.

16 MR. GALATI: Do you consider that document to be
17 biased?

18 CAPTAIN NEUMAN: Yes.

19 MR. GALATI: And why so?

20 CAPTAIN NEUMAN: There's a number of issues that
21 appear to be inaccurate after my review. To sum it up,
22 there's not much follow through. I question how they
23 substantiate that document, as well as looking at --
24 there's no contingency plans in place. I think today the
25 discussion weighed heavily on EMS response, contracting

1 and technical rescue.

2 MR. GALATI: Okay. I understand why you think
3 the Fire Needs Assessment might be flawed, but are you
4 using those flaws to say that this is biased?

5 CAPTAIN NEUMAN: I'm using it based on
6 operational perspective with our policies and procedures
7 that we have in place. And I can also look at it -- as
8 Mr. Lesh mentioned, I mean, the issue came up with
9 drawdown, and maybe for lack of better terms, is the
10 trickle-down effect and how it creates the cumulative
11 impact.

12 MR. GALATI: And, Mr. Neuman -- I mean Captain
13 Neuman, did you prepare a Fire Needs Assessment?

14 CAPTAIN NEUMAN: No.

15 MR. GALATI: And did you prepare -- how did you
16 come up with the impacts that require you to build a new
17 fire station?

18 CAPTAIN NEUMAN: I think if we look back at the
19 initial correspondence a year ago and looking at the
20 totality of all four power plants, working with staff,
21 different staff members for different projects, coming up
22 with initial impact of a fire station required per
23 development, and in working with the staff throughout this
24 process, making a determination of a cost figure for one
25 station, and as Mr. Lesh mentioned earlier in his

1 testimony, is dividing that by four, and then refining
2 that up until today's date.

3 MR. GALATI: Where are you going to build that
4 new fire station?

5 CAPTAIN NEUMAN: Well, we're currently doing some
6 discussions at this point. As of today's date there will
7 be no new additional station in that area; however,
8 looking at the impacts associated with the project, and as
9 Mr. Lesh mentioned, the funds would be available for fire
10 station support, capital improvements. We are looking
11 with our real properties division within Riverside County
12 to upgrade and enhance two stations in the Blythe area.

13 MR. GALATI: Okay. It's unfortunate that maybe
14 the question will seem confrontational, so I'll give you a
15 heads-up ahead of time --

16 CAPTAIN NEUMAN: No problem.

17 MR. GALATI: -- but we have a Fire Needs
18 Assessment of which you have said is biased, and yet all
19 we have is you telling us that you need a new fire
20 station.

21 Do you have any analysis that you have done,
22 other than comments on the Fire Needs Assessment for the
23 Rice project, to show that independently, or even written
24 down, that the fire department would have to respond in
25 such a way that it would cause an impact to its current

1 resources?

2 CAPTAIN NEUMAN: We could look at a number of
3 issues. I think they've been addressed in previous
4 testimony. Mr. Snell -- I don't know if this is going off
5 topic, but Mr. Snell made the comment of -- his last
6 comment was actually why does the fire department need to
7 respond dealing with EMS issues. And previous testimony,
8 looking at the requirements we have, both for OSHA
9 notification, and we also have a requirement internally
10 with the California Incident Fire Reporting System that we
11 do respond to incidents and obtain information and
12 complete a report within 24 hours. That information gets
13 shipped to Sacramento, and then from Sacramento it goes to
14 the National Fire Agency for documentation purposes.

15 MR. GALATI: Okay. I understand that. But I was
16 asking whether or not you've done any analysis in which
17 you could share with us to show why the Rice project
18 provides impacts, either directly or cumulatively, that
19 you believe need to be mitigated by this mitigation
20 proposal.

21 CAPTAIN NEUMAN: Looking at our fire protection
22 master plan that was approved in 1987, there's categories
23 within that master plan that identify land use categories.
24 And with those land use categories it identifies specific
25 land use as well as distance for fire stations, for an

1 example; therefore, we looked at this as one component as
2 an impact to our level of service impacting the closest
3 fire station, which is approximately a hundred plus --
4 well, actually, an hour plus away from the site, proposed
5 site.

6 MR. GALATI: If the applicant pays any -- pays
7 the mitigation required by staff, is Riverside County
8 going to respond any quicker to the site?

