

EVIDENTIARY HEARING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 )  
Application for Certification For ) Docket No.  
The Imperial Valley Solar Project ) 08-AFC-5  
(formerly known as SES Solar Two )  
Project) )  
IMPERIAL VALLEY SOLAR, LLC )  
 )  
\_\_\_\_\_ )

SAN DIEGO GAS & ELECTRIC RENEWABLE ENERGY RESOURCE CENTER

1425 WEST MAIN STREET

EL CENTRO, CALIFORNIA 92243

MONDAY, MAY 24, 2010

10:00 A.M.

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Jeffrey D. Byron, Commissioner

Anthony Eggert, Commissioner

HEARING OFFICER AND ADVISORS PRESENT

Raoul Renaud, Hearing Officer

Kristy Chew, Advisor

STAFF AND CONSULTANTS PRESENT

Caryn J. Holmes, Staff Counsel

Christopher Meyer, Project Manager

PUBLIC ADVISOR'S OFFICE

Jennifer Jennings

STAFF WITNESSES

Reyes Romero

Jaime Hernandez

William Kanemoto

James Jewell

Shahab Khoshmashrab

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Marc C. VanPatten, Tessera Solar

Ella Foley Gannon, Esq., Bingham McCutchen LLP

Sean Gallagher, Tessera Solar

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Sean Gallagher

Julie Mitchell

Seth Hopkins

Jason Pfaff

Waymon Votaw

Mohamed "Mike" Alhalabi

Mark Storm

Howard H. Chang

Mike Fitzgerald

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Loulena A. Miles, Esq., Adams Broadwell Joseph & Cardozo

INTERVENOR BUDLONG

Tom Budlong

Larry Silver, Esq., California Environmental project

INTERVENOR CALIFORNIA NATIVE PLANT SOCIETY

Tom Beltran

INTERVENOR HASSEIN ALIMAMAGHANI

Hassein Alimamaghani

ALSO PRESENT

Jack Terrizas, County Supervisor

Cheryl Viegas-Walker, Mayor

Carrie Simmons, BLM

PRESENT BY PHONE

Jim Stobaugh, BLM

Scott Cashen

Chris Bowles

Chris Campbell

Tony Belello

MEMBERS OF PUBLIC

Donna Tisdale

Kevin Emmerich

Carmen Lucas

Bridget Nash-Chrabascz

Fred Cagle

Terry Weiner

Laura Cunningham

Tom Beltran

Edie Harmon

Lincoln Davis

Anita Nicklen

Susan Massey

Denis Trafecanty

John McClain

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COMMISSIONER BYRON: Let's begin. Good morning. I hope everyone on the phone can hear us. I will check on that later.

My name's Jeff Bryon and I'm the Presiding Member of the Committee hearing this case, with the California Energy Commission. And I'd like to welcome you all to an evidentiary hearing of the Imperial Valley Solar Project, here in El Centro.

We're really glad to be here this morning, it's a beautiful day.

If I could, I'd like to just make a few opening remarks. As I said, I'm the Presiding Member, and with me is the Associate Member of this Committee, Commissioner Anthony Eggert. And on my left is my advisor, Kristy Chew.

Our hearing officer is between us here, to keep us from blows, or something.

(Laughter.)

COMMISSIONER BYRON: Really, it's because he'll be running most of the meeting today.

I just wanted to give a couple of introductory remarks and these are things that I think most all of you know already. But this Commission and State have been promulgating the notion of moving towards renewables in a

1 substantial way, over the last number of years. We have a  
2 goal of 20 percent renewables by 2010. We're a little  
3 behind on that. But that's not stopping us, we're moving  
4 ahead with the goal of 33 percent by 2020. That's a lot of  
5 renewable energy.

6 And this Commission has the responsibility for  
7 projects that exceed 50 megawatts in size and have a thermal  
8 component to them, and this is one of those kinds of  
9 projects. That's why it falls into our jurisdiction.

10 Commissioner Eggert and I are here, today, to hear  
11 the evidence that we can use on which to make a decision, I  
12 should say a recommendation, to our full Commission.

