

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
of the Roseville Energy Park) 03-AFC-1
)
by the City of Roseville)

)

CLUBHOUSE AT WOODCREEK
WOODCREEK OAKS COUNTRY CLUB
5880 WOODCREEK OAKS DRIVE
ROSEVILLE, CALIFORNIA 95747

THURSDAY, JANUARY 6, 2005

11:02 A.M.

Reported by:
James Ramos
Contract No. 170-04-001

COMMITTEE MEMBERS PRESENT

John L. Geesman, Presiding Member

HEARING OFFICER and ADVISORS PRESENT

Gary Fay, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Kerry A. Willis, Staff Counsel

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Gary Reinoehl

Joseph M. Loyer

Richard Latteri

Dick Anderson

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P R O C E E D I N G S

11:02 a.m.

HEARING OFFICER FAY: Okay, we're on the record. We've just completed a site visit of the pipeline transmission route and the project site, itself. And we've returned for our prehearing conference.

What I'd like to do is first of all tell people that we have copies on the side table to my left of the notice of today's hearing, the applicant and staff prehearing conference statements. So if you would find those documents helpful, there are copies over there.

Because the applicant went into far more detail than the staff, I'm going to refer to the applicant's prehearing conference statement. And I'd like to go through item by item and get from the applicant whether they have anything further to add, and then get staff's reaction to the statement. And the idea is to see where we are.

In some cases either the matter has been resolved or can be resolved with a very brief comment, and I mean a few words. If there's a belief among the parties that it's likely to be resolved, but it will take a little wordsmithing

1 at the workshop, then we won't burden our hearing
2 time with going through those words.

3 We'd just like to know the potential for
4 resolution. And if, in fact, in a third instance
5 is one or more of the parties think that there is
6 no chance of resolution, or it's not as likely,
7 then we'd like to know that, as well.

8 I've asked the parties to respond within
9 24 hours of the workshop via email to the proof of
10 service list and to me directly on any changes in
11 the status of the case as reflected in their
12 prehearing conference statements.

13 This is important because I'll be
14 issuing a hearing order very shortly, probably
15 Monday at the latest, and that would indicate the
16 amount of time and when we're going to be hearing
17 these various subject areas.

18 So, obviously, if something is not in
19 dispute I don't need to allow a great deal of
20 hearing time for that matter.

21 So, are there any preliminary statements
22 before we begin? Mr. Galati?

23 MR. GALATI: No, thank you.

24 HEARING OFFICER FAY: Ms Willis?

25 MS. WILLIS: No.

1 HEARING OFFICER FAY: Okay. Let's start
2 with air quality on page 3 of the applicant's
3 prehearing conference statement. They refer to
4 ammonia slip. And they disagree when staff says
5 it should be limited to 5 parts per million, and
6 the applicant says 10 parts per million. Anything
7 further on that, Mr. Galati, other than what you
8 have in your statement?

9 MR. GALATI: No, we stand by what's in
10 our statement.

11 HEARING OFFICER FAY: Okay. Ms. Willis,
12 anything changed on that?

13 MS. WILLIS: We haven't changed our
14 position either.

15 HEARING OFFICER FAY: Okay. And we note
16 that in the Cosumnes case the Commission did not
17 adopt staff's 5 ppm recommendation and went with
18 10 ppm on the theory that it's an ammonia rich
19 area.

20 Is staff going to be prepared to address
21 the Commission's apparent disagreement with
22 staff's previous position in that case?

23 MS. WILLIS: Would you like staff to
24 address that at this point in time, or --

25 HEARING OFFICER FAY: Well, yeah, let's

1 get a flavor for it.

2 PRESIDING MEMBER GEESMAN: Get a summary
3 form.

4 HEARING OFFICER FAY: Just summary.

5 MR. LOYER: Well, in the staff testimony
6 we have found that the Roseville area is not an
7 ammonia rich area; that it is ammonia limited. So
8 I don't think the previous case mentioned really
9 applies here.

10 PRESIDING MEMBER GEESMAN: Do you recall
11 what we did in Tesla?

12 MR. LOYER: I didn't work on that case,
13 myself.

14 PRESIDING MEMBER GEESMAN: Mr. Galati,
15 do you recall?

16 MR. GALATI: I believe that in Tesla the
17 applicant proposed 5 ppm.

18 MR. LOYER: I think that's right.

19 MR. GALATI: I can point out that in
20 East Altamont I believe, and I'll have to double
21 check, I think they were 10 ppm.

22 PRESIDING MEMBER GEESMAN: It's my
23 recollection as well. In Tesla, which was a case
24 I had, we had a similar discussion as to whether
25 it was an ammonia rich environment or not. I

1 simply couldn't remember what limit we actually
2 ended up establishing.

3 HEARING OFFICER FAY: The analysis that
4 you've done, will it show that you've accounted
5 for transfer from upwind districts?

6 MR. LOYER: Are you aware of any ammonia
7 transport issues of upwind or downwind districts
8 on anywhere? Not just here, or anywhere else?

9 HEARING OFFICER FAY: Well, it's right
10 in the applicant's prehearing conference
11 statement.

12 MR. LOYER: Yeah, the applicant is
13 mistaken.

14 HEARING OFFICER FAY: Okay, so staff's
15 position will be to show that there is no
16 transfer, is that correct?

17 MR. LOYER: My position will be that the
18 applicant must show that there is a transfer.

19 HEARING OFFICER FAY: Oh, that the
20 applicant's analysis will show there is a
21 transfer?

22 MR. LOYER: The applicant has made
23 statements; they have not provided an analysis.

24 HEARING OFFICER FAY: Okay, so you will
25 be contesting that?

1 MR. LOYER: Oh, absolutely.

2 HEARING OFFICER FAY: All right. And
3 what about the potential for mitigation after the
4 fact? Is this something staff thinks is not
5 reasonable to have the project designed in such a
6 way that it can be adjusted down to a lower level
7 slip if the District requires it at a later time?

8 MR. LOYER: I'm not familiar with what
9 you're referring to.

10 HEARING OFFICER FAY: Well, in the
11 Cosumnes case the Commission said that not only do
12 we disagree with staff, but if the District
13 changes its position and requires a lower ammonia
14 slip at some later time then that can be done. I
15 just --

16 MR. LOYER: You mean something to the
17 effect of a rule adjustment on the District's
18 part?

19 HEARING OFFICER FAY: Yes. And if that
20 adjustment took place, apparently the project --
21 that project could have been changed at a later
22 time.

23 MR. LOYER: That would be a very minor
24 change to this project, as well. I suspect that
25 they would not need to add a substantial amount of

1 catalyst if that were the case, to go from 10 to
2 5, if any.

3 Primarily what we're talking about in
4 that situation is a change of maintenance
5 scheduling.

6 As far as what we believe is reasonable
7 in this case, our position is that -- and we
8 believe that this is supported by EPA and ARB --
9 that 5 ppm ammonia slip is not only attainable,
10 but does not burden the applicant with any
11 significant maintenance operations.

12 HEARING OFFICER FAY: Okay. And, Mr.
13 Loyer, moving on, what about AQSC-6. The
14 applicant suggests deleting that. I believe the
15 disagreement on SC-5 has been eliminated by your
16 errata, is that correct?

17 MR. LOYER: That's correct, yeah, and I
18 do apologize for that. I meant to take into
19 consideration the applicant's comments on SC-4 and
20 SC-5.

21 HEARING OFFICER FAY: On both of those?

22 MR. LOYER: I did. Unfortunately the
23 SC-4 changes that the applicant is suggesting at
24 this point were not consistent with my notes at
25 our last meeting. So, I'll have to review those

1 again and see if my manager will be willing to
2 make those modifications, make these further
3 modifications.

4 SC-6 is the requirement for quarterly
5 reporting. Our position is that this project,
6 like all projects under Commission jurisdiction,
7 should be reporting to the Commission their
8 emissions in a timely manner. We believe that is
9 best served by the applicant reporting on a
10 quarterly basis.

11 The applicant's position has been, and
12 they can confirm this or deny it as they see fit,
13 that the District does not require them to submit
14 a quarterly report such as this. And they,
15 therefore, should not be required to report to us
16 either.

17 We believe this is necessary in order to
18 maintain a vigilant compliance of the conditions
19 of certification.

20 HEARING OFFICER FAY: Okay, so you don't
21 envision a change in that in staff's position?

22 MR. LOYER: Absolutely not.

23 HEARING OFFICER FAY: And on SC-13, new
24 condition.

25 MR. GALATI: Mr. Fay, we have had a

1 chance to review the new condition yesterday and
2 we agree with it.

3 HEARING OFFICER FAY: Okay.

4 MR. LOYER: Yeah, we think that will
5 help in our post-certification processes with this
6 project, and pretty much all projects.

7 HEARING OFFICER FAY: Okay, good.
8 Before you step down, Mr. Loyer, anything you want
9 to add, Mr. Galati, that might help us at the
10 workshop to get more done?

11 MR. GALATI: We'd be willing to talk to
12 staff about their concerns on AQSC-6. I think
13 that we should be able to work that out.

14 There is still a disagreement on AQSC-7,
15 my understanding is, yet.

16 MR. LOYER: That's right, the greenhouse
17 gas report.

18 MR. GALATI: Yeah, and that's something
19 that I think that I know there are competing
20 interests here, and I don't know if staff -- I
21 don't think we're going to be able to work that
22 out in the workshop. We'll go ahead and present
23 our information and let the Committee decide.

24 PRESIDING MEMBER GEESMAN: Let me
25 suggest to both of you on 7 that you look at

1 whatever words we put in the IEPR '04 update, and
2 attempt to make your positions consistent with
3 that.

4 I don't intend to unilaterally vary from
5 that position, which the full Commission adopted.
6 So I'm going to be looking for resolution that's
7 consistent with what the Commission adopted in the
8 IEPR just a couple of months ago.

9 MR. LOYER: Yeah, the staff was having
10 some similar concerns to the applicant that this
11 is a new condition and sort of a new frontier for
12 us. And we didn't want to do anything that was
13 going to be too burdensome to them, and was going
14 to be not very useful for us.

15 So we did suggest changes to SC-7. And
16 I'm sure we can discuss it in the workshop and go
17 from there.

18 MR. GALATI: Yeah, we'll try again.
19 What we're trying to preserve is the right that if
20 we voluntarily participate in a program such as
21 other stationary sources do, that we get the same
22 benefits. And our concern is that if it is
23 mandated by the Commission in our license to
24 participate, will that destroy our voluntary.

25 So if we can come up with some language

1 we'll certainly try to. Maybe some statement in
2 the condition this is not intended, you know.
3 Maybe if it is -- if the applicant chooses not to
4 participate in the voluntary program, something
5 like that might be helpful to us.

6 MR. LOYER: I think that might be a good
7 idea.

8 HEARING OFFICER FAY: So there's some
9 potential there for resolving this. Good. And
10 keeping in mind what Commissioner Geesman said,
11 that his focus is going to be on the purpose and
12 intent, as reflected in the IEPR. So it's got to
13 accomplish that.

14 Okay, anything further on air?

15 Okay, let's move to biology. Now I
16 overheard somebody say that may be fully resolved.
17 So before I go through each of the elements of
18 apparent disagreement, Mr. Galati, is there some
19 major shift that's happened?

20 MR. GALATI: Yes, my understanding is
21 that the staff has accepted our modifications to
22 Bio-2, -5, -12, -14 and -15. Indicated that Bio-
23 7's change was unacceptable, which we can talk
24 about in the workshop. And proposed Bio-13, a
25 modification that we've reviewed.

1 I think that we have some questions on
2 the Bio-13, as modified by staff, that I think we
3 should be pretty productive in the workshop.

4 So I think there is a good potential
5 that we can resolve biology in the workshop on all
6 issues.

7 HEARING OFFICER FAY: And so with your
8 possible question of Bio-13, all the others appear
9 to be resolved?

10 MR. GALATI: Seven, as well. We need to
11 understand staff's reluctance on 7. So maybe
12 there's something else that can be proposed.

13 HEARING OFFICER FAY: And the question
14 there is whether or not an incidental take permit
15 is, in fact, required?

16 MR. GALATI: Correct. And our concern
17 here is not so much if it's required we get it.
18 We've been told it's not required. It also
19 requires some sort of letter of concurrence from
20 another agency. And in a compliance proceeding
21 sometimes those are difficult to get in a timely
22 fashion.

23 So I would hope that we could resolve
24 that now. It's either required or it's not
25 required. If it's not required, then we don't

1 need the condition. If it is required, then --
2 because we've got mixed signals there.

3 HEARING OFFICER FAY: Well, it seems,
4 from the Commission's point of view, that if it is
5 not required we don't want to impose something in
6 anticipation of it being required. Unless that
7 would somehow, you know, prejudice the protection
8 of the environment.