9 CAPTAIN NEUMAN: I don't think anybody can really
10 answer that, to be honest with you, Mr. Galati. We looked
11 at this as a plan for worst-case scenario and look at it
12 by a case-by-case basis. I think there was a number of
13 components that would support this in dealing with
14 response, and looking at the applicant proposing a no
15 response by Riverside County Fire Department, looking at
16 issues that were brought up through REMS, and there's a
17 number of other issues that we could look at for technical
18 rescue, and looking at our primary response, what is
19 required by the Riverside County Fire Department as a
20 standard response for technical rescue, for an example,
21 and structure fires, for example, haz mat incidents, all
22 incidents.

23 MR. GALATI: Captain Neuman, how many times have
24 you responded to a power plant incident in Riverside
25 County; not you personally, Riverside County Fire

1 Department?

2 CAPTAIN NEUMAN: I don't have that information,
3 but I can actually tell you I have responded one time
4 working out in that area.

5 MR. GALATI: Okay. And is this the kind of
6 mitigation that you asked for, let's say, I don't know,
7 the inland empire project?

8 CAPTAIN NEUMAN: Can you give me some geographic
9 reference?

10 MR. GALATI: Romoland?

11 CAPTAIN NEUMAN: I wasn't involved in that
12 project.

13 MR. GALATI: Do you know if Riverside County
14 asked for mitigation for the Walnut Creek -- excuse me,
15 the Sun Valley project, which is in Romoland as well?

16 CAPTAIN NEUMAN: If it came within -- if it was
17 within county jurisdiction, which it is, it would involve
18 an impact fee similar to what Mr. Snell mentioned earlier,
19 459 -- or 659.

20 MR. GALATI: Right. But to your knowledge,
21 nothing above the impact fee, correct?

22 CAPTAIN NEUMAN: I can't answer that. I wasn't
23 in the strategic planning bureau and the planning
24 engineering department at that time.

25 MR. GALATI: Okay. If I could have just a

1 moment.

2 HEARING OFFICER VACCARO: Yes, go ahead.

3 Let's just go off the record for just a couple of
4 moments.

5 (Recess.)

6 HEARING OFFICER VACCARO: Okay. We're back on.

7 MR. GALATI: Thank you. Sorry.

8 Captain Neuman, are you still there?

9 CAPTAIN NEUMAN: Yes, sir.

10 MR. GALATI: Is Riverside County Fire Department
11 currently utilizing all of its resources?

12 CAPTAIN NEUMAN: Can you elaborate on that?

13 MR. GALATI: Yeah, I would love to be able to,
14 but I don't think I have the capacity.

15 But I guess what I would try to say is the county
16 fire department -- actually, I need to have some help
17 asking this question.

18 Are you currently maxed out on your workload?

19 CAPTAIN NEUMAN: Maybe you can rephrase that
20 again.

21 MR. GALATI: What I'm getting at --

22 HEARING OFFICER VACCARO: Well, actually, I'm
23 going to interject here. I think maybe the first question
24 might have been a bit vague. I think the second question,
25 not so vague, because I think all of those in the work

1 world sort of have a sense of if we're at full capacity or
2 if we're beyond capacity. I think I could speak for many
3 people at the Energy Commission, and I think folks here
4 are well beyond capacity, and I'd say, you know, they'd
5 say, yes, we're maxed out.

6 So maybe answer the question as you understand
7 it; and if Mr. Galati needs to ask some follow-up
8 questions, we'll have him do that. But answer the
9 question, please, as you understand it.

10 CAPTAIN NEUMAN: Well, I can say this much, the
11 furlough program for the state has been abolished; but for
12 workload, no, we're working at full capacity with our
13 specialized pieces of equipment, our air program and
14 hazardous materials division, planning and engineering
15 division.

16 MR. GALATI: How about those particular stations
17 that would respond to Rice in and around Rice, how about
18 those stations, are they at full capacity?

19 CAPTAIN NEUMAN: Yes, they are. With paramedics,
20 except for station 49, that would be the first engine into
21 the Rice area, has two paramedics assigned 24 hours a day,
22 7 days a week, 365 days a year.

23 MR. GALATI: Would you agree if the paramedics
24 did not have to respond to Rice that the project would not
25 provide an impact to Riverside County for EMS service?

1 CAPTAIN NEUMAN: I think there would be an
2 impact.

3 MR. GALATI: I apologize. Did you say there
4 would be, still be an impact?

5 CAPTAIN NEUMAN: There still would be an
6 impact -- maybe I'm not understanding your question.

7 MR. GALATI: If the Committee were to find that
8 the -- the proposal that the applicant has proposed, which
9 would not have paramedics respond, they wouldn't be the
10 first responders, for example, to an injury at the Rice
11 facility, I'm asking you if you believe there would still
12 be some residual impact to the county fire department.