13 We are intent upon doing this as quickly as we  
14 can, but at the same time making sure that there is  
15 sufficient process so that everyone has access to all the  
16 information, the records they need for their evaluation.  
17 And you'll hear who all the parties are momentarily. In  
18 fact, I think maybe you already know all that.

19 Our Hearing Officer is Mr. Raoul Renaud, and he'll  
20 explain that process. He'll also introduce all the parties  
21 and discuss the schedule going forward.

22 I think the last point I'd like to make is we know  
23 that we don't have all the information we need to gather the  
24 complete evidentiary record today and perhaps tomorrow, and  
25 that we will likely need to conduct an additional

1 evidentiary hearing.

2           But what we want to do is complete as much as we  
3 can today and perhaps tomorrow, as necessary, in  
4 establishing the evidentiary record.

5           So, I guess we'll start with the easy stuff and  
6 we'll move to the more difficult stuff as time progress.

7           Commissioner Eggert, would you like to add  
8 anything?

9           COMMISSIONER EGGERT: Sure. Thank you,  
10 Commissioner Byron.

11           I, also, just wanted to say good morning to  
12 everyone, I'm very happy to be here as well. I'm relatively  
13 new to the Commission and I'm relatively new to this case.  
14 So, I've been learning quite a bit reading up on the  
15 materials and very much looking forward to learning more  
16 today, as we bring the evidence to this case before us.

17           Just to add a little bit to what Commissioner  
18 Byron was commenting on, with respect to the State goals, as  
19 he said, the 20 percent goal, which is something that we  
20 expect to probably achieve within the next couple of years,  
21 and the 33 percent goal by 2020 is also part of a statewide  
22 goal of reducing greenhouse gas emissions back to 1990  
23 levels by 2020.

24           And we see this as sort of the first step along  
25 the path for California's contribution to a stabilized

1 climate. And renewables is a key component of that goal.

2           Within the Commission, we have what we call a  
3 loading order, which is the priority of resources that we  
4 try to achieve to meet our energy and environmental goals  
5 and it starts with energy efficiency.

6           And I'm very happy to serve on the committee that  
7 oversees energy efficiency policy, with Commissioner Byron,  
8 that's goal number one.

9           Then, renewables for new generation, and then only  
10 after exhausting efficiency and renewables do we look to  
11 clear fossil generation.

12           And if you kind of look at the numbers, to meet  
13 the 33 percent goal, we're going to need between about  
14 15,000 and 25,000 megawatts of new renewable generation.  
15 And under our review, within the CEC, we have about 5,000  
16 megawatts under review, of which this project is about 750.

17           What's been great about working for the Commission  
18 is to how comprehensive and exhaustive the process is for  
19 reviewing these cases, over 20 technical areas reviewed by a  
20 phenomenal team of staff that we have, and then the process,  
21 itself, allows for significant input from outside parties,  
22 from intervenors and the general public.

23           So, I'm very much looking forward to seeing that  
24 today. So, thank you.

25           HEARING OFFICER RENAUD: Thank you,

1 Commissioners. I'm going to try and use this stand so I  
2 have my hands -- well, my hand free. There we are. All  
3 right.

4 Well, again, welcome to this evidentiary hearing.  
5 My name is Raoul Renaud and I'm the hearing advisor  
6 appointed by the Commission to handle the hearings in this  
7 matter and to assist the Commissioners in -- or the  
8 Committee in preparing their recommended decision.

9 The ultimate end of this process, the application  
10 for certification process is a decision by the Commission on  
11 the application, basically, whether or not to grant the  
12 applicant the license to construct and operate the project.

13 Under the law, the decision needs to be based upon  
14 evidence in the legal sense. That is evidence that is in  
15 the record, either in the form of testimony under oath or  
16 written testimony, written documents pertaining to the  
17 subject matter.

18 Other materials outside the scope of legal  
19 evidence really cannot be used as part of the decision,  
20 although it can be considered. An example of that would be  
21 public comment, where members of the public comment and  
22 speak their minds about the project. The Committee can  
23 consider these comments, but they aren't evidence in the  
24 technical sense.

25 You'll see that when we have witnesses testifying

1 today they will be sworn in and testify under oath, just as  
2 if we were in court.