9 Is this Fish and Wildlife that you're
10 waiting on?

11 MR. GALATI: No, it's CDFG, California
12 Department of Fish and Game.

13 HEARING OFFICER FAY: And do you have a
14 timeframe that you could reasonably expect this to
15 come forth?

16 MR. GALATI: Yeah. Our understanding
17 now is that it is not required. That there is no
18 incidental take permit required for the --

19 HEARING OFFICER FAY: I meant the
20 determination. You think you have the
21 determination?

22 MR. GALATI: We think we have the
23 determination in meetings that we've had, and in,
24 I believe, some email traffic. And I think that
25 there's some disagreement there. I think we might

1 be able to work this out at the workshop.

2 HEARING OFFICER FAY: Okay.

3 MR. GALATI: I think what we don't want
4 to have is a determination later, made during
5 compliance as the project is trying to move
6 towards construction, that something else is
7 required. The way the condition is written it
8 puts the onus on us to prove things aren't
9 required in compliance. We'd like to determine
10 that now, and we think that it's not required.

11 HEARING OFFICER FAY: All right. It
12 seems to me that this is the kind of thing where
13 if it turns out it is required, you could have
14 language in there saying x must be done. But that
15 wouldn't be triggered unless it was required.

16 So I guess we'd encourage the parties to
17 work towards that sort of thing so we don't have a
18 hang-up on this, since it's really going to be
19 determined by another agency.

20 Okay. Anything further, Ms. Willis?

21 MS. WILLIS: We will discuss this during
22 the workshop. I think will be our best --

23 HEARING OFFICER FAY: Okay. It says
24 change unacceptable, and I guess we've just given
25 direction that we want change considered.

1 MS. WILLIS: Right, and I think I'm
2 getting an answer that we may be able to get
3 through this.

4 HEARING OFFICER FAY: Okay, good. Now,
5 the modification from 13. I'm not putting you on
6 the spot, but you're going to talk about this in
7 the workshop and you think that there's some
8 potential for resolution on that?

9 MR. GALATI: I think there's some
10 potential for resolution. We need some
11 clarification as to the words that staff has used,
12 whether or not they've gone back to the concept of
13 what 13, 14 and 15 did. Or whether or not they
14 have agreed to the concept in our 13. And in that
15 case, just some minor modifications to the
16 language would solve the problem.

17 HEARING OFFICER FAY: Okay, good. All
18 right, anything further on biology?

19 DR. REEDE: No.

20 HEARING OFFICER FAY: Okay. Cultural
21 resources. Anything in addition to your
22 prehearing conference statement, Mr. Galati?

23 MR. GALATI: No, nothing. Nothing in
24 addition to it.

25 HEARING OFFICER FAY: Okay. And staff

1 sees --

2 DR. REEDE: We have Mr. Gary --

3 HEARING OFFICER FAY: -- problems in
4 that area?

5 DR. REEDE: Reinoehl.

6 MR. REINOEHL: Yes, the changes that I
7 felt were unacceptable, there were two changes
8 proposed in Cul-3 to item 2 and to item 7.

9 Item 2 is a paragraph that says that any
10 paraphrasing in the cultural resource monitoring
11 and mitigation plan is overridden, of course, by
12 the condition, FID conditions in the final
13 decision. The applicant found that confusing and
14 unnecessary. And the CRIMP is a guidance document
15 and a process document, and staff is not going to
16 make an agreement in that document that disagrees
17 with the conditions of certification.

18 If there's something more to talk about
19 that, we're certainly willing to talk about it in
20 the workshop.

21 Item 7 deals with collections and what
22 is to be collected. And the guidelines that are
23 referred to in that condition we're certainly
24 willing to talk about that and how it pertains and
25 how it applies to collections that are curated.

1 I think it's pretty clear the research
2 design has been developed; it's spelled out in the
3 research design, what has information values, and
4 what then would be curated from that. And we can
5 certainly talk about that in the workshop, but I
6 don't think there's any need to change the
7 condition.

8 HEARING OFFICER FAY: Well, as I recall
9 the discussion on that, it looked to me like there
10 was just uncertainty about the value of the items
11 that would have to go through this chain of
12 handling.

13 And I think if you can point to support
14 in the law of a description, then applicant has to
15 go along with that. I think this kind of problem
16 arises when there's uncertainty about, you know,
17 how broad that description would be.

18 Is this correct, is this --

19 MR. GALATI: That's correct. The way we
20 see it is it says all archeological materials
21 collected as a result of archeological
22 investigations shall be curated. And some of
23 those archeological materials may not be -- there
24 might be some archeological materials that are not
25 sufficient enough to warrant curation.

1 And we just want the ability to
2 understand when you have to curate and when you
3 don't. And so we wanted some clarification is
4 only those deposits that meet certain criteria
5 that listing in the California Register of
6 Historical Resources.

7 If that's the wrong reference, we'd be
8 willing to talk about what the right reference is.
9 But what we don't want to do is have a condition
10 that says all the archeological materials.
11 Because we believe that definition includes
12 anything you dig up.

13 HEARING OFFICER FAY: Can staff come up
14 with an accepted reference description --

15 MR. REINOEHL: Sure. There's already a
16 reference in the condition to the materials will
17 be collected in accordance with the State Historic
18 Resources Commission's guidelines for the curation
19 of archeological collections.

20 What that says is when a qualified
21 archeologist conducts a prehistoric or historic
22 resource survey, excavation or other study the
23 collection strategy shall be stated in the
24 research design and approved by the lead agency
25 responsible for the enforcement of environmental

1 laws and regulations in consultation with the
2 curator or collection manager of the selected
3 repository. The goals of the collection should be
4 defined in the research design.

5 Now, there is a research design in the
6 cultural resource monitoring and mitigation plan
7 that describes the classes of artifacts that would
8 contribute information to research questions.
9 Those are the ones that would be curated in
10 accordance with those guidelines.

11 HEARING OFFICER FAY: And that's
12 developed by the CEC in this case, as the lead
13 agency?

14 MR. REINOEHL: The applicant provided us
15 with a monitoring and mitigation plan for cultural
16 resources. We reviewed it, made comments back.
17 We have not received any response to our comments.

18 HEARING OFFICER FAY: Okay. It sounds
19 to me like it might be worth some time at the
20 workshop to see if you can't tighten up this
21 description, or at least increase the
22 understanding of what the description is so that
23 we don't have to spend time litigating, you know,
24 the subtleties of cultural artifacts that may or
25 may not be going through curation.

1 MR. REINOEHL: Yes. And there's a
2 second condition that may be appropriate to bring
3 up at this time. In cases where there's trenching
4 or where an archeological deposit is discovered at
5 the edge of some deep excavation, it may not be
6 feasible to excavate a sufficient amount of a
7 deposit to determine whether it's eligible.

8 You may just get a small edge of
9 something, or an area where there's not a lot of
10 materials in a deposit, and you would have to open
11 up quite a big area to evaluate the resource
12 appropriately.

13 In those cases we would assume
14 eligibility of the resource so that the project
15 could continue and without it being an undue
16 burden to the applicant.

17 And in those cases those kinds of
18 materials would also be curated because it would
19 be part of the discussion through the discovery
20 and how research-designed questions might be
21 applicable to the materials that were found in a
22 trench or at the edge of a deep excavation when
23 there wasn't going to be further excavation.

24 HEARING OFFICER FAY: But the rest of
25 the material would be marked, left in place and

1 the project would continue on?

2 MR. REINOEHL: Yes.

3 PRESIDING MEMBER GEESMAN: I want to
4 jump in here because I don't, in this case, want
5 to address this issue as if it's never appeared
6 before the Commission before. I would presume
7 that we have similar conditions under cultural
8 resources in each of the several dozen decisions
9 that we've adopted. Mr. Galati, who has appeared
10 before us many times, has probably agreed to
11 certain language dealing with cultural resources
12 in the cases that he's appeared on before.

13 Can't we find some language that both
14 parties have previously found acceptable?

15 MR. REINOEHL: What you stated is
16 absolutely correct. There have been a number of
17 cases. These are standard conditions. The
18 language hasn't changed over quite a number of
19 cases, and some of these are cases in which Mr.
20 Galati has been the attorney.

21 PRESIDING MEMBER GEESMAN: Okay, well, I
22 wish you well in the workshop.

23 MR. REINOEHL: Thank you.

24 MR. GALATI: Yes.

25 HEARING OFFICER FAY: Right, right.

1 MR. GALATI: And just to clarify, there
2 have been issues that have come up when somebody
3 is preparing the CRIMP, and it's one of the
4 reasons why we propose not to have that condition
5 and we subsequently withdraw that. Is that there
6 are projects that the CRIMP was approved long
7 after disturbance was.

8 And the problem is that it's very hard
9 for an applicant, if they are getting their CRIMP
10 approved and the research design approved, which
11 is entirely at the discretion of the Commission
12 during compliance, to not know what they need to
13 contract for specifically what should be curated.

14 So, from our perspective is we wanted to
15 know what are the boundary conditions and
16 standards by which staff is going to approve this
17 research and curation design, and just put it in
18 the condition. If that's what you're going to
19 measure everything against, instead of something
20 that's discretionary that we can't identify until
21 we have an approved CRIMP, which sometimes does
22 not happen prior to construction, we just wanted
23 it referenced here.

24 This is what we thought staff would use.
25 We put it in, and staff wanted to use something

1 else. But I do agree that this is a condition,
2 especially this particular area, that needs to be
3 tightened up just to make it clear what the
4 applicant is supposed to do.

5 So I think we're willing to work on
6 different language, but staff has to be willing to
7 consider changing the language for us to be
8 productive.

9 HEARING OFFICER FAY: Does staff have
10 any criteria for this? I mean or is it totally
11 discretionary?

12 MR. REINOEHL: Well, I'll go back to
13 these guidelines.

14 HEARING OFFICER FAY: So you have
15 guidelines?

16 MR. REINOEHL: Yes.

17 HEARING OFFICER FAY: Okay.

18 MR. REINOEHL: These are the State
19 Historic Resources Commission's guidelines.

20 HEARING OFFICER FAY: Okay. I think
21 what we need is some reference to the criteria
22 that you'll be using when this kind of decision
23 comes up during compliance. And just so the
24 applicant can have that predictability rather than
25 an open-ended situation where they may have not

1 contracted for something and find that they're
2 responsible for it after the fact.

3 So it seems reasonable that there be
4 criteria set forth in advance that you will be
5 using so that they will be able to structure their
6 contracts.

7 MR. REINOEHL: I'm certainly willing to
8 talk further about the language in the condition.
9 I personally believe that using these guidelines
10 prepared by the state, the research design that is
11 in the CRIMP, and the comments that we've made
12 back about that. The changes aren't wholesale,
13 they're relatively minor changes in a number of
14 places, defines what would be curated.

15 Now, I also recognize the fact that when
16 you're out there excavating you have some
17 unknowns. You can hit things that you can't see.
18 That's always been the case with archeology. And
19 those are things that I understand it's very
20 difficult for an applicant to know what the
21 expense would be when you may find things that you
22 have no idea are there. But we can't change the
23 fact that you might find something.

24 MR. GALATI: I think we can work this
25 out in the workshop. I think what we're looking

1 for is give us some more criteria of what the
2 research design is likely to look like, as opposed
3 to something that's completely discretionary,
4 approved in the CRIMP. And we'd like that
5 referenced here.

6 HEARING OFFICER FAY: Okay, I think the
7 direction is the Committee would like, you know,
8 more specificity so that this can be dealt with
9 perspective by the applicant. I mean obviously
10 you can't remove all uncertainty, and we
11 understand that. But there must be standards that
12 you use when the event arises, and those standards
13 should be available to everybody.

14 Good. Anything further on cultural?

15 MR. GALATI: No.

16 HEARING OFFICER FAY: Okay, thanks very
17 much.

18 All right, let's move on. Now I
19 understand that public health is not a problem, is
20 that correct?

21 The applicant mentioned some --

22 MS. WILLIS: It was a typographical
23 error.

24 HEARING OFFICER FAY: Okay, so that's
25 all there was to that?

1 MS. WILLIS: Right.

2 HEARING OFFICER FAY: Okay. All right,
3 soil and water. And we'd note that apparently
4 land use has been resolved according to the
5 staff's prehearing --

6 MS. WILLIS: Right. Land use and
7 geology and paleo have also been resolved.

8 HEARING OFFICER FAY: Yeah, good. Mr.
9 Galati, anything more on soil and water in
10 addition to what you --

11 MR. GALATI: No, not in addition to what
12 we've added.

13 HEARING OFFICER FAY: We've got the
14 suggestion that for soil and water-2 that the
15 language of the Walnut case be used. What's the
16 concern with doing that?