13 CAPTAIN NEUMAN: See, I think that's why the
14 needs assessment from a third party would have to address
15 that, because I think there's -- there could be something
16 lost in the interpretation with the REMS policy. They
17 make reference to having EMTs or EMS personnel, advanced
18 life support; I truly don't believe that that opportunity
19 is acceptable under REMS.

20 I do question that because working within the
21 system, having an ALS provider on site, and what is their
22 capacity going to be? It has to be documentation through
23 a REMS agency that they will be functioning in the
24 capacity of a paramedic, advanced life support, have the
25 efficient equipment that's authorized by REMS as well as

1 the ordinance and the policy to actually perform that
2 service.

3 I don't know if I actually directly answered your
4 question.

5 MR. GALATI: Well, I want to get back to --
6 because that leads to capacity.

7 I'm looking at a table in the Fire Needs
8 Assessment, specifically Table 5.2. And it identifies
9 station 43, 45, and 49, which are the stations closest to
10 the Rice facility. And under the master plan, isn't it
11 correct that those stations have the capacity to respond
12 to 2,190 calls per year per station?

13 CAPTAIN NEUMAN: I don't -- I recall looking at
14 the staff assessment. It appeared that the stats were
15 simply just cut and pasted out of our annual report; so I
16 believe those were dated 2006, if I recall, but I'm sure
17 the stats may have changed from year to date as well as
18 from 2009.

19 MR. GALATI: Well, I do apologize because it's in
20 the Fire Needs Assessment, not staff assessment. And the
21 source is Riverside County Fire Department, Fire 2009
22 Yearly Emergency Incidents Statistics.

23 Are you familiar with that document?

24 CAPTAIN NEUMAN: Yes, I did review it.

25 MR. GALATI: According to that table, you

1 responded 1,092 times for all three stations.

2 That sound about right?

3 CAPTAIN NEUMAN: That sounds about right.

4 MR. GALATI: And if there's 2,190 calls available
5 per station, how can you say that those stations are maxed
6 out?

7 CAPTAIN NEUMAN: Well, I would go back and have
8 to retract my last statement. I simply was looking at
9 staffing personnel as well as space for those particular
10 stations, possibly the need for upgrade for those stations
11 in that area. So I apologize.

12 MR. GALATI: I don't have any further questions.

13 Thank you.

14 HEARING OFFICER VACCARO: Okay. Ms. Dyer, any
15 questions for Captain Neuman?

16 MS. DYER: Staff has no questions for
17 Captain Neuman.

18 HEARING OFFICER VACCARO: Okay. Mr. Galati, do
19 you believe that you need to call any witnesses to offer
20 any rebuttal, or do you need to think about that for a
21 moment?

22 MR. GALATI: Just a moment, please.

23 HEARING OFFICER VACCARO: Thanks.

24 MR. GALATI: The Committee should be happy that
25 we're done.

1 HEARING OFFICER VACCARO: Okay.

2 Captain Neuman, are you still there?

3 CAPTAIN NEUMAN: Yes, ma'am.

4 HEARING OFFICER VACCARO: Okay. Thank you very
5 much for being willing to offer sworn testimony. And
6 again, with respect to the answer that you gave to the
7 question about whether or not you're maxed out, you did
8 truly answer it as you understood it, and there is no need
9 to apologize for your answer. I think that with further
10 questioning from Mr. Galati, at the end of the day he
11 asked what he intended, and you were able to provide an
12 answer. So thank you.

13 CAPTAIN NEUMAN: All right. Thank you very much.

14 HEARING OFFICER VACCARO: Okay. It is so warm in
15 here.

16 MR. GALATI: That happens when I've been talking.

17 HEARING OFFICER VACCARO: It looks as though we
18 have managed to get through all of the technical areas
19 that we need to address in order for the Committee to
20 prepare a PMPD. Unfortunately, I don't believe that the
21 Committee is in a position to close the record on all of
22 these topics today for the very simple fact that we do
23 need to address any public comments that come in up
24 through close of business on November 11th.

25 I think what the Committee is proposing, and you

1 can respond now or respond later, is that we keep the
2 record open for that limited purpose of having staff,
3 through declarations and supplemental testimony to the
4 staff assessment, submit comments, responses to those
5 comments at various intervals so that we're not waiting
6 until the very last day on the 11th to address them.