3           And we have a number of parties here today and I'd  
4 like to ask each of them to introduce themselves. I'll  
5 start with the Applicant, represented by Allan Thompson,  
6 their attorney.

7           MR. THOMPSON: Thank you very much. To my far  
8 left is Ella Foley Gannon, of the law firm of Bingham  
9 McCutchen, co-counsel in this proceeding.

10           And between us is Marc VanPatten, of Tessera.

11           We have a number of individuals in the audience,  
12 who are our experts, whom you will meet during the course of  
13 today and, hopefully, not tomorrow, but possibly tomorrow.

14           HEARING OFFICER RENAUD: All right, good. Thank  
15 you.

16           Is that mike on? It is, okay, it's hard to tell  
17 from over here.

18           And let me now turn to staff, represented by their  
19 attorney, Caryn Holmes, if you would introduce your people,  
20 please?

21           MS. HOLMES: Caryn Holmes, staff counsel. And to  
22 my right is Christopher Meyer, the CEC's project manager for  
23 this project. We will have several witnesses available by  
24 phone later this morning, and we have one witness coming in  
25 Shahab Khoshmashrab, at about one o'clock this afternoon to

1 talk about reliability, efficiency and facility design.

2 HEARING OFFICER RENAUD: Thank you. Now, we  
3 also, as part of our public process, allow parties to become  
4 part of the proceeding and have the right, then, to  
5 introduce evidence, introduce witnesses, cross-examine and  
6 so on. And in this case we have four of those parties, we  
7 call them intervenors. We'll do our introductions from  
8 them, as well.

9 First, we have California Unions for Reliable  
10 Energy, known as CURE, represented by Counsel Loulena Miles.

11 MS. MILES: Hi. I will have a couple experts as  
12 well. Is it necessary to use the microphone for the phone  
13 portion?

14 HEARING OFFICER RENAUD: Probably that helps, but  
15 I'll check on that.

16 MS. MILES: Okay. We'll have a couple experts as  
17 well, available by phone, for cross-examination in biology  
18 and soil and water resources today.

19 HEARING OFFICER RENAUD: Thank you.

20 And Tom Budlong. Mr. Budlong, good morning?

21 MR. BUDLONG: Good morning.

22 HEARING OFFICER RENAUD: If you'd just introduce  
23 yourself? You're Tom Budlong, Intervenor.

24 MR. BUDLONG: I'm Tom Budlong, right.

25 HEARING OFFICER RENAUD: And I understand you

1 have an attorney with you today?

2 MR. BUDLONG: Yes, I do.

3 MR. SILVER: Yes, I'm Larry Silver, California  
4 Environmental Law Project, representing the Intervenor.

5 HEARING OFFICER RENAUD: Thank you and welcome.  
6 California Native Plant Society.

7 MR. BELTRAN: My name's Tom Beltran, California  
8 Native Plant Society.

9 HEARING OFFICER RENAUD: Welcome.

10 And Mr. Hossein -- I'm going to mispronounce this.

11 MR. ALIMAMAGHANI: Good morning, my name is  
12 Hossein Alimamaghani.

13 HEARING OFFICER RENAUD: Welcome.

14 MR. ALIMAMAGHANI: Thank you. And I represent  
15 myself and my wife is here, too.

16 HEARING OFFICER RENAUD: All right, very good.

17 MR. ALIMAMAGHANI: Thank you.

18 HEARING OFFICER RENAUD: Thank you.

19 We also have a phone-in setup, where people can  
20 phone in on a toll-free number and listen, and also speak  
21 when the time comes. And from the beeping this phone has  
22 been making, I know we have a few callers.

23 Any of the callers wish to introduce themselves at  
24 this time, just go ahead. All right.

25 MR. STOBAUGH: This is Jim Stobaugh, with the

1 Bureau of Land Management, I'm the assigned Project Manager  
2 of the Imperial Valley Project. I'm partially listening  
3 today.

4 HEARING OFFICER RENAUD: Thank you, Mr. Stobaugh.  
5 I don't know if you could hear? Folks, could you hear that?  
6 Jim Stobaugh, from the Bureau of Land Management.

7 MR. STOBAUGH: For the most part I can, but I do  
8 appreciate folks, if they could use their outside voices,  
9 that would be great.