17 MS. WILLIS: Richard Latteri is our
18 staff that has worked on the soil and water. And
19 as he's explained to us, this condition has
20 basically been used in other cases. It was just
21 that there was more specificity in this particular
22 condition. He can explain.

23 MR. LATTERI: Yes, I'm sorry, I didn't
24 know if that question was addressed to me or Mr.
25 Galati.

1 Again, as counsel says, it just adds
2 specificity. I've found that these particular
3 items take the guesswork out of what's required
4 for the erosion and sedimentation control plan.

5 PRESIDING MEMBER GEESMAN: Did you work
6 on the Walnut case?

7 MR. LATTEI: No, I didn't. I have used
8 similar, in an appendix to the conditions of
9 certification, for Escondido. These are the same
10 conditions that were in the Cosumnes Power Plant,
11 although they just specified a manual. These are
12 pulled right out of the manual.

13 HEARING OFFICER FAY: Okay, do we have
14 some potential for resolving this so it doesn't
15 have to go to hearing?

16 MR. GALATI: We'd certainly be willing
17 to work with staff on this particular issue.
18 We'll note that the verification requires very
19 specific things in a specific way that we believe
20 are above and beyond what have been accepted by
21 the Commission in compliance with soil and water-2
22 on other projects.

23 And so while it does add specificity, we
24 think it also adds burdens of things that are not
25 as necessary as were in other cases.

1 Again, we're talking about a drainage,
2 erosion and sedimentation control plan. Staff has
3 asked and requested for that particular plan for
4 quite some time, I think as long as I've been
5 doing work at the Commission. And we're trying to
6 understand why the verification now is requiring
7 more than what had been submitted on other
8 projects.

9 HEARING OFFICER FAY: Okay.

10 MR. GALATI: What particular issue is
11 here in this case that needs --

12 HEARING OFFICER FAY: The staff
13 suggested that this is the same as has been
14 previously required. I think that we don't want
15 to belabor this. Subject to Commissioner Geesman
16 overriding my comment, I would just say that if it
17 is different, if it is more detailed or more
18 burdensome in this case, then the onus will be
19 strongly on staff to justify it. Because the
20 Commission apparently has been satisfied in the
21 past.

22 So, let's take a close look at that
23 before just, you know, adding additional
24 requirements.

25 How about --

1 PRESIDING MEMBER GEESMAN: Let me ask,
2 am I correct in understanding this is the
3 difference between the Walnut precedent and the
4 Cosumnes precedent? We've got two different
5 conditions adopted --

6 MR. LATTEI: Well, the conditions are
7 the same. It's the verification process.

8 PRESIDING MEMBER GEESMAN: Two different
9 verification --

10 MR. LATTEI: I also deal in compliance,
11 and I have found that the more specificity in the
12 verification solves problems later on in the
13 compliance.

14 PRESIDING MEMBER GEESMAN: And is the
15 language you've suggested identical to what the
16 Commission adopted in the Cosumnes case?

17 MR. LATTEI: Yes, it is, other than it
18 is specified as the stormwater manual provided by
19 Sacramento County. This delineation, these
20 specific items are right out of that manual.

21 HEARING OFFICER FAY: Well, anyway, we'd
22 invite you to take a look at that and let's move
23 to soil and water-5. The applicant made a
24 suggestion. Can staff live with that?

25 MR. LATTEI: Per Ms. Dunn's request, we

1 were given a set of major project permit
2 conditions of approval, appendix A. That text is
3 right out of general condition of approval number
4 two, with the exception of that hookup to the
5 Pleasant Grove Wastewater Treatment Plant be shown
6 for use in construction and hydrostatic testing.

7 But Ms. Dunn specifically requests that
8 the wording of these conditions is specified to
9 City requirements, and we request that they be
10 included verbatim in the CEC Staff conditions.

11 I have done that with the exception of
12 the last phrase in the first bullet referring to
13 showing the interconnection to the Pleasant Grove
14 Wastewater Treatment Plant. And for that water to
15 be used for major construction activities and
16 hydrostatic testing.

17 We can certainly work out the details on
18 that particular item, which is up for further
19 discussion in some of the following conditions.

20 But, these are --

21 HEARING OFFICER FAY: You said Ms. Dunn
22 requested this?

23 MR. LATTEI: Yes. We had --

24 DR. REEDE: Ms. Dunn is the Planning
25 Director for the City of Roseville. They

1 submitted comments -- she submitted comments to
2 the California Energy Commission with a number of
3 conditions that the City of Roseville would like
4 to see incorporated into our conditions of
5 certification.

6 HEARING OFFICER FAY: I see, so you were
7 responding to the City's recommendations.

8 DR. REEDE: We accepted her comment
9 because it was more stringent than our normal
10 condition. And put it in as soil and water-5.
11 The applicant has requested that the language that
12 the City of Roseville asked to be in there be
13 struck.

14 MR. GALATI: If I could provide some
15 clarification.

16 HEARING OFFICER FAY: Sure.

17 MR. GALATI: Okay. The City of
18 Roseville did not write a letter saying please
19 incorporate this condition. Staff asked the City
20 of Roseville what would be the conditions if you
21 were licensing the plant and we weren't.

22 So the City went through its code and
23 said these are the kinds of things that we would
24 impose had we had specific -- our big issue isn't
25 about what needs to be submitted because we know

1 we need to comply with the City anyway.

2 Our problem is when it gets incorporated
3 into a condition of certification, we get a CBO
4 review, we get a CPM review that, quite frankly,
5 ought to be the City's review. The City has asked
6 for things. We ought to let the City get what the
7 City needs.

8 And, in fact, this condition not only
9 provides that we have to provide it, but the City
10 has 30 days in which they have to respond to the
11 Commission Staff. So it limits the City's review.

12 In addition, hidden in here is something
13 that is not required by the City, nor requested by
14 the City, which is that for construction you can
15 only use recycled water.

16 And I'd just like to make that point
17 clear while we're on it, is the project will use
18 recycled and reclaimed water for construction in
19 accordance with the City code, which has a limited
20 exception for times when it's not feasible, or
21 times when it's not available.

22 So, staff has not given us, and we've
23 asked repeatedly for that flexibility. So we
24 could accept soil and water-5 if it doesn't limit
25 the City's review; and two, doesn't get the CBO

1 involved. Because everything with the CPM does
2 get the CBO involved with approval of all these
3 things that the City would be doing.

4 So, it's not as cut and dried as the
5 City asked for it and we did it, verbatim. That's
6 not what's --

7 MS. WILLIS: And as you well know, and I
8 think as the Committee knows, we do ask for the
9 local jurisdiction's input on every case that we,
10 you know, -- into the local jurisdiction. That is
11 not an uncommon practice. In fact, it's a
12 standard practice. And we do request that they
13 tell us what they would do if they were in our
14 shoes.

15 And that's how we determine our
16 conditions to make sure that we are following the
17 local LORS, as well as, you know, the LORS that we
18 have determined to be followed.

19 Also, we have accepted, with some minor
20 discussion, soil and water-6, so staff has agreed
21 to change the condition to be in accordance with
22 the City's municipal code. I think we passed that
23 out beforehand.

24 HEARING OFFICER FAY: Um-hum, right.

25 MR. GALATI: I don't have staff's soil

1 and water; I have staff's biology.

2 MS. WILLIS: Oh, you didn't --

3 (Parties speaking simultaneously.)

4 DR. REEDE: You have a copy of the
5 agenda --

6 MS. WILLIS: -- listed every -- we've
7 listed all of the --

8 MR. GALATI: Yeah, all it says is 6 and
9 9 are acceptable after discussion. I don't know
10 what that means. After change? After
11 modification?

12 If that's the case, if it's just a
13 reference to the municipal code and we can get to
14 that on soil and water-6, that's going to be
15 acceptable to us.

16 MR. LATTEI: May I?

17 HEARING OFFICER FAY: Sure.

18 MR. LATTEI: You not only struck their
19 specificity of A, that all onsite water --
20 recycled water utilities and their points of
21 connection to the City system, but there were
22 three others in that condition which you found
23 burdensome.

24 Now, as I said, I did include the phrase
25 for the use of recycled water during construction

1 and hydrostatic testing. Again, we can further
2 discuss that. The City conditions of approval are
3 quite thorough. If we can get some more
4 information on exactly what the City is
5 requesting, needs in these conditions of approval,
6 we can certainly reach an agreement on what types
7 of water should be used at construction.

8 As everybody knows, it's right across
9 the street, the Pleasant Grove Wastewater
10 Treatment Plant, which is currently discharging
11 close to 2 million gallons a day of tertiary
12 treated water.

13 We encourage the use of recycled water
14 whenever possible. There's an incredible City
15 taxpayer investment into that -- County investment
16 into that wastewater treatment plant. To
17 discharge it to the creek without beneficial use
18 and offsetting potable water is something we
19 encourage.

20 MR. GALATI: We appreciate your
21 encouragement. We are certainly going to use it.
22 We're just asking for the limited exception when
23 you can't.

24 And I would --

25 MS. WILLIS: And that's been agreed to,

1 so I don't think we need to further discuss that.

2 MR. GALATI: Yeah, good.

3 MR. LATTERI: But to say that --

4 MR. GALATI: Great.

5 MR. LATTERI: -- you're going to use
6 potable water for hydrostatic testing, that needs
7 to be --

8 MS. WILLIS: Okay, let's --

9 (Parties speaking simultaneously.)

10 DR. REEDE: Okay, let's move into 6.

11 HEARING OFFICER FAY: Yeah, we don't
12 need to burden this. I think what we need to do
13 is have flexibility of an exception, but have it
14 defined well enough that the staff and the City is
15 comfortable that it will not be abused.

16 Thank you. Anything further on soil and
17 water?

18 MR. GALATI: I didn't understand what
19 did staff -- yeah, 7 is unacceptable.

20 HEARING OFFICER FAY: Okay, we've got --
21 and what about 7, can you tell us anything more
22 about, is it the timelines that applicant is
23 proposing or --

24 MR. GALATI: No, it's required to report
25 all different types of water use. Now, this has

1 developed into more of a standard condition, but
2 in those cases where an applicant didn't freely
3 come in and commit to using recycled and reclaimed
4 water, at least in my experience, for almost
5 everything.

6 And so when staff was concerned about a
7 potable water or a fresh water impact, they made
8 sure that when there was fresh water, potable
9 water and recycled water used, that there was a
10 complete reporting of all the different things you
11 were using so staff could keep an eye on how much
12 fresh water was being used.

13 There shouldn't be, and we determined
14 there's no impact for using recycled water. And
15 there's been no determination that there's an
16 impact for using potable water for the limited
17 purposes this project would use it.

18 So why would we have to undergo a
19 burdensome program to constantly report how much
20 is being used if there's no impact? That's what
21 our concern was. It's just another -- I can
22 understand it in the projects where there's the
23 opportunity for someone to use more fresh water
24 than maybe was identified. Here we're committing,
25 and we've accepted a condition that we shall use

1 recycled water for cooling tower makeup and
2 process water.

3 DR. REEDE: Okay. We have a legislative
4 mandate to collect that data and report it in our
5 IEPR. We don't have a choice. We have to collect
6 water consumption data on all the power plants in
7 the State of California and report it.

8 Mr. Dick Anderson of staff can better
9 explain the exact details, but we have a
10 legislative mandate. It's not that we have a
11 choice. We have to report water consumption use
12 by category for all power plants in the state.

13 MR. GALATI: We agree to that, and we've
14 agreed to an annual summary of daily recycled and
15 monthly potable water use. What more specific
16 information is your legislative mandate? I don't
17 believe you have a legislative mandate about
18 breaking it down into cooling water supplies
19 versus irrigation versus wastewater, versus
20 demineralized water.

21 We will report our total daily recycled
22 and monthly potable water on an annual basis.

23 MR. LATTEI: Again, this --

24 HEARING OFFICER FAY: Obviously the
25 applicant must do what is mandated by law. The

1 question is has staff interpreted it in a way that
2 makes it overly burdensome, and I --

3 DR. REEDE: I think Mr. Anderson could
4 answer that, the senior staffer.

5 HEARING OFFICER FAY: Well, we don't
6 want to litigate this here. We --

7 MR. LATTEI: Well, I believe that with
8 additional information on the master water plan
9 that's required to be submitted we can find a way
10 that is not burdensome for the applicant to
11 respond.

12 They're going to have to purchase this
13 water or have this water supplied to them in some
14 means where there will be a transaction document.
15 And that may all that may be necessary for the
16 construction phase. But we do need the
17 disaggregation of that data during operation for
18 reporting purposes.