7 We don't have enough play in the schedule to give
8 you the extra buffer days that you require, so we need to
9 continue to keep this moving on pace, but we will accept
10 that as additional exhibits and evidence into the record
11 subject, of course, to the applicant having the ability to
12 submit some sort of written comment or response, should
13 they need to.

14 We are not going to convene another hearing to
15 hear those responses to comments, we'll do it by way of
16 declaration and supplements to the staff assessment.
17 That's the Committee's proposal, to keep us on track.

18 MR. GALATI: We understand and support that.

19 MS. DYER: And staff is prepared to address
20 comments as they come in and submit them into the record
21 with the greatest of haste.

22 HEARING OFFICER VACCARO: Thank you.

23 So before we do the very final part of closing, I
24 want to ensure that we're clear. That from the applicant
25 we have admitted into evidence Exhibits 1 through 54.

1 MR. GALATI: That's -- oh, I have one clean up
2 item, and you had asked a question about the ordinance.
3 We went and got the ordinance. I could --

4 HEARING OFFICER VACCARO: I think what we'll do
5 is we'll go ahead and I think get our official copy
6 probably from the jurisdiction and take official notice
7 and make mention of that in the notice for the publication
8 of the PMPD, but thank you for obtaining that.

9 MR. GALATI: Sure.

10 HEARING OFFICER VACCARO: Because I think some
11 other documents were mentioned during today's proceeding
12 that we need to obtain from the jurisdiction as well.

13 Ms. Dyer --

14 MR. GALATI: So you're correct, Exhibit 1 through
15 54 have been admitted.

16 HEARING OFFICER VACCARO: Okay. Ms. Dyer, it
17 looks like we've admitted Exhibits 200 through 210, and we
18 now have a 206 and a 206A which is the FDOC supplement; is
19 that correct?

20 MS. DYER: It is correct.

21 Can you give me just a moment?

22 HEARING OFFICER VACCARO: Yes, just go ahead.

23 MS. DYER: Hearing Officer, we do have a letter
24 from Riverside County Fire Department that we received
25 yesterday I believe, it's dated October 27th, that I think

1 we should probably submit into the record as an exhibit
2 since it did not get attached to Mr. Lesh's rebuttal
3 testimony.

4 HEARING OFFICER VACCARO: Okay. So I want to be
5 clear, because earlier on in the proceeding when we were
6 looking at the e-mail string, and there is a letter
7 referenced by the e-mail string, we did this clarification
8 orally that that letter was attached to the rebuttal
9 testimony, but you're telling me it appears that it truly
10 was not?

11 MS. DYER: This is a different letter.

12 HEARING OFFICER VACCARO: Oh, it's a different
13 letter. Okay. In that instance, Mr. Galati needs to see
14 the letter --

15 MS. DYER: Yes.

16 HEARING OFFICER VACCARO: I think the Committee
17 needs to see the letter. You can mark it for
18 identification as 211. Let's take a look at that letter
19 and go through the formal procedures if, in fact, it's
20 going to be admitted.

21 (Staff's Exhibit 211 was marked for
22 identification.)

23 HEARING OFFICER VACCARO: So do you have
24 additional copies, or do you only have the one?

25 MS. DYER: We only have the one copy at this

1 point.

2 HEARING OFFICER VACCARO: And it's got
3 highlighting.

4 MS. DYER: It has notes on it.

5 HEARING OFFICER VACCARO: Okay. Then we need to
6 move forward with public comment before we do some of the
7 close out. So if you could have someone, either use your
8 Blackberry or otherwise, have someone make some copies and
9 bring them down, we'll get back to that part in just a few
10 moments.

11 MS. DYER: Mr. Lesh will do that.

12 HEARING OFFICER VACCARO: Okay. Thank you.

13 So I think at this point we finished up most of
14 the housekeeping except for this one last item, and we
15 need to move to public comment.

16 I see a lot of folks in the room but I'm not sure
17 that anybody is a member of the public.

18 Do I have in members of the public who wish to
19 speak?

20 Okay. Would you be Mr. Roper?

21 MR. ROPER: Yes.

22 HEARING OFFICER VACCARO: Okay. I have a blue
23 card from you. And if you would like to come to the
24 microphone at the foot of the seating area, we'd be happy
25 to hear from you.

1 MR. ROPER: Okay. Thank you.

2 My name is Roger Roper, I'm president of the
3 International Brotherhood of Electrical Workers, Local 440
4 that represents Riverside County. Thank you for hearing
5 from me today.

6 I'm here today to ask that you consider the
7 positive impact a project like this will have on the
8 economy and the job market. The inland empire is
9 experiencing 15 percent unemployment rate. And as you
10 heard in the Blythe and Coachella areas, out there it's up
11 to 20 percent and higher.