10 HEARING OFFICER RENAUD: All right, thank you.  
11 Anyone else on the phone care to introduce  
12 themselves. All right.

13 MR. CASHEN: This is Scott Cashen, biologist for  
14 CURE.

15 HEARING OFFICER RENAUD: All right. Your name  
16 again, please?

17 MR. CASHEN: Scott Cashen.

18 HEARING OFFICER RENAUD: Scott Cashen. All  
19 right, good. Welcome.

20 Are you able to hear what's going on, Scott?

21 MR. CASHEN: There's a lot of sort of crinkling  
22 and rustling.

23 HEARING OFFICER RENAUD: Okay, we'll try to stop  
24 wadding up pieces of paper in front of the phone, so you can  
25 hear better.

1 MR. CASHEN: Great.

2 HEARING OFFICER RENAUD: Anyone else on the phone  
3 care to speak up? You don't have to.

4 MR. BOWLES: Chris Bowles and Chris Campbell,  
5 expert witnesses for CURE on water resources.

6 HEARING OFFICER RENAUD: Chris Bowls and Chris  
7 Campbell. All right, very good. Thank you.

8 Anyone else? All right, thank you. You don't  
9 have to --

10 MR. BELELLO: Tony Belello, from LSA and  
11 Associates.

12 HEARING OFFICER RENAUD: All right. And the name  
13 again, please? I'm sorry.

14 MR. BELELLO: Tony Belello.

15 HEARING OFFICER RENAUD: All right. Very good,  
16 thank you. Are you a member of the public, listening in  
17 today?

18 MR. BELELLO: We're working with the BLM for a  
19 third-party review.

20 HEARING OFFICER RENAUD: All right. Very good,  
21 thank you.

22 Anyone else on the phone?

23 All right. Well, thank you. Those of you on the  
24 telephone, when the time comes for you to speak, we'll let  
25 you know. In the meantime, if you could, kind of be quiet.

1 I don't know how I can say that any more politely. But any  
2 noise you make on your end is going to be heard in here by a  
3 lot of people. So, you know, just sort of bear that in  
4 mind.

5 If your dog starts barking, you know, ask him to  
6 stop.

7 COMMISSIONER BYRON: If I may?

8 HEARING OFFICER RENAUD: Yeah.

9 COMMISSIONER BYRON: What we've also learned, for  
10 those on the phone, please do not put us on hold. Sometimes  
11 you're not aware that your hold system produces music and we  
12 will have to kill the line in order to continue the hearing.  
13 So, put us on mute, but not on hold. Thank you.

14 HEARING OFFICER RENAUD: All right. Thanks  
15 again. All right, very good.

16 Each time that a new caller calls in we'll hear a  
17 beep and that will signal that we have an additional party  
18 on the phone line.

19 The basic schedule today is that we will go from  
20 now until about one o'clock with our evidentiary  
21 presentations, then we'll take a lunch break, come back and  
22 go from 2:00 to 5:00, and then at 5:30 we'll open the mikes  
23 up for public comment.

24 We'll start again tomorrow, if we haven't  
25 concluded everything we need to do today.

1           Just a few instructions for those of you who are  
2 going to be putting on evidence today and may not have had  
3 the benefit of doing this before or had legal training, when  
4 you want to introduce evidence and testimony, the procedure  
5 is that you will state the name of the witness and their  
6 subject, what they'll be speaking about.

7           Testimony should come in, in the form of questions  
8 and answers. Obviously, if you, yourself, are the witness,  
9 you don't need to ask yourself questions. But if you have a  
10 witness, it's best to ask questions and then get answers to  
11 those questions.

12           If you have a document you wish to introduce into  
13 evidence, I presume you've already supplied that and it's on  
14 the exhibit list. Each of the parties participating today,  
15 I should have an exhibit list. If you don't, there are  
16 copies on the front table.

17           And there's also a topic and witness list for the  
18 parties and there are additional copies on the front table,  
19 and any of you are welcome to view these as well.

20           The topic and witness list sets forth the topics,  
21 the environmental topics that need to be covered in order to  
22 complete the evidentiary record, and sets forth each party's  
23 intentions with respect to introducing witnesses and cross-  
24 examining.