19 We can certainly work on this based on
20 additional information that is being reported in
21 the master water plans and --

22 HEARING OFFICER FAY: Well, I'd like to
23 ask, is there a potential if the description is
24 tightened up in terms of when applicant can use
25 potable water, if that is narrowed down so it's

1 quite specific, is there the potential that
2 tightening up that language might satisfy the
3 staff that there's not the need for all this
4 additional reporting, because they basically
5 bracketed the problem to an insignificant level.

6 MR. LATTEI: The applicant, in the AFC,
7 said that they were going to switch from well
8 water to the City water. We agreed that's only a
9 small amount of water, maybe half an acrefoot per
10 year. Well water in the City is their emergency
11 backup water.

12 I think that it is ask to see their
13 potable water usage. Again, they're committed to
14 using only recycled water for plant processes,
15 which is, in our opinion, wonderful. In fact,
16 they have agreed to shut down operations if the
17 water treatment plant goes down and they cannot
18 supply the amount of water they need, which based
19 on the large basins they have out there is
20 improbable.

21 But it's because they are using well
22 water and not switching to the City potable water
23 system that is a concern to staff that they report
24 their potable water use. And it is also a
25 legislative requirement that we collect this data.

1 HEARING OFFICER FAY: But according to
2 Mr. Galati not in the detail that you're asking.

3 MR. LATTERI: It's a standard condition.
4 I borrowed it from other language. It may have
5 been out of the -- unfortunately, I don't remember
6 out of which prior --

7 HEARING OFFICER FAY: Okay, well, if
8 it's standard to other projects, you're going to
9 just have to live with it.

10 MR. GALATI: It's standard in projects
11 that have the ability to use fresh water for
12 cooling tower makeup and process water. Mr.
13 Latteri didn't cite it correctly. We have no
14 ability to do that. We do not have well water as
15 a backup water for cooling tower makeup and
16 process water, which is the vast majority of the
17 water use.

18 Because we've done that, and we're few
19 that have, we don't need this burdensome
20 condition. That's our -- we will tell you how
21 much recycled water we're using, and we'll tell
22 you how much potable water we're using. What we
23 don't want to do is put a meter on our wash and a
24 meter on the irrigation system and a meter on this
25 and tell you what increments of that.

1 We believe the reporting requirement is
2 total amount of recycled water you're using and
3 total amount of monthly water. Staff knows what
4 we're using it for. We just don't want to break
5 it up into the pieces because it costs money and
6 it's burdensome.

7 HEARING OFFICER FAY: Okay, well, I
8 think we're just going to encourage the parties to
9 try to tighten this up because --

10 MR. LATTEI: Yes, I mean certainly we
11 can work to --

12 HEARING OFFICER FAY: -- it seems like a
13 very detailed item that we shouldn't be
14 litigating.

15 MR. LATTEI: We can certainly work out
16 an agreement compromise on this.

17 PRESIDING MEMBER GEESMAN: It might also
18 help if the applicant, in its discussions with
19 staff, could identify how burdensome and how
20 costly it is, so that if it does ultimately become
21 litigated, the Committee has the opportunity to
22 assess the reasonableness of that burden.

23 HEARING OFFICER FAY: Okay, any other
24 comments on soil and water?

25 MR. GALATI: My question is the staff

1 has said soil and water-9 is acceptable after
2 discussion. I don't --

3 MR. LATTERI: Again, getting back to the
4 City's appendix A, it's very thorough. Maybe
5 there is information that the City's already going
6 to request from PG&E in terms of depth of scour in
7 their pipeline location. But this is still an
8 element of the Roseville Energy Park and in terms
9 of safety and water quality, we need to know how
10 deep that pipe is going.

11 MR. GALATI: That sounds unacceptable.
12 I mean that sounds like you don't agree with the
13 language which is striking gas.

14 MR. LATTERI: Well, again, the City may
15 already cover it in their standard conditions
16 here. And that's where we need to get additional
17 information on what the City is requiring.

18 HEARING OFFICER FAY: Isn't PG&E
19 required to place the pipeline according to PUC
20 requirements?

21 MS. GRENIER: Yes.

22 MR. LATTERI: Unfortunately I do not
23 know the answer to that question.

24 HEARING OFFICER FAY: Well, if they are
25 then that's already taken care of. We don't need

1 it in this case. So let's examine that. If there
2 is a standard then we don't need to put it in
3 here, because PG&E will already be observing it.

4 MR. LATTEI: I agree.

5 MR. GALATI: That's how the
6 Commission --

7 HEARING OFFICER FAY: If there's not a
8 standard, we don't really plan to reinvent one.

9 DR. REEDE: So then 9 is fully
10 acceptable by staff and we'll just -- well, 9 is
11 fully acceptable by staff as drafted in the
12 applicant's prehearing conference statement.

13 HEARING OFFICER FAY: Okay, good.

14 MR. LATTEI: May I ask to see those
15 standards -- they provide them?

16 HEARING OFFICER FAY: Staff will take
17 care of that.

18 Okay, let's get into the tough stuff.
19 Plume abatement under traffic and transportation.
20 There's a lot of elements to this that applicant
21 has placed in the prehearing conference statement,
22 quite a few pages.

23 Do you want to add anything to that, Mr.
24 Galati?

25 MR. GALATI: No. I think that is our

1 offer of proof. That's the testimony we intend to
2 develop. There may be some exhibits that I'm
3 unable to identify that might be listed with
4 those, to the extent that we have to go down that
5 road. But those are our general points and the
6 general offer of proof that we have.

7 HEARING OFFICER FAY: Okay. Ms. Willis,
8 anything further from the staff on those?

9 MS. WILLIS: Well, I guess I did want to
10 state that there's a lot of discussion in here,
11 but there isn't any actual proof or evidence. And
12 we do have our testimony out on the table. And it
13 would be most helpful if the applicant did go
14 ahead and provide all this that they say they
15 will, because we've been discussing this for quite
16 some time.

17 And we still don't have -- we have the
18 argument against our position, but we don't have
19 anything really put forward as to prove the
20 applicant's position with testimony or anything
21 that is evidentiary.

22 Staff is maintaining their position in
23 support of public safety, that we do realize that
24 parties will differ on this issue, but we do feel
25 that the additional cost, and it is basically that

1 is, I'm sure, the major issue is that there is
2 additional cost to providing plume abatement
3 technology, is prudent in this situation.

4 HEARING OFFICER FAY: And has staff
5 reacted or considered applicant's offer that the
6 project be designed abatement-ready so that if it
7 was --

8 DR. REEDE: The applicant has not made
9 that offer.

10 MS. WILLIS: Applicant has not made that
11 offer. As far as we know, applicant has
12 maintained a position not supporting plume
13 abatable technology. The City school district has
14 sent us a letter suggesting that language, but
15 that did not come from the City. It was --

16 HEARING OFFICER FAY: Okay, so your
17 present position does not assume that?

18 MS. WILLIS: That's correct, we have not
19 heard anything of the sort.

20 HEARING OFFICER FAY: Okay, can you
21 clarify that?

22 MR. GALATI: Yeah, I can clarify that.
23 I think that one of the frustrating parts for us
24 in this is our last workshop on this project
25 involved the modeling. It didn't involve any

1 potential other ways to mitigate.

2 We tried to have that discussion and we
3 weren't able to have that discussion at that
4 workshop. We look forward to having that
5 discussion now because we do believe that building
6 the cooling tower in a fashion that would allow
7 abatement or other mitigation ought to be explored
8 here.

9 And our bottomline is that there is --
10 one step of staff's analysis has not been
11 completed. It's not taken out to the next level,
12 which is what is the risk.

13 And that's why we focused a lot of our
14 testimony on trying to identify what that risk
15 was, of an accident.

16 And we'd be more than happy to talk to
17 staff about a ready-for-abatement, about other
18 traffic controls of other steps that could occur
19 should there be an increased risk. We believe
20 that there's not an increased risk at this point.

21 PRESIDING MEMBER GEESMAN: Well, just so
22 I understand, the staff is not interpreting the
23 language in the applicant's prehearing conference
24 statement on page 20 where it says: should such
25 hazards arise in the future the City of Roseville

1 will alleviate the hazard in accordance with those
2 responsibilities." You're not interpreting that
3 as an offer by the applicant to mitigate a problem
4 should it develop in the future?

5 MS. WILLIS: Well, I think the
6 difficulty is that we have -- my recollection of
7 our workshop is obviously very different from Mr.
8 Galati's. We did discuss traffic signs and how do
9 people, you know, respond to them. And if they
10 keep driving by and ignoring them.

11 And in fact, staff didn't really develop
12 the final position of plume abatement technology
13 until right before the FSA. So up until that
14 point we were open to all discussion.

15 Up until, you know, this language, I
16 guess can be interpreted that way, but we have not
17 been given, you know, -- they have not directly
18 told us that they would be willing to go that way.
19 In fact, discussions have been continuously that
20 they were not open to, that the City was not
21 willing to go that direction because of the cost
22 involved.

23 PRESIDING MEMBER GEESMAN: And what's
24 your response to the applicant's suggestion that
25 you really do need to do a risk analysis in this

1 area in order to determine how significant a
2 problem it's likely to be?

3 MS. WILLIS: Well, we'd love to see the
4 information from the applicant. We have had those
5 discussions, and yet we don't -- we see that our
6 modeling has gone to them, but we weren't getting
7 that until the day of the workshop from their
8 response.

9 We have, as I've said before, our
10 testimony has been out on the table for quite some
11 time, but we don't have anything back from them.

12 PRESIDING MEMBER GEESMAN: You're
13 suggesting a range of five to 15 hours a year?

14 MS. WILLIS: That's correct.

15 PRESIDING MEMBER GEESMAN: And from a
16 meteorological standpoint are those five to 15
17 hours a year more likely to be nighttime hours or
18 daytime hours?

19 MR. ADAMS: Possible daytime and
20 nighttime. Primarily in the winter when the
21 humidity is appropriate and there's a certain
22 amount of wind, and the cooling towers generally
23 will generate 10 to 15 hours, on average, per year
24 of ground-hugging fog, which would affect, in our
25 opinion, the local roads, Phillip Road in

1 particular.

2 PRESIDING MEMBER GEESMAN: But are you
3 able to determine whether it's more likely to be
4 nighttime or daytime when those meteorological
5 conditions prevail?

6 MR. ADAMS: I'm not sure if we've broken
7 it into night -- and actually, we have Will
8 Walters who did the modeling for us to participate
9 in the workshop. And we can ask, he might be the
10 best one to answer that question. But I don't
11 recall if we broke it out into night versus
12 morning.

13 Because, in general, there's more wind
14 during the day than there is at night. So I would
15 suspect the chances would be greater that it would
16 be during the daytime when the wind picks up.
17 Oftentimes at night the wind is calm.

18 PRESIDING MEMBER GEESMAN: And you need
19 the wind in order to have the plume be ground-
20 hugging?

21 MR. ADAMS: That's correct, it would
22 have to knock it down towards the ground.

23 PRESIDING MEMBER GEESMAN: So that the
24 number of annual hours you're projecting are
25 ground-hugging hours, they're not simply hours

1 when a plume would exist?

2 MR. ADAMS: That's correct, they're
3 ground-hugging. That causes the traffic concern.

4 PRESIDING MEMBER GEESMAN: And have you
5 overlaid that with traffic data so that we would
6 have a sense as to how many vehicle trips, or
7 vehicle miles --

8 MR. ADAMS: Yes, we do have that data.
9 In fact, there's a figure back on the wall that
10 shows where the plume would occur in relation to
11 the road. And, as you know, this area is going to
12 be growing, so there's going to be more traffic,
13 particularly on Phillip Road, and particularly
14 when there will be a high school built.

15 So we anticipate the plumes will take
16 place at a time when there will be an increase in
17 traffic on those roads. And that shows you
18 basically where the plumes would be expected to
19 occur.

20 PRESIDING MEMBER GEESMAN: And have you
21 had the opportunity to compare the density of the
22 plume with tule fog?

23 MR. ADAMS: The model assumes, and we
24 can get into this in more detail, that the fog
25 would be opaque, which means it would obscure --

1 coming up to it would basically obscure the view
2 beyond. Which, in that case, is what causes the
3 traffic impact.

4 So it's a different type of fog than say
5 just tule fog; it would probably be denser. And,
6 again, Will can answer this probably better than
7 I. But it would be denser and it would be opaque,
8 which means you could not see through it.

9 PRESIDING MEMBER GEESMAN: Okay. Well,
10 maybe we should wait until Will has an opportunity
11 to come before us.

12 HEARING OFFICER FAY: What I do think,
13 though, is if -- we would definitely like you to
14 discuss this during the workshop to see if this
15 can be narrowed down, and if more information
16 could perhaps help resolve some of this.

17 It sounds like that staff is frustrated
18 that they didn't have all the information that
19 they wanted.

20 We definitely want, if it is brought to
21 hearing, the parties must be prepared to discuss
22 alternative mitigation potential so that the
23 Committee can consider alternatives to solving the
24 problem if staff establishes that a problem
25 exists.