12 The construction industry is at 35 percent
13 unemployment right now in Riverside County. The IBEW has
14 hundreds of workers in the region that are unemployed; and
15 this is typical of all the trades. Some of these have run
16 out of their unemployment, they have lost their homes or
17 are facing foreclosure, and most of them have lost their
18 health benefits. All of this is leading to divorces and
19 broken families because of the market.

20 In addition to putting a skilled workforce back
21 to work, it will also allow us to expand our
22 apprenticeship training with priority given to veterans
23 returning from overseas utilizing a program we have called
24 "Helmets to Hardhats." We're also working with training
25 with the Riverside County Workforce Development Center and

1 the community colleges on pre-apprenticeship programs to
2 get guys into training.

3 It is important that we start now to train for
4 the future, as you have heard previous talk about shortage
5 of skilled manpower. When construction industry takes
6 back off and the baby boomers start to retire, we'll be
7 facing a big shortage if we don't start to train now.
8 Without the jobs, we cannot train.

9 Also, this project will have a positive impact on
10 the economy in the inland empire, putting money back into
11 the local area businesses within the region.

12 So considering the impact of the jobs, training,
13 and the need for the economic stimulus, I'm asking you to
14 approve the Rice Solar Energy Project.

15 Thank you.

16 HEARING OFFICER VACCARO: Thank you for making
17 the trip. Did you come up from the region to make your
18 comments today?

19 (Mr. Roper responds beyond the range of the
20 microphone.)

21 HEARING OFFICER VACCARO: Thank you.

22 PRESIDING MEMBER WEISENMILLER: Thank you for
23 coming.

24 HEARING OFFICER VACCARO: I think -- I don't see
25 any more individuals, but what we've just had is a

1 technical difficulty with the connection to WebEx,
2 unfortunately. I do know that there were a few members of
3 the public who were on the line. I'm not sure if they
4 wanted to make a comment, and I'm not certain that they're
5 going to be able to reconnect.

6 I am looking at Public Advisor Jennifer Jennings
7 as I say this so that you understand you may end up
8 getting a call or two in a few moments from members of the
9 public about being disconnected from our WebEx system that
10 we're trying to reconnect, but at this point I'm not sure
11 that they'll be able to make their presence known.

12 So I think with that, unfortunately, we're going
13 to end public comment, but certainly until this proceeding
14 is finished, the public is welcome to submit comments on
15 not only the SIDEIS but as well as the PMPD. We still
16 have several comment periods to get through, because I
17 don't think we're going to make it --

18 Okay. We're going to go off the record for one
19 moment and see if we can address this issue.

20 (Recess.)

21 HEARING OFFICER VACCARO: Let's acknowledge that
22 Ms. Dyer has just passed out for the Committee and the
23 applicant what's been identified as Staff's number 211,
24 letter dated October 27th from the Riverside County Fire
25 Department. And I'm going to give the applicant an

1 opportunity to review that document, and then we'll talk
2 about its submission into the record.

3 I notice we have some of our callers back again.

4 Mr. Mann, I see you're on the line. Were you
5 interested in making a public comment today?

6 MR. MANN: No, thank you. Just listening today.

7 HEARING OFFICER VACCARO: Okay. Thank you.

8 Do I have any other members of the public on the
9 line who have not already identified themselves who wish
10 to make a public comment?

11 Okay. I'm not hearing any.

12 Mr. Galati, you're still making your way through
13 the letter?

14 I take it that's a no, because you're about to
15 say something else; so why don't you comment on what it is
16 that's been distributed by Ms. Dyer.

17 MR. GALATI: While I recognize that I surprised
18 Ms. Dyer with some e-mails today that I really didn't
19 intend on exhibiting, I would have liked to cross-examine
20 Mr. Neuman -- Captain Neuman about his letter. There are
21 a lot of assertions in this letter. And if it's entered
22 into evidence without an opportunity for either
23 cross-examination or rebuttal, I'm nervous about that.

24 I certainly don't want to delay the proceedings
25 today, and I certainly don't want to delay the proceedings

1 by requiring another hearing. So I'm trying to think of
2 an alternative solution. And I don't know if staff would
3 be okay if we submitted some sort of something in writing
4 under declaration of penalty of perjury from my experts as
5 a response to this letter. I'd be happy to do that
6 instead of try to cross-examine or bring them here and
7 have them do rebuttal.