25           Cross-examination is the process of asking the

1 witness questions about what they just said. It is  
2 different from rebuttal. And I think I want to spend a  
3 moment just to explain that for your benefit.

4           Let's say Mr. Thompson brings in a witness who  
5 testifies, under oath, I went to the site of the proposed  
6 project and there is no sand there. Okay. You now want  
7 to -- you're a party and now you want to cross-examine that  
8 witness, so you might ask something like, well, how do you  
9 know there's no sand there, have you ever been to the site?

10           And the witness would say, well, yes, I went to  
11 the site.

12           Well, did you get off the paved road?

13           Well, no.

14           You know, so that's cross-examination, you're  
15 boring into what they just said.

16           Now, you would also have the right to introduce  
17 rebuttal testimony. Rebuttal testimony is your party's  
18 testimony that would contradict what was just said. So, you  
19 might bring in your own witness, who would testify, well,  
20 yes, there is sand out there in the desert, at the site.  
21 I've been there, personally. I've brought photographs and I  
22 also have someone else with me, who was there and can  
23 corroborate it. And, also, I have photographs me standing  
24 in the site holding sand.

25           Okay, that would be your rebuttal testimony.

1 So, it's sometimes hard to keep in mind the distinction  
2 between the two, but if you would try to do that, it will  
3 really make our proceedings a lot more orderly today.

4 All right. Now, we have these big microphones on  
5 the tables and we also have these little microphones. The  
6 big microphones are for the public address system. And the  
7 room isn't that big, I suspect you can probably all hear us,  
8 whether or not we use these. But I think the benefit of  
9 them is that that will help the callers on the phone hear,  
10 because they have to pick it up through this thing that's in  
11 front of me. So, we'll try to remember to use the mikes as  
12 much as possible.

13 Is the AV fellow still here? The sound guy? No.  
14 If I ever see him, I'm going to ask if we can get a couple  
15 more mikes at the table, so we don't have to pass these  
16 around.

17 Now, these little mikes are part of the court  
18 reporter's equipment. And that's another thing we do as  
19 part of our process is everything that's said here today is  
20 being recorded by a certified court reporter, and that  
21 recording will be transcribed into a typed booklet, which  
22 will show everything everybody said. And that will form a  
23 good deal of the evidentiary record here, simply having  
24 written down exactly what the people said in the room.

25 And that transcript will be available for viewing

1 on the Commission website, what's it, about two weeks,  
2 roughly? All right, it takes a while to prepare that, as  
3 you might imagine. But, eventually, there will be a written  
4 record of everything everybody said here today.

5 All right. I'd also need to introduce a very  
6 important person here, standing over to my right is Jennifer  
7 Jennings, our Public Advisor. The Commission maintains a  
8 Public Advisor's Office to assist members of the public in  
9 participating in these proceedings.

10 And, Jennifer, I don't know if you'd like to say  
11 anything but --

12 MS. JENNINGS: Just that the exhibit list haven't  
13 previously been on the table, but it is now, if anybody  
14 wants to see the exhibit list and get a copy.

15 And also, I know things are tight up there, but we  
16 have two Intervenors, who are in the audience, who I think  
17 need to make their way to the table.

18 HEARING OFFICER RENAUD: Yes, we'd to, maybe over  
19 there next to CNPS.

20 MS. JENNINGS: Is that all right.

21 HEARING OFFICER RENAUD: You're welcome. Of  
22 course, that's the Intervenor, those spaces are for  
23 Intervenors so --

24 MS. JENNINGS: Mr. Alimamaghani, do you want to go  
25 over next to Ms. Miles?

1 MR. ALIMAMAGHANI: Sure.

2 HEARING OFFICER RENAUD: All right. Thank you  
3 for pointing that out.

4 And, Ms. Jennings, it's so good to see you here  
5 this morning. Ms. Jennings was fairly adamant that we make  
6 sure we conduct this evidentiary hearing here, in El Centro,  
7 which we're inclined to do.

8 But I should mention, as you probably know, the  
9 State's in a little bit of a financial bind so we do try and  
10 maximize our resources.