1 We'd also like to explore the historical
2 record of plume dangers from similar facilities as
3 a test against your modeling results. If the
4 model shows a problem and there's zero history of
5 a problem with similar facilities, that would be
6 interesting.

7 MR. ADAMS: We'd be willing to discuss
8 that.

9 PRESIDING MEMBER GEESMAN: I'd also like
10 some thought being given, or ask the parties to
11 address the City's liability here from a traffic
12 and road safety standpoint. To what degree can
13 the Committee take comfort from the fact that --
14 this is a liability that ultimately rests on the
15 City's shoulders in terms of traffic safety. And
16 whether we should, indeed, draw some comfort from
17 the motivation which the City would have in the
18 future were a problem to actually materialize.

19 MR. ADAMS: We've discussed that and we
20 do think that there is a liability question if
21 something were to take place, particularly if we
22 have an opportunity to mitigate the plume in some
23 fashion that we consider to be appropriate. And
24 for some reason that isn't done, and then there's
25 an accident, then there's certainly going to be a

1 liability question.

2 But we also feel like we need to design
3 the best mitigation that we can to try to prevent
4 the problem in the first place, and not just rely
5 on the City being the ultimate entity that's
6 responsible.

7 PRESIDING MEMBER GEESMAN: Yeah, the
8 concern I have is I don't know that it's
9 reasonable to design a superfluous mitigation
10 measure for a problem which may not materialize.

11 And at the same time I don't know if I
12 should look at this as somewhat different than
13 just another merchant generator plant, because
14 you, indeed, have the City here as the project
15 applicant. The City, in its role as provider of
16 road services, or traffic safety, carries with it
17 some liability as well.

18 I can't say that I've thought this
19 through at all, and I would like some assistance
20 in determining what level of reliance we should
21 place on the fact that this is a City project, and
22 the City has companion responsibility as it
23 relates to traffic safety.

24 MR. ADAMS: I understand, and it's sort
25 of a fine line between our responsibility as the

1 permitting agency to mitigate what we think would
2 be a significant, in this case, adverse impact.

3 We don't consider this superfluous
4 mitigation, and we must rely on modeling which we
5 do in other disciplines as well, to give us an
6 indication whether or not we have a problem.

7 So, if we have 10 to 15 hours of ground-
8 hugging fog that could cause and probably would
9 cause an adverse traffic impact, I think it's our
10 responsibility to mitigate it.

11 That's not to say we aren't willing to
12 discuss alternative methods rather than doing the
13 plume abatement technology. But as of right now,
14 and lacking any testimony, as Kerry pointed out,
15 an analysis to have us consider the alternatives
16 advocated by the applicant, we're sort of -- we
17 don't have, I don't think, enough information to
18 change what we are recommending at this time.

19 But we're willing to discuss it.

20 PRESIDING MEMBER GEESMAN: Okay. I
21 guess the other thing that I'm curious about is
22 the ability that you have to compare or
23 distinguish this opaqueness with what prevails
24 under tule fog conditions now, and the degree to
25 which I can compare the five to 15 or 10 to 15

1 hours with whatever time the local area
2 experiences tule fog conditions.

3 MR. ADAMS: It's my understanding that
4 there is, as I mentioned, there are different
5 phenomena, and the dense --

6 PRESIDING MEMBER GEESMAN: I'd like to
7 know how different.

8 MR. ADAMS: Okay. And then the other
9 thing is, obviously we don't mitigate tule fog.
10 It's a natural phenomenon. So it's not, thank
11 goodness we don't have to deal with that.

12 But if we have something that's
13 generated by the power plant and we do identify
14 significant adverse impact, we have an obligation,
15 I think, to discuss what is the mitigation. And
16 then the question is what is appropriate, given
17 what we think would be -- will occur. It will
18 occur at a time where there's traffic. It will
19 increase the hazard, particularly if we have a
20 high school, young, inexperienced drivers going up
21 and down Phillip Road.

22 So, our position is that the mitigation
23 that we propose is needed in order to reduce this
24 to a less than significant level. And that's our
25 position. But we're willing to discuss it.

1 PRESIDING MEMBER GEESMAN: Yeah, and
2 what will help me is having a sense of how close
3 to tule fog is it, and how frequently do tule fog
4 conditions prevail out there compared to the five
5 to 15 hours that you're projecting.

6 MR. ADAMS: We did try to get some
7 information on that in terms of I made some calls
8 and stuff to --

9 MR. WALTERS: I'm available now to
10 answer some of those questions or --

11 MR. ADAMS: Sure, go ahead.

12 HEARING OFFICER FAY: Okay.

13 MR. WALTERS: -- workshop. In terms of
14 the density of the fog, I think what you can do is
15 just take a look at a normal cooling tower and
16 take a look at the plume. And see that you can't
17 see through it. And it's not that wide, you know,
18 a dozen meters, couple dozen meters thick. And
19 it's completely opaque.

20 That's the kind of thing you're going to
21 get in a ground fogging situation. I actually
22 have a video of a ground fogging condition that we
23 took at Blythe. It's not a great video because it
24 was taken right at dawn. But we could forward
25 that to you for your review, if you would like, to

1 see what it looks like when the plume is hitting
2 ground, and how it obscures vision, and how opaque
3 it is.

4 PRESIDING MEMBER GEESMAN: Then you're
5 got dispersion data on that, as well, so you can
6 tell me what it looks like at the 4000-foot limit
7 compared to what it looks like at 10 feet?

8 MR. WALTERS: Well, water vapor is
9 different than a smoke plume. It's not going to
10 just, you know, go down in increments. It's going
11 to basically stop really quickly. And I think
12 this video will show that, that it doesn't -- you
13 know, you essentially have an opaque condition and
14 that pretty much, within a very short increment,
15 it is gone completely.

16 PRESIDING MEMBER GEESMAN: A short
17 increment.

18 HEARING OFFICER FAY: Of distance?

19 DR. REEDE: A short distance.

20 MR. WALTERS: Of distance.

21 HEARING OFFICER FAY: So this was taken
22 at ground level, like a driving car?

23 MR. WALTERS: This was taken at Blythe
24 Airport looking down to the Blythe Power Plant.
25 Unfortunately I was waiting for people to do some

1 work at Blythe, so I couldn't actually go down to
2 the power plant and get a closer video.

3 And, again, it was taken right at dawn,
4 so it's fairly dark, but it still gives you a good
5 indication of what a plume looks like when it gets
6 bent over the cooling tower.

7 Now, to compare and contrast the
8 modeling results from what we saw in Blythe and
9 what we got here is that the wind conditions at
10 Blythe when we took the video were much lower than
11 the model would actually even predict in a ground
12 fogging to occur.

13 So what that leads me to believe is that
14 the model may, in fact, not even be that
15 conservative, and the numbers we're providing, you
16 know, could be low. That ground fogging could
17 occur under wind conditions, a wider range of wind
18 conditions than this active model predicts.

19 PRESIDING MEMBER GEESMAN: But if you've
20 got wind conditions as a prerequisite to this
21 ground-hugging phenomenon, doesn't the wind tend
22 to disperse the plume?

23 MR. WALTERS: And the only reason that
24 the plume lasts as long as it does, under certain
25 conditions, is because the wind condition is also

1 at the same time when it's very cold with a very
2 high relative humidity.

3 So, it takes a long time to disperse
4 something when there's no room for the water to
5 evaporate into the ambient air. Essentially
6 you're so near saturation the water has no place
7 to go, so it just takes all that extra mixing and
8 all that extra distance.

9 And that's why the frequencies, as
10 opposed to the plume frequencies where, you know,
11 we're going to see plume 75 percent of the year,
12 we see the ground-hugging just, you know, hours of
13 the year.

14 PRESIDING MEMBER GEESMAN: And have we
15 encountered this problem in any of our other
16 siting cases?

17 MR. WALTERS: I don't know if we have
18 any built yet where we have thought there might be
19 a problem. Other --

20 DR. REEDE: There are some existing
21 plants, though, here in Sacramento, such as the
22 Campbell's Soup Plant, where the conditions are
23 sometimes ripe where it lays down on 47th Avenue.

24 MR. WALTERS: And I have to admit, I --

25 DR. REEDE: That was prior to us doing

1 plume analysis. The plant was licensed prior to
2 us doing plume analysis.

3 MR. WALTERS: And, in fact, I modeled
4 that for comparison. They asked me to do that to
5 see what I would come up with. And I actually
6 didn't find any occurrence. I did find ground-
7 hugging plumes, but they didn't actually occur out
8 to the roadways based on where that cooling tower
9 was located.

10 I had some plume going towards 47th, but
11 it didn't get there. And I had some plume going
12 out towards -- what's the large street that's to
13 the --

14 DR. REEDE: Franklin Boulevard.

15 MR. WALTERS: -- Franklin, but again it
16 didn't quite get there as it was going to the
17 northeast.

18 PRESIDING MEMBER GEESMAN: So how am I
19 going to evaluate the opaqueness or the duration
20 of that opaqueness in terms of trying to evaluate
21 or determine how significant a traffic hazard it
22 is?

23 MR. WALTERS: Well, again, you know, I
24 think you can just take a look at the plume from
25 Campbell's and see it's opaque, it's opaque, it's

1 opaque, it's gone.

2 I mean if we predict it to be there and
3 the way this active model was designed, and in
4 additional email conversations with one of the
5 designers, they say if it is predicted to occur at
6 a particular spot, that to them means that it is
7 an opaque plume and would create a potential
8 problem.

9 That's the way the model was designed
10 and the way that they basically consider their
11 ground-fogging module to give you results for.
12 For this kind of impact to identify whether or not
13 there's going to be a problem at a roadway.

14 PRESIDING MEMBER GEESMAN: But you're
15 not going to be able to tell me then that this
16 will create visibility limits of 10 feet that will
17 persist for five seconds and a vehicle traveling
18 30 miles per hour?

19 MR. WALTERS: No. Basically it's more
20 that you can't see to the other side. You
21 essentially have the plume, and then you cannot
22 see if there's a light on the other side. You
23 will not be able to see it until you get into the
24 clear again.

25 Or if there's an intersection, you know,

1 that intersection will be obscured.

2 PRESIDING MEMBER GEESMAN: Okay.

3 DR. REEDE: I think one of the things
4 that's important is that it will not be a
5 consistent hour that this occurs. It may be a
6 three-minute occurrence; it may be a 15-minute
7 occurrence. But the fact that the roadway will be
8 fully obscured is where the traffic safety issue
9 lies.

10 PRESIDING MEMBER GEESMAN: So when you
11 say five to 15 hours, --

12 DR. REEDE: Ten to 15 --

13 PRESIDING MEMBER GEESMAN: -- or 10 to
14 15 hours, we're talking about 10 to 15 instances
15 of a year?

16 MR. WALTERS: Or more. With shorter
17 increments.

18 DR. REEDE: You're talking about the
19 culmination of many small instances, or long-term
20 instances.

21 MR. WALTERS: Yeah, I wish I could tell
22 you this active model gives me an exact number of
23 instances. It doesn't. It gives me a number of
24 hours.

25 HEARING OFFICER FAY: So, if there's one

1 instance that lasts a couple minutes that would be
2 recorded in the model as an hour?

3 MR. WALTERS: I --

4 HEARING OFFICER FAY: If it happened
5 during that hour.

6 MR. WALTERS: I don't believe so because
7 it doesn't give me integer values, it gives me
8 more than that. And while the model uses integer
9 values, in terms of hours, you know, it gives
10 decimal results.

11 PRESIDING MEMBER GEESMAN: Other than
12 this video --

13 MR. WALTERS: But I can try to ask that
14 question to the developer of the model, because
15 it's not in the literature for the model.

16 HEARING OFFICER FAY: Yeah, clearly
17 there'd be a difference if there were -- if the
18 model showed events during 15 different hours
19 versus 15 hours of obscurity due to the plume.

20 MR. WALTERS: Yeah, it's predicting --

21 HEARING OFFICER FAY: Big difference.

22 MR. WALTERS: -- number of hours of --

23 MR. ADAMS: Not consecutively, no.

24 MR. WALTERS: Right. Just number of
25 hours --

1 HEARING OFFICER FAY: It's the total
2 time when --

3 MR. WALTERS: Total time.

4 HEARING OFFICER FAY: -- they say up to
5 15, that's the total time.

6 MR. ADAMS: Again, that might be
7 conservative because he witnessed lower speed
8 winds that generated these ground-hugging plumes
9 that are --

10 DR. REEDE: Microphone, you have to
11 speak in the microphone.

12 MR. ADAMS: So it may be 15, 20, 25
13 hours. And the other thing I want to remember is
14 in terms of dispersion, Phillip Road is right next
15 to the power plant. And it's more than likely
16 going to be its densest as it comes out of the
17 cooling tower and, you know, goes across the road.