8 If the staff would allow us to few days to file
9 something, and the Committee would let us, because this is
10 a very important letter because it's from the agency,
11 Riverside County Fire Department, and it is something that
12 was not explained in the testimony that I asked on cross.
13 There are at least three or four assertions in here that I
14 did not ask about.

15 HEARING OFFICER VACCARO: Fair enough.

16 I mean, I think you've heard me say, Ms. Dyer,
17 before I try to follow my own rules, which is I don't want
18 to surprise any of you with anything, and I certainly
19 don't want any of you surprised primarily because, you
20 know, undue surprise can result in prejudice, and it makes
21 what's supposed to be a fair proceeding a little less
22 fair.

23 I think where we are right now is that I think we
24 can recognize that this is probably an important letter to
25 have admitted into evidence, but it's equally important

1 that the applicant have a full and fair opportunity to
2 counter or at least explain from applicant's perspective
3 why it has concern with some of the assertions in this
4 letter. I think even if you tried right now in the
5 interest of time to put up rebuttal witnesses, I don't
6 know that that really gives them a full and fair
7 opportunity to digest this information and to say what it
8 is that they would truly intend to say.

9 So I think what I'd like to have happen is that
10 we go through the process of admitting this subject to the
11 applicant having the opportunity to submit a declaration
12 from, I would say in this case, it would be limited to the
13 witnesses that have already been identified who have given
14 testimony to make whatever comments they feel they need to
15 make with respect to this letter.

16 Ms. Dyer, do you have any comments on that?

17 MS. DYER: That would be fine with me.

18 And I just wanted to say, you know, I apologize;
19 my intent was not to surprise anyone, and would have
20 preferred to have had this in earlier, definitely, but
21 would be prepared to hear any rebuttal testimony,
22 definitely.

23 HEARING OFFICER VACCARO: Okay. So what I would
24 like is to have something in writing by Wednesday
25 afternoon from the applicant.

1 MR. GALATI: We can certainly do that.

2 And you don't see me fidgeting and getting really
3 hot and crazy like you've seen me in the past. I have a
4 long, working relationship with Ms. Dyer, and I know she
5 would not surprise me; so I recognize this was surprised
6 on her as well.

7 HEARING OFFICER VACCARO: Okay. So we're going
8 to move forward and then move backwards.

9 So, Ms. Dyer, would you like to make your motion?

10 MS. DYER: Yes. I would like to move that the --
11 that Staff's Exhibit 211 be admitted as the letter from
12 Captain Neuman to Mr. Kessler dated October 27th, 2010.

13 HEARING OFFICER VACCARO: Okay.

14 MR. GALATI: With the prior caveats, no
15 objection.

16 HEARING OFFICER VACCARO: Okay. So it's deemed
17 admitted.

18 (Staff's Exhibit 211 was admitted into
19 evidence.)

20 HEARING OFFICER VACCARO: So, staff, at this
21 point, just as a recap, Exhibits 200 through 211, and now
22 with the addition of 206A, those are the exhibits
23 submitted by staff.

24 MS. DYER: That is correct.

25 HEARING OFFICER VACCARO: Okay. Mr. Galati, when

1 you submit this testimony by Wednesday of next week,
2 you're going to be using the next in order, which will be
3 starting with number 55.

4 MR. GALATI: That's correct.

5 HEARING OFFICER VACCARO: Okay. I think we've
6 given plenty of time for additional members of the public
7 to call in. So let me do another last call.

8 Do we have any members of the public on the
9 telephone line who wish to make a comment today?

10 Hearing none, I think I will turn it over to
11 Commissioner Weisenmiller to close today's proceedings.

12 PRESIDING MEMBER WEISENMILLER: I'd like to first
13 thank all the public who have commented and certainly
14 thank the applicant and staff for their work today. And
15 certainly we need to keep moving on this. But again, I
16 think we've made a lot of progress today and appreciate
17 everyone's hard work.

18 Thanks again.

19 (Thereupon the California Energy Commission
20 Rice Solar Energy Power Plant Project
21 Prehearing Conference and Evidentiary Hearing
22 adjourned at 4:00 p.m.)

23

24

25

1 CERTIFICATE OF REPORTER
2

3 I, PETER PETTY, an Electronic Reporter, do hereby
4 certify that I am a disinterested person herein; that I
5 recorded the foregoing California Energy Commission
6 Prehearing Conference and Evidentiary Hearing; that it was
7 thereafter transcribed into typewriting.

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

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 3rd day of October 2010.

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15 PETER PETTY
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