11 But, Ms. Jennings, since you got us all here, I'm  
12 very glad you're here this morning, also.

13 MS. JENNINGS: Thank you.

14 HEARING OFFICER RENAUD: All right. And one more  
15 housekeeping matter, maybe two, restrooms are down that hall  
16 to my left, your right. And in the back of the room are  
17 some refreshments, provided by the Applicant. They're there  
18 for your convenience. We try to minimize the number of  
19 breaks we take, so if you start to feel hungry or thirsty,  
20 feel free to help yourself to what's back there.

21 All right. Unless anybody has anything further on  
22 kind of introductory matters, I think we can begin.

23 Okay. The order presentations today will be we'll  
24 start with the Applicant. the Applicant has the burden of  
25 proof here, so they get to go first.

1           Once an Applicant presents a witness, then we'll  
2 see if any party wants to cross-examine that witness, we'll  
3 hear the cross-examination. Then, if any party wishes to  
4 introduce rebuttal to that testimony, they can do that. And  
5 we'll proceed that way through each party and each topic.

6           So, it's an orderly process, but it can take some  
7 time. That's why we devoted this day to it and we have  
8 tomorrow reserved, as well, if we need that.

9           I think we'll then turn to Mr. Thompson, the  
10 Applicant's counsel.

11           MR. THOMPSON: Thank you. Two preliminary  
12 matters, if you will. First of all, I'd like to thank San  
13 Diego Gas & Electric Company for providing this room for us  
14 here, today, they're a great supporter of the project and I  
15 want to thank them for that.

16           HEARING OFFICER RENAUD: All right. I realize I  
17 neglected one more thing, before we kind of get into the  
18 evidentiary presentations. We have Supervisor, a County  
19 Supervisor present today. Would you care to address the  
20 room?

21           MR. THOMPSON: And the mayor.

22           HEARING OFFICER RENAUD: And we also have the  
23 mayor. So, please come forward, if you wish, and say hello.

24           Welcome, we're glad to have you here.

25           MR. TERRIZAS: Thank you. Actually, that's why

1 we're here, we want to welcome you, welcome you to Imperial  
2 County.

3 I'm Jack Terrizas, I'm the Vice-Chair for Imperial  
4 County Board of Supervisors.

5 I know you have a daunting task before you.  
6 Obviously, anything you decide on certainly has an impact on  
7 the environment, whether it's positive or negative. So, you  
8 have a great challenging act of deciding what you can move  
9 forward with or not.

10 At the same time, before you have the daunting  
11 task that we have mandates, renewable mandates. We have  
12 renewable mandates, we have the desire to get away from the  
13 dependence on oil, especially foreign oil, so, obviously, we  
14 have a great push for renewables.

15 With that, I know you have a long day, so I'm just  
16 going to be very brief and again welcome you, and at the  
17 same time thank you for bringing in the cool breeze over the  
18 mountains.

19 HEARING OFFICER RENAUD: Yes, it's very nice.

20 MR. TERRIZAS: Otherwise, we'd be at about 98  
21 degrees about this time of day. So, you have created quite  
22 a change for us.

23 At the same time, the Mayor of El Centro would  
24 also like to say a few words.

25 HEARING OFFICER RENAUD: Thank you, Jack.

1 MS. VIEGAS-WALKER: Good morning, I'm Cheryl  
2 Viegas-Walker, Mayor of El Centro. I'd like to welcome you  
3 all here today.

4 I think that anyone who's read our newspaper in  
5 the last month understands that we must be looking to  
6 renewable sources for energy. And as Mr. Terrizas said, we  
7 must be moving away from oil as a resource, because we are  
8 all aware of the devastating impacts that can happen when  
9 things go awry.

10 I want to put a personal spin with regard to this  
11 project. The City of El Centro has submitted a letter of  
12 support. You're sitting in a county that is one of the  
13 poorest in California, of the 58 counties. We have an  
14 unemployment rate that is hovering right around 27 percent,  
15 and we're all delighted because that's a trend downward from  
16 the 30 percent, where it was.

17 We see this project as an opportunity to bring  
18 great social and economic value to our community, and that  
19 is one of the primary reasons why the City of El Centro, the  
20 County of Imperial are here today, united in their support  
21 for this project.