18 So I think when that event occurs that
19 basically that road is going to be obscured to
20 somebody who's on one side of the plume versus the
21 other. And that is what, in my view, causes a
22 traffic impact.

23 So whether or not it's out 2000 feet
24 away or 3000 feet away isn't really the issue.
25 The issue is it's affecting traffic on a road

1 right next to the power plant. And that is where
2 the fogging plume is going to occur.

3 PRESIDING MEMBER GEESMAN: So that's the
4 road that we really ought to focus upon --

5 MR. ADAMS: Yes. In addition there will
6 be a -- well, let me finish -- there will be an
7 additional road that goes north of the power
8 plant, if they extend Blue Oaks Boulevard, or if
9 they put in this collector from highway 99 to 65,
10 that will be a high-speed road with a lot of
11 traffic on it. We're talking thousands of
12 vehicles per day.

13 PRESIDING MEMBER GEESMAN: And is that
14 within the 4000-foot range?

15 MR. ADAMS: Yes, it would be. It would
16 be northeast, if you look at that figure back
17 there where -- James, you want to show them? It
18 would be just north -- if you can show them where
19 the collector comes down.

20 PRESIDING MEMBER GEESMAN: Yeah, I see
21 that. I think it's beyond the 4000-foot range.

22 DR. REEDE: This is Blue Oaks down here.
23 The proposed 65, 99 connector is approximately 300
24 feet from the predicted closest -- or the
25 closest --

1 PRESIDING MEMBER GEESMAN: So it's at
2 the 4300-foot mark?

3 DR. REEDE: 4345, I believe.

4 PRESIDING MEMBER GEESMAN: Okay.

5 MR. GALATI: Commissioner, if I may. It
6 sounds to me like what we have is, once again, a
7 battle over the predictions. And it seems to me
8 that we are ready to discuss and commit to
9 building the plant ready for abatement, similar
10 like what was done on Magnolia, which, if you
11 remember, is right next to I-5.

12 Second of all, our issue is going to be
13 what is the triggering mechanism by which we put -
14 - clearly nobody's going to wait for an accident.
15 Our belief is that the appropriate way to
16 determine when plume abatement is installed, or
17 the cooling tower is upgraded, would be for when
18 the City determines, through its own public
19 hearing process, through its own public works
20 responsibilities, that it needs to do something.

21 And we think that's how this mitigation
22 should be -- and I wouldn't -- I don't want anyone
23 to under-estimate that that is a hollow promise,
24 because the ready-for-abatement is almost a half-
25 a-million-dollar investment today.

1 So the City takes its responsibility
2 very seriously, as it does in all of its other
3 public works and traffic related issues. And
4 that's where we would like to see a compromise.
5 We have talked to staff about that, and it's been
6 rejected because it is the City's call when plume
7 abatement is installed.

8 HEARING OFFICER FAY: One thing that
9 occurs to me is not only are you offering an
10 alternative potential mitigation, but that there
11 may be other details that we could learn about as
12 time goes by.

13 And to the extent that there is
14 uncertainty at this time as to what the actual
15 facility will produce, and it can be addressed
16 before there's a risk to the public, that I think
17 you ought to design this as sort of a balancing
18 against, you know, what's the potential that an
19 alternative mitigation can solve the problem if
20 it's determined. Versus, you know, the cost and
21 the uncertainty of that later mitigation resolving
22 things.

23 I really think you have to balance
24 these. And if there's a good chance of having
25 better information later, that sort of moves in

1 the direction the applicant's going.

2 If, in fact, you have all the
3 information about the way the plant is going to be
4 built and operated at this time, then maybe that
5 favors the staff.

6 But I'd like you to consider that sort
7 of balancing approach, because we want to focus on
8 public safety. We're just not sure that hammering
9 it right now with a potential \$2.5-million
10 solution is the only way to address the public
11 safety.

12 MR. ADAMS: We're willing to discuss
13 that, as I say. If this is an offer, this is the
14 first time. We haven't seen anything in writing;
15 we haven't seen any analysis, so it's hard for me
16 to say yes, we're willing to agree to it.

17 We are willing to discuss it, that's why
18 we have Will here. And we're willing to talk
19 about it. But the other response to the -- in
20 terms of letting the City make that decision, I
21 feel like we have a role, as the permitting
22 agency, to do what we think is appropriate, and
23 not just assume that the City will do, you know,
24 exercise good faith and decide, yes, you need to
25 spend x million to do plume abatement technology.

1 I think we have a role here in
2 mitigating the impact. And we feel that there's
3 an impact. But we're willing to discuss it.

4 PRESIDING MEMBER GEESMAN: Did you work
5 on Magnolia?

6 MR. ADAMS: Yes, I did, but I did not do
7 the -- I did not do traffic for Magnolia.

8 DR. REEDE: I was the Project Manager.

9 MR. WALTERS: I did work on the plume
10 and the ground fogging modeling, so I can answer
11 questions on that.

12 PRESIDING MEMBER GEESMAN: How does this
13 situation compare to that one?

14 MR. WALTERS: We found significantly
15 fewer hours of ground fogging for Magnolia. The
16 biggest issue, in fact the reason for that
17 condition, actually, was the visual resources
18 impact, not a ground-fogging impact. Because our
19 modeling actually didn't show ground fogging out
20 to I-5.

21 Caltrans was concerned and it was an
22 issue that they brought up, and so we definitely,
23 you know, did the modeling as aggressively as
24 we've done here. And we did find some ground-
25 fogging impacts that could impact.

1 There's two roads on either side that
2 are elevated to go over the train that's just on
3 the other side to the north of the plant area.
4 And there was some potential for the fogging to
5 hit those two roads, all up in Magnolia, I
6 believe.

7 And so the combination of the visual
8 resources issue and requiring the condition for
9 that satisfied the traffic and transportation
10 situation. But it was not actually pushed through
11 as a traffic and transportation problem, because,
12 again, we didn't really find the same situation.

13 The meteorology is very different. It's
14 a lot warmer and drier down in Burbank.

15 HEARING OFFICER FAY: Do you know of any
16 cases where a plume from a project has created a
17 hazard, a ground-fogging hazard? Not necessarily
18 a power plant, just from any facility.

19 MR. WALTERS: You know, I know of
20 problems on the east coast where they've had
21 problems that have come up from cooling towers.
22 But particularly in California, I'm not aware of
23 anything. But then, again, I haven't done that
24 research.

25 MR. ADAMS: And again, James' point

1 about the Campbell's Soup thing, that does
2 generate ground plumes, but because the roads are
3 far enough away it's not really an issue.

4 So it's not -- so there's a case where
5 the plume is being generated, but it's not having
6 an adverse traffic impact, unlike this situation
7 where you have Phillip Road right next to the
8 power plant, and the plume and the fog would have
9 an adverse impact on the traffic.

10 So, it's a different situation. But
11 there are other plumes that are generated by, at
12 least, that facility. Probably others.

13 HEARING OFFICER FAY: Are there also
14 potential operating constraints? In other words,
15 is there a way to determine that the project, for
16 instance, conditions are such that the project
17 cannot operate, or must operate at half power to
18 eliminate the risk?

19 In other words, is that an alternative
20 mitigation, the operation --

21 MR. ADAMS: Well, that could be a part
22 of the plume mitigation is that you could be
23 automated so to sense when the wind and the
24 humidity is just right, the technology would come
25 on basically to mitigate the plume at that time.

1 If it's in the middle of July, chances
2 are you're not going to have the conditions right
3 for that plume; therefore, the technology doesn't
4 need to operate.

5 So that would be a part of plume
6 abatement technology, itself. Would only operate
7 when the conditions were ripe for the plumes to be
8 generating this ground fog.

9 So it's primarily the winter. It's a
10 winter phenomenon pretty much. When the humidity
11 and temperature are such, that's when the plume
12 generates this ground-hugging fog.

13 HEARING OFFICER FAY: So when you're
14 talking about the cost of plume abatement, that's
15 what it is, it's throttling back the project or
16 turning it off.

17 MR. ADAMS: it's installing fans; it's
18 modifying the cooling tower. That would go in so,
19 that cost, let's say the extra 1.3 million would
20 deal with both the automatic controls, putting in
21 the fans and whatever was needed to make it
22 basically to install the plume abatement
23 technology.

24 MR. GALATI: If I could provide some
25 clarification there. First of all, I would love

1 to contract staff to build the things that they
2 say they can build for the amount of price.
3 Because I would love to do it. It's always low.

4 And in this case it is significantly
5 lower than estimates. And then what would
6 necessarily have to be done for a plume-abated
7 tower.

8 The big cost is to build plume abatement
9 and put all the equipment in now, which is what
10 he's talking about. Could you throttle back, he's
11 talking about turning the equipment on, as opposed
12 to not putting it in and throttling back.

13 What we're offering is to build the
14 cooling tower in a way that allows this equipment
15 to be put in later. And because cooling basins
16 need to be sized different, pumps need to be sized
17 different, it is a significant cost.

18 And our view would be that a lot of
19 these so-called large number of drivers are
20 something that's going to happen maybe in the two
21 and a half years after the plant is built. We
22 have a great opportunity to monitor and to
23 determine what do we really have.

24 Because, as we intend to prove, that in
25 California we can't find a reported accident

1 associated with a ground plume from any facility
2 when we contact the local sheriff jurisdictions
3 and city police jurisdictions. We're continuing
4 to grab that data. I suspect that nobody knows of
5 it because it doesn't happen.

6 So I still want to steer us towards
7 we're making a significant investment to handle a
8 problem that nobody in this room has ever seen
9 occur. And so, again, I would like us to focus on
10 what should the triggering mechanism be.

11 We understand that the Commission should
12 have a role. I think maybe we can report to the
13 Commission. But I think ultimately it ought to be
14 the City who has greater reliability than this
15 Commission does to provide the safety and road
16 safety. And it will, because it does.

17 HEARING OFFICER FAY: Obviously the
18 Committee wants the workshop to be productive in
19 all these areas. And this is a very sticky one.

20 I just want to suggest that you not be
21 hung up on whether it's the City or the CEC.
22 Because it seems to me that if you're able to make
23 progress you can set that aside. And there could
24 be triggering mechanisms where the CEC was
25 involved in a later determination.

1 So I just don't think that has to be an
2 all-or-nothing thing. If, in fact, there is a
3 safe way to make this determination post-
4 construction, based on operating information, and
5 your offer to be abatement-ready, I don't know why
6 the CEC couldn't still have jurisdiction over
7 that.

8 Anyway, please just consider that as
9 another possibility.

10 MS. WILLIS: We also are concerned about
11 deferring mitigation to some other later date. I
12 mean I think that's the concern that if we allow
13 the City to then go ahead and determine basically
14 the guidelines or the standards at which time
15 plume abatement would be actually added, that
16 basically takes the condition -- I mean the
17 condition doesn't make a whole lot of sense at
18 that point, to enforce it from this point.

19 HEARING OFFICER FAY: Sure, what I'm
20 suggesting is --

21 MS. WILLIS: At this point we do need to
22 have some, there would need to be some trigger
23 point. And there needs to be studying, and there
24 needs to be some method of how that would be
25 determined.

1 And Mr. Galati's -- I mean, if this was
2 different and the City was not the applicant,
3 there might be a little different feeling. But
4 there is a conflict of interest at this point, and
5 I think that needs to be, you know, fully
6 expressed.

7 HEARING OFFICER FAY: Sure.

8 MS. WILLIS: That the City is the
9 applicant, and it is a different situation than
10 many of our merchant power plants, where the City
11 is the local jurisdiction.

12 HEARING OFFICER FAY: And I think the
13 Commission would want to know whether this
14 decision is made pre-construction or post-
15 construction. That the decision to abate any kind
16 of plume impact would be based on the science, not
17 on, you know, a political decision of the City.

18 MS. WILLIS: Well, and that would be our
19 concern that there would probably need to be
20 public concern before it would be brought before a
21 local body, as opposed to a science.

22 DR. REEDE: I'd like to also add --

23 PRESIDING MEMBER GEESMAN: Well, let me
24 put my plaintiff's attorney cap on, and just
25 speculate as to whether or not the City wouldn't

1 feel a fair amount of potential liability were it
2 a problem likely to exist such that it would take
3 some type of preemptive action before I, the
4 plaintiff's attorney, showed up with a lawsuit.

5 I mean it seems to me that in the area
6 of traffic safety it's pretty well established
7 that this is an area that the City should feel
8 considerable liability. There are any number of
9 cases all around the state where cities have been
10 sued successfully for inadequate providing for
11 safe conduct on their streets.