22 We'd like to thank you for this opportunity to  
23 address you this morning.

24 MR. TERRIZAS: Thank you very much.

25 HEARING OFFICER RENAUD: Thank you very much.

1 All right. Mr. Thompson, go ahead.

2 MR. THOMPSON: Thank you. One further  
3 housekeeping, if I may, Mr. Renaud. On May 9<sup>th</sup> -- on May 10  
4 the Applicant submitted its rebuttal testimony. I was  
5 wondering if I could have that document marked as an  
6 exhibit. As we go through the witnesses, it would be  
7 helpful to have an exhibit number.

8 Next in order, I think, is 115, for the Applicant.

9 HEARING OFFICER RENAUD: Yes, that will be  
10 Exhibit 115.

11 Any objection by the parties?

12 MS. HOLMES: No objection.

13 HEARING OFFICER RENAUD: All right, thank you.

14 MR. THOMPSON: And also, additionally, we put in  
15 testimony on May 17, if we could have that marked as the  
16 next exhibit, 116.

17 HEARING OFFICER RENAUD: Okay, that would be  
18 Exhibit 116. Any objection?

19 MS. HOLMES: Does the document have a title?

20 HEARING OFFICER RENAUD: Is that the compilation;  
21 is that what you're referring to?

22 MR. THOMPSON: While we're searching for that  
23 title, if I could suggest a first step in going forward with  
24 the testimony, we would like to put on Mr. VanPatten and Mr.  
25 Gallagher on project description.

1 I know Mr. Budlong has indicated some -- something  
2 in excess of an hour of cross-examination in the areas of  
3 efficiency reliability.

4 We would have our witnesses available for those  
5 areas and cross, if that's an acceptable way to go?

6 HEARING OFFICER RENAUD: Sure.

7 MR. THOMPSON: I would like to call Mr. VanPatten  
8 and Mr. Gallagher to the stand, please.

9 HEARING OFFICER RENAUD: Thank you.

10 MS. HOLMES: Hearing Officer Renaud?

11 HEARING OFFICER RENAUD: Mr. Gallagher, come  
12 forward?

13 Yes, Ms. Holmes.

14 MS. HOLMES: Perhaps -- perhaps this is a good  
15 time to raise this, one of the questions I'd like to ask  
16 about how we're going to be marking the exhibits has to do  
17 with the fact that the exhibit wasn't -- 115 and I believe  
18 116 is going to be the submittal of testimony compilation --

19 HEARING OFFICER RENAUD: A compilation, yes.

20 MS. HOLMES: -- that is the May 17<sup>th</sup> submittal.  
21 So, number one there are -- there are individual pieces of  
22 testimony contained in there that are separately marked. In  
23 addition, there are declarations in each one that are not  
24 marked individually.

25 Is the anticipation, then, that if we wanted to

1 cite to those declarations, that we would cite to the  
2 exhibit number and then specify which particular  
3 declarations, because they are not separately identified.

4 HEARING OFFICER RENAUD: We could do that or  
5 break it up into exhibit numbers. Since they aren't  
6 currently marked within the compilation, it might be easiest  
7 just to use a bulk number.

8 MS. HOLMES: The other --

9 HEARING OFFICER RENAUD: Let me ask Mr. Thompson,  
10 though. That compilation is stuff that's already been  
11 marked elsewhere, right?

12 MR. THOMPSON: I don't think it has been marked as  
13 an exhibit. It has been submitted and distributed to the  
14 parties.

15 HEARING OFFICER RENAUD: But the compilation --

16 MS. HOLMES: It contains exhibits that have been  
17 previously marked, but it also contains declarations. And  
18 my understanding is, and perhaps I'm incorrect, that the  
19 declarations that are contained in here supersede the  
20 declarations submitted by the same people that were  
21 submitted previously.

22 In other words, there are multiple declarations on  
23 the same topics, I believe, in the different exhibits that  
24 you have submitted.

25 MR. THOMPSON: Yes, but I don't believe that

1 they're -- I don't believe that they replace the previous  
2 declarations. I think, in an abundance of caution, we had  
3 all of our witnesses sign under declaration.