12 Am I wrong?

13 MS. WILLIS: No. And I think you're
14 expressing, you know, the concern that we were
15 having and I think our staff has a concern, is
16 that, you know, many of our staff have children
17 that drive and teenagers. And we are concerned
18 about the public safety, and we do feel a
19 responsibility that this project came before a
20 state agency as opposed to the local government.

21 And feel a very deep sense of responsibility
22 for public safety.

23 The City's liability, and I agree with
24 your comments, I would hope and I would think that
25 the City would feel that liability and would want

1 to act proactively as opposed to after an
2 accident, which I think would be devastating.

3 DR. REEDE: I think, also, the Committee
4 needs to understand where the numbers came from as
5 far as the cost data. We have actual bid costs
6 from Magnolia. We confirmed those costs for the
7 size plant or cooling towers proposed for
8 Roseville with the actual manufacturers that bid
9 on Magnolia.

10 So we do have accurate cost data. And
11 it would be approximately \$2.6 million. It's 1.3
12 for just the cooling tower. Approximately 600,000
13 for a plume-abated-ready cooling tower. And then
14 to add the additional equipment would be about
15 another \$700,000.

16 So, basically plume abatement is going
17 to cost you about 1.3 million on top of the 1.3
18 million that the cooling tower would cost. It
19 doubles the cost basically.

20 MR. GALATI: I will sign that contract
21 with your guys now, and they'll turn around and
22 mark it up --

23 HEARING OFFICER FAY: Well, okay, that
24 is a question of fact. And if this comes before
25 the Committee during the evidentiary --

1 DR. REEDE: Well, this is the
2 information we got from the manufacturers.

3 HEARING OFFICER FAY: That is the kind
4 of thing we'll determine during litigation. We
5 don't need to argue about that now. I understand
6 that that's an issue, but, you know, that requires
7 evidence.

8 What I would encourage the two parties
9 to do is just try to narrow these issues and
10 specify which ones will be coming forward.
11 Because there's a long list of issues contained in
12 this about, you know, accuracy of the modeling,
13 the effect of some of the inputs, accuracy of the
14 cost estimates, the actual impacts that are likely
15 to occur, other means of abatement, other means of
16 non-abatement mitigation.

17 It seems like there's a wide range of
18 issues here. Any of those that you can narrow we
19 would appreciate.

20 Anything further on traffic and
21 transportation?

22 MR. GALATI: If I could just summarize,
23 so if we were able to agree on what performance
24 standards might be applied, but we disagree on who
25 makes the call, that would be something that we

1 could make significant progress on, and then just
2 submit to the Committee the respective positions
3 on who should make the call.

4 HEARING OFFICER FAY: Yeah, that would
5 be better than not agreeing on anything.

6 MR. GALATI: Thank you.

7 HEARING OFFICER FAY: I'm trying to
8 narrow the scope to save everybody's time and
9 money in arguing this for many many hours with
10 consultants and lawyers.

11 Anything further on traffic?

12 Okay, we're not trying to cut it short.
13 We recognize this is an important area to
14 everybody.

15 All right, let's move to visual
16 resources. Mr. Galati, anything further from your
17 statement?

18 MR. GALATI: No. Staff says that our
19 proposed changes to Vis-2 and Vis-4 are
20 unacceptable. And then a slight modification to
21 Vis-3 is planned. Sounds like we might be able to
22 have an agreement on Vis-3, but Vis-2 and Vis-4,
23 we stand by what's in our statement.

24 HEARING OFFICER FAY: Is Vis-2 the
25 impacts concerned, does that go back to the ground

1 fog effect? Or is this just looking at the tower,
2 itself?

3 MR. EDWARDS: Yeah, Vis-2 is strictly a
4 build-it-the-way-you-proposed-to-build-it, to
5 insure that there isn't, in fact, a visual plume
6 impact, vertical plume.

7 And this condition has been used in
8 eight previous cases ever since Contra Costa for
9 large combined cycle projects in pretty much the
10 same way it's being used here.

11 There is a specificity of the
12 temperature and the heat that's coming out of the
13 cooling tower that is always a part of this
14 condition that's very specific to the project,
15 itself.

16 And as I understand it, there's already
17 a 10 percent buffer or allowance in there for
18 operational needs.

19 HEARING OFFICER FAY: So you take the
20 applicant's specs and say this is how you got to
21 operate it to insure that you don't do it
22 differently and therefore cause a visual problem
23 with the plume?

24 MR. EDWARDS: Right. We model what is
25 proposed by the applicant. And in this case the

1 modeling indicated, as our analysis shows, that
2 there was not a significant impact for visible
3 plumes.

4 However, as I said, even though that's
5 true, in every case for the last eight cases we've
6 been including this condition that says you shall
7 build and operate the cooling towers such in this
8 manner, which is setting a parameter around the
9 operations to keep it the way we modeled it, which
10 shows no significant impact.

11 Because there are ways that operations
12 can occur, or even construction can occur that
13 would be outside of what we modeled; and may, in
14 fact, result in some sort of significant impact.
15 And we're trying to just insure that what you see
16 is what you get.

17 HEARING OFFICER FAY: Is the applicant
18 seeking carte blanche so they can do whatever they
19 want?

20 MR. GALATI: No. What we're seeking is
21 this, is that staff has determined -- I mean this
22 condition now says if there's one more hour of
23 plume, that's an impact, that's not acceptable.

24 Staff didn't find that. Staff found,
25 you know, that there is no impact from the

1 project.

2 Our concern is this: You build in and
3 you do the best you can at this stage. Final
4 design, what happens -- we have a 10 percent
5 margin -- what happens if we're 10.2 percent and
6 that's the final design? We would be in violation
7 of this condition. When there's been no showing
8 that 0.2 percent out of this range would cause an
9 impact.

10 And again, my understanding of the cases
11 that had this is when the applicant throttled back
12 its requirements in order to avoid an impact. I
13 haven't worked on all those eight cases, but I
14 know the ones where we've accepted that condition
15 it's because if what we really wanted caused an
16 impact. So we came back, rather than plume-abate,
17 we came back and said we'll operate it within
18 these parameters.

19 We don't have that condition here, and
20 I'm just wondering if this condition is not
21 something that we don't need.

22 I will tell you that one of our
23 engineers would be willing to talk about this more
24 with staff. He knows more about it than I do.

25 UNIDENTIFIED SPEAKER: In the workshop.

1 MR. GALATI: In the workshop.

2 HEARING OFFICER FAY: Okay. And it also
3 sounds like perhaps there's potential to define a
4 range of variation that would give some
5 flexibility in construction. We have to be
6 realistic. Sometimes minor changes occur during
7 construction. You don't want to have to go back
8 to the Commission for an amendment every time that
9 happens.

10 But that would be tight enough so that
11 staff doesn't feel like, well, what the heck did
12 we model. They're going to do anything they want,
13 you know.

14 MR. GALATI: I understand.

15 HEARING OFFICER FAY: Yes.

16 MR. WALTERS: Again, since I did the
17 modeling and I know, you know, what happened in
18 terms of the flexibility, what we took is we took
19 their original design and then we asked, you know,
20 should we apply some safety factors when we were
21 doing our analysis.

22 We gave them 10 percent twice,
23 multiplied together it's 21 percent safety factor
24 in terms of the amount of heat per unit air that
25 goes through the cooling tower, 21 percent. So

1 that's what we were already giving them.

2 Now, you know, we can try to just model
3 an infinite number of cases, but then, you know,
4 that would be an infinite number of my hours,
5 which my company would love, but you know, can't
6 get done.

7 So this is how we've done it, how we've
8 done it in the past. And for essentially those
9 eight cases where we've discussed, certainly for
10 the last, oh, say, five, we essentially have not
11 required them to really change anything.

12 We have found that things were not
13 significant based on their design with a certain
14 safety margin. Sometimes that safety margin was a
15 5 percent, and a 5 percent sometimes was a 10
16 percent at 10 percent.

17 But given those safety margins and
18 determining, you know, what the plume would be, we
19 still want to hold them to a certain specification
20 because we know the variability of the design of
21 cooling tower is such that, you know, we could
22 have a problem if we did give them carte blanche.

23 HEARING OFFICER FAY: Okay, --

24 MR. GALATI: I'll just let the guy who
25 built them talk to --

1 HEARING OFFICER FAY: Yeah, yeah.

2 MR. GALATI: -- and maybe they can find
3 a solution.

4 HEARING OFFICER FAY: Yeah, we'd
5 encourage you to do so. Do we need to talk about
6 the specifics of the potential for resolution of
7 Vis-3? It seems to me that language that says you
8 can't see any lighting at the plant period is not
9 acceptable, because you can always see a lit
10 building.

11 The idea is to minimize the backcasting
12 and that sort of thing, the direct impacts. Hood
13 lighting, downcast lighting, et cetera, so that
14 it's minimized, but not invisible.

15 MR. EDWARDS: Right, properly designed
16 lighting is what we're trying to achieve.

17 HEARING OFFICER FAY: Right.

18 MR. EDWARDS: And I --

19 HEARING OFFICER FAY: None of our
20 projects that we've licensed are invisible when
21 the lights are on.

22 MR. EDWARDS: Right. We tried to do
23 the -- we have done probably a fantastic job over
24 time with that condition that we now have before
25 us, in keeping light focused on the project and

1 not going offsite very much.

2 But I think that's been -- and I would
3 agree with the applicant, that it's time to change
4 that. And, in fact, staff has already made a
5 change to its standard conditions that will apply
6 starting right now with this case, and for future
7 ones, that allows greater latitude beyond what we
8 used to say.

9 And I don't have a copy of it right
10 before me right now, but we can talk about that in
11 the workshop. I --

12 HEARING OFFICER FAY: Okay. So there's
13 no disagreement?

14 MR. EDWARDS: There's no disagreement,
15 and I'm sure we'll find satisfaction between us.

16 HEARING OFFICER FAY: Good, okay. Then
17 the last one is Vis-4. The question of surface
18 treatment, you know, whether the applicant can
19 place its orders in a timely way, is that what
20 you're concerned about?

21 MR. GALATI: And I will tell you what
22 this comes from. This comes from the Magnolia
23 case. And in the Magnolia case we had a similar
24 condition to this. And we probably spent 15 to 20
25 hours of meetings in compliance to try to figure

1 out what it meant.

2 And in that case, like this case, we
3 have a city who really wants to develop what this
4 thing looks like. They have a reason to develop
5 what this thing looks like.

6 As opposed to a merchant power plant
7 that comes into a city and just like in Magnolia,
8 what we're trying to avoid is what the City really
9 wanted this to look like in their own community
10 was not what staff wanted.

11 And I think what we've done is craft
12 something that, quite frankly, says we're at risk
13 if we go forward on treating. And I don't
14 understand why staff would not be acceptable to
15 that.

16 As opposed to getting a color treatment
17 plan, everything done before you order anything,
18 and approved by staff when there's probably going
19 to be discrepancies, we'd like to take the risk.
20 Because we think that, quite frankly, the City's
21 going to choose colors that make sense to the
22 City.

23 HEARING OFFICER FAY: The impact of an
24 unpleasant visual display at the project is on the
25 local people, right?

1 MR. EDWARDS: Right.

2 HEARING OFFICER FAY: Not on the staff
3 of the CEC or anybody outside of Roseville, right?

4 MR. EDWARDS: That's correct.

5 HEARING OFFICER FAY: Okay. Keeping
6 that in mind, maybe you guys can talk about this.

7 MR. EDWARDS: I think we can talk about
8 it. I think one of the issues that staff thinks
9 about, I don't have all the information before me
10 here, but I think the argument kind of was focused
11 on the color. But what you've probably
12 characterized, it's also on texture.

13 There are things like stainless steel
14 cladding that isn't painted, and it's up on the
15 top, steel drums and such, it's up on the top and
16 the glare and such can be pretty evident. And
17 there are techniques for dimpling and such as that
18 where you break up that glare potential. And
19 that's part of what we're seeking here in this
20 treatment plan.

21 HEARING OFFICER FAY: But can't you have
22 a number of alternative solutions --

23 MR. EDWARDS: Sure.

24 HEARING OFFICER FAY: -- that the
25 applicant could choose from, and wouldn't have to

1 be decided after the, you know, late in the day,
2 so they could go ahead with their ordering, and
3 order something that does one of the five things
4 to diffuse the reflection or whatever?

5 MR. EDWARDS: Well, this is an area, and
6 I was trying to recall in the specific case, I
7 know that as we spoke earlier, the CRIMP was
8 submitted earlier on in the case. And I believe
9 we talked sometime, maybe the last workshop that I
10 was here at, about also submitting, you know, the
11 color proposal, too, or the treatment proposal, so
12 staff could review that early on and come to some
13 agreements with the applicant, so that we would,
14 you know, cut that short and save that compliance
15 time that you talked about. And --

16 MR. GALATI: Yeah. I'll give you some
17 guidance on that. I screwed up, because I never
18 should have offered that, because I thought the
19 City could give me their colors and it's going to
20 take a little bit long time. It would have been a
21 great idea and I probably should have checked with
22 my client before I opened my big mouth.

23 But I didn't, so we had to withdraw that
24 concept.

25 MR. EDWARDS: All I can say is that the

1 staff is willing to work with you in a real time
2 as we can to knock out everything we can to
3 minimize any conflict at the hearings.

4 HEARING OFFICER FAY: Okay. But we do
5 want you to keep in mind that allowing the City to
6 make some of these decisions is not the same
7 thing, in my mind, at least, as say the risk of
8 traffic accidents from the ground plume. Because
9 this is an aesthetic thing and the City is going
10 to, their citizens are going to perceive this.

11 MR. EDWARDS: Right. Well, there are
12 some basic things about color. The lighter the
13 color, the greater the glare and the greater the
14 visual impact, unfortunately.

15 So that's why we tend to see things in
16 shades of grey, which sometimes maybe that's not
17 appropriate either. But, I'd be very interested
18 to know what the City is thinking of, if you have
19 any information of that with you.

20 HEARING OFFICER FAY: I just can't see
21 this going to hearing. I mean I think you guys
22 need to resolve --

23 MR. EDWARDS: Right.

24 HEARING OFFICER FAY: -- this at the
25 workshop.

1 MR. GALATI: I think we can. There's
2 already a prohibition that the surfaces are not
3 going to create excessive glare. We think that's,
4 there it is right there, you can't do that. That
5 you're going to be consistent with local policies
6 and ordinances, that certain things are non-
7 specular, non-reflective, non-refractive.

8 And rather than say, you know, anything
9 more than that, we're just thinking that it
10 becomes pretty cumbersome during compliance.

11 MR. EDWARDS: Okay, thanks.

12 HEARING OFFICER FAY: Anything further
13 on visual?

14 Okay. Worker safety-2. Do we still
15 have a problem there?

16 MR. GALATI: Staff has rejected, saying
17 this is -- I believe they said that it's
18 unacceptable to staff -- mandate.

19 DR. REEDE: I can address it fairly
20 quickly. Because what we've done, with CalOSHA
21 they have applicable safety orders that require
22 these injury and illness prevention plans,
23 emergency action plans, a number of things to be
24 submitted.

25 However, they have not, in the past,

1 provided comments. Our particular change to this
2 particular condition will eliminate the need for
3 the applicant to receive comments back from
4 CalOSHA. CalOSHA wants it on file. Whether they
5 review it or not, they want it on file.

6 MR. GALATI: Our experience in Pico is
7 don't send it to us, we don't want it, we don't
8 review it. And so by having a mandate that we do
9 it anyway, you know, you put us in a position
10 where we're going to be throwing something at a
11 regulator for the project they don't want.

12 Our point is you guys want to send it to
13 them, that's great. But we don't want to be in a
14 position to have it in our condition a requirement
15 to send it to an agency that says don't send it to
16 us.

17 And that's exactly what happened in
18 Pico. They don't want it. They said, we don't
19 want it.

20 HEARING OFFICER FAY: Is staff not
21 capable of passing it along?

22 DR. REEDE: If they give us enough
23 copies we'll pass it along.

24 HEARING OFFICER FAY: Okay.

25 DR. REEDE: That's not an issue. It

1 still needs to be submitted.

2 HEARING OFFICER FAY: Okay.

3 DR. REEDE: And this isn't something
4 that I want to take to the hearings.

5 HEARING OFFICER FAY: Sounds like it
6 doesn't need to be. You don't oppose submitting
7 it to the staff?

8 MR. GALATI: No, we have to. And the
9 way I modified it is we still have to.

10 HEARING OFFICER FAY: Okay.

11 MR. GALATI: At least 30 days prior, we
12 do it to the CPM.

13 HEARING OFFICER FAY: Sounds like you
14 got an offer of resolution right here.

15 DR. REEDE: All right. All we would
16 have to do is remove the strikeouts and just say
17 that you don't have to submit it to CalOSHA, but
18 you shall submit it to the Commission. And then
19 we'll take care of it.

20 HEARING OFFICER FAY: Get that nailed
21 down. Great.

22 DR. REEDE: And our CPM will submit it
23 to CalOSHA, so that, you know, the mandate is met.

24 HEARING OFFICER FAY: Okay, that
25 concludes the list of subject areas.

1 I wanted to speak briefly about the
2 schedule. The applicant has proposed that
3 evidentiary hearings take place the last week in
4 January. And the Committee has available January
5 25th and 26th, as needed.

6 And so I think you should anticipate
7 that those two days will be reserved for hearings.
8 Feel free to pipe up if you have any concerns
9 about what I'm saying.

10 MR. LOYER: If I could --

11 HEARING OFFICER FAY: Yes?

12 MR. LOYER: My wife (inaudible) surgery
13 the last two weeks of January. I'll be at home
14 caring for (inaudible).

15 HEARING OFFICER FAY: Okay, can the
16 staff arrange for an alternative?

17 DR. REEDE: We'll have his senior --

18 HEARING OFFICER FAY: Okay.

19 DR. REEDE: -- and I am presuming that
20 there will also be a telephone call-in number so
21 that he could at least call in and listen.

22 HEARING OFFICER FAY: Yeah.

23 DR. REEDE: And he already has supplied
24 sworn testimony through the FSA.

25 HEARING OFFICER FAY: Sure. And we

1 anticipate holding the evidentiary hearings at the
2 Commission. Anybody have a problem with that?
3 That would give us the most facilities for such a
4 hookup.

5 DR. REEDE: Yeah.

6 HEARING OFFICER FAY: In addition, the
7 applicant suggested combining visual and traffic
8 and transportation. I'm not sure why, because
9 what I heard is that some of the visual questions
10 are distinct.

11 MR. GALATI: I think that there is --
12 the way staff's testimony is set up, I think the
13 visual plume-related stuff is an appendix to
14 visual, and not an appendix to traffic and
15 transportation.

16 So I was thinking in terms of the
17 document. They're the same people that would
18 testify as a panel. That's why we did that.

19 MS. WILLIS: They're actually two
20 separate analyses, one for traffic and one for
21 visual. So I don't see any reason --

22 MR. GALATI: Okay.

23 MS. WILLIS: -- why we'd need to combine
24 them.

25 MR. GALATI: I'll just modify mine to

1 show my witnesses then in traffic.

2 HEARING OFFICER FAY: Okay. So those
3 will be heard as separate matters. But we can
4 certainly schedule them on the same day.

5 By the way, if you have any availability
6 constraints, if somebody can attend one day and
7 not another, please let us know in the comment
8 you're going to submit in the next 24 hours.

9 MS. ALLEN: We have a potential
10 scheduling issue with workshops that are being
11 planned for Blythe, the 26th and 27th. So, --

12 HEARING OFFICER FAY: Have they been
13 noticed already?

14 DR. REEDE: Yes.

15 HEARING OFFICER FAY: They've already --

16 DR. REEDE: Yes.

17 MR. GALATI: I don't believe they've
18 been noticed, I haven't --

19 MS. ALLEN: I'm not sure --

20 MR. GALATI: -- received a notice.

21 MS. ALLEN: -- about the noticing. I
22 think the project manager has been trying to pin
23 down the dates. So that was the last set that I
24 heard. Mr. Galati, would you --

25 DR. REEDE: I'll call him.

1 MS. ALLEN: -- be involved with both
2 events, also?

3 MR. GALATI: Yes, but I understand the
4 difficulty in getting a Commissioner. So, I would
5 urge my client in Blythe II on the workshop to
6 move it, because Commissioner Geesman's making
7 himself available 25th and 26th --

8 HEARING OFFICER FAY: Yeah, my reaction
9 is that a workshop is more flexible for
10 scheduling.

11 PRESIDING MEMBER GEESMAN: We may only
12 need one day of hearing on this.

13 HEARING OFFICER FAY: If you do a good
14 job at this workshop this afternoon, then --

15 MS. ALLEN: We're all motivated.

16 HEARING OFFICER FAY: And, by the way,
17 if you are able to whittle down things
18 considerably so that there's a realistic chance
19 that it's going to be one single day of
20 evidentiary hearings, I'd like an indication of
21 which day you prefer of those two days, if there
22 are witness limitations. If you don't care,
23 that's fine. But we'd like to know.

24 The applicant suggested filing testimony
25 on January 14th. Any problem with that, if staff

1 has to supplement in any way, you can --

2 MS. WILLIS: As long as we can get an
3 electronic copy, that would be great. And they've
4 been very (inaudible) about filing those --

5 HEARING OFFICER FAY: Yeah, let's just
6 tell both parties we want it served
7 electronically. Please be sure I'm on the service
8 list.

9 DR. REEDE: January 14th.

10 HEARING OFFICER FAY: January 14th.
11 Now, applicant suggested briefs due on February
12 7th. And one round of briefs.

13 My experience is we have to allow ten
14 days for hearing transcripts, James, is that --
15 okay. So that tenth day is February 7th. So that
16 cannot work.

17 You tell me --

18 MR. GALATI: Well, if I may --

19 HEARING OFFICER FAY: -- how much time
20 you need to adequately and thoroughly document the
21 briefs so that the citations are all in there?

22 MR. GALATI: I think we need a week from
23 the time we get the transcripts.

24 HEARING OFFICER FAY: Okay. Well, you
25 can't be sure of getting the transcript sooner

1 than the 7th. Because in some cases, I am told by
2 higher authorities, there are no expedites;
3 usually it's a budget constraint kind of thing.

4 So that would put it at February 14th.

5 (Pause.)

6 HEARING OFFICER FAY: What do you think?

7 MS. WILLIS: Well, I think at least a
8 week after transcripts; I think that's fair.

9 Gives us enough time to have it reviewed and --

10 HEARING OFFICER FAY: Document the,
11 yeah, get the citations in.

12 MR. GALATI: Okay.

13 HEARING OFFICER FAY: Can you live with
14 that?

15 MR. GALATI: I'm sorry, I did not hear
16 the date.

17 HEARING OFFICER FAY: Well, a week after
18 the tenth day would be February 14th.

19 MR. GALATI: That's fine.

20 HEARING OFFICER FAY: Okay, so briefs
21 will be due February 14th. Okay.

22 DR. REEDE: And that would imply that we
23 get a decision before the end of March?

24 HEARING OFFICER FAY: It's up to the
25 Committee when the decision comes out, so we're

1 not listing the day --

2 DR. REEDE: By the end of March, six
3 weeks?

4 PRESIDING MEMBER GEESMAN: Works for me.
5 (Laughter.)

6 PRESIDING MEMBER GEESMAN: It's a
7 question really of Gary's time and ability to
8 assemble a proposed decision that quickly. But we
9 ought to shoot for that.

10 You guys are okay with no reply brief?

11 DR. REEDE: You talk to my attorney,
12 please, sir.

13 MS. WILLIS: I would like to -- well,
14 I'm okay now, but I don't -- we haven't had any
15 testimony. I'd like to wait till the hearings to
16 hear if there's more information that's provided.

17 As I said, we haven't had applicant file
18 any testimony yet.

19 HEARING OFFICER FAY: Well, f --

20 MS. WILLIS: It's a little difficult to
21 say now that we'd be all right with it.

22 HEARING OFFICER FAY: Why don't we
23 assume that it will be one round of briefs, and if
24 you think that that is not okay, you'll let us
25 know at the hearings. And so it would probably be

1 only a week later.

2 MS. WILLIS: That would be fine.

3 HEARING OFFICER FAY: Okay, any other
4 matters you think we need to address before you go
5 into the workshop and we conclude our prehearing
6 conference?

7 You'll be getting back to me within 24
8 hours by email --

9 MS. WILLIS: How would you like -- would
10 you like us each to file a statement?

11 HEARING OFFICER FAY: Each.

12 MS. WILLIS: Okay.

13 HEARING OFFICER FAY: Yeah, each.
14 Obviously if somebody says this is thorough
15 resolved and somebody else says this is a big
16 problem, we're not going to assume that it's
17 resolved. No. I think the most efficient way is
18 for you each to communicate, and to the whole
19 proof of service, so everybody gets to see what
20 the other guy says.

21 Okay. Any closing remarks? Okay.

22 Well, you have the Committee's blessings
23 and encouragement to go forth and be productive at
24 the workshop, accomplish great things.

25 Thank you, all.

1 PRESIDING MEMBER GEESMAN: Thank you,
2 all.

3 HEARING OFFICER FAY: We are adjourned.
4 (Whereupon, at 1:05 p.m., the prehearing
5 conference was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of January, 2005.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345□