4 HEARING OFFICER RENAUD: Yeah, my understanding  
5 was they complement or add to.

6 MS. HOLMES: So, for example, we might have three  
7 or four declarations on biology, we might have three or four  
8 declarations on project design, and we just need to cite to  
9 the exhibit number and the date, because there's different  
10 declarations contained in each of these three documents.

11 MR. THOMPSON: Yes, that would be my  
12 recommendation.

13 MS. HOLMES: Thank you.

14 HEARING OFFICER RENAUD: I think, rather than try  
15 and break that big document down, at least today, let's  
16 refer to it as 115 and 116. If later on, the parties agree  
17 that we should break it apart, we can do that. We don't  
18 really need to be here to do that.

19 All right. Thank you.

20 Oh, now, I should swear the witnesses. Let me ask  
21 the court reporter, do you -- some court reporters do the  
22 swearing, some don't.

23 THE REPORTER: I can do that.

24 HEARING OFFICER RENAUD: Okay, Ms. Holmes?

25 MS. HOLMES: I'm sorry, I still have another

1 question about this. The exhibit list that you have  
2 prepared has some of the declarations listed as --  
3 individual pieces as individual exhibits, but I don't  
4 believe that all of the declarations are listed there.  
5 Because, as I said, there are multiple declarations from the  
6 same person contained in the different volumes that you have  
7 submitted.

8 HEARING OFFICER RENAUD: Well, yeah, we have  
9 the -- I believe the opening testimony is 100 through 114 of  
10 the Applicant's declarations. There was --

11 MS. HOLMES: I see what you're saying. So, those  
12 are separately marked and then the subsequent ones are just  
13 marked within another exhibit.

14 HEARING OFFICER RENAUD: Right.

15 MS. HOLMES: Thank you. I just wanted to make  
16 sure the record's clear.

17 MR. THOMPSON: Correct. Sorry, I didn't catch on.

18 HEARING OFFICER RENAUD: All right. Madam  
19 Reporter, if you would swear the witnesses.

20 THE REPORTER: Would you please stand? And one at  
21 a time, okay. Please raise your right hand.

22 Whereupon,

23 MARC VAN PATTEN

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

1 THE REPORTER: Would you please state your full  
2 name for the record, please?

3 MR. VAN PATTEN: Marc Carlos VanPatten.

4 THE REPORTER: Thank you.

5 The next witness.

6 Whereupon,

7 SEAN GALLAGHER

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

10 THE REPORTER: Thank you. Would you please state  
11 your name for the record, please?

12 MR. GALLAGHER: Sean Gallagher.

13 THE REPORTER: Thank you.

14 MR. THOMPSON: Preliminary to some rebuttal  
15 testimony we'd like to do live here, we understand that in  
16 putting together our rebuttal and cross estimates, we failed  
17 to allow any time for this panel. We would offer to cede  
18 some of our time in the water area, if that would help keep  
19 on track.

20 HEARING OFFICER RENAUD: Yeah, I appreciate the  
21 offer, but I think let's just proceed and put on, hear your  
22 evidence and we'll take the time we need to take.

23 MR. THOMPSON: Got it, okay.

24 Let me first turn to you, Mr. VanPatten. Are you  
25 the same Marc VanPatten that have submitted testimony on two

1 occasions, previously filed in this proceeding?

2 MR. VAN PATTEN: Yes.

3 MR. THOMPSON: And if I understand correctly, your  
4 testimony now exists in Exhibit 108, which is the first  
5 package in March that went in, and now part of Exhibit 37?

6 MR. VAN PATTEN: Correct.

7 MR. THOMPSON: Since the filing of the original  
8 testimony, Mr. Kostok has left the employ of Tessera, is my  
9 understanding. His exhibit was marked 103. Was that  
10 Exhibit 103 and the exhibits that were sponsored in that  
11 prepared testimony, are you familiar with that material,  
12 have you reviewed it and do you adopt that as your own?

13 MR. VAN PATTEN: Yes, I do.

14 MR. THOMPSON: I do have two corrections that I'm  
15 going to suggest to you. One is in Exhibit 13, I think  
16 there was a typo that exhibit -- the reference to Exhibit 13  
17 as being sponsored by the Applicant had the responses of 104  
18 to 126, instead of 124 to 126, and that's a typo. Do you  
19 accept that?

20 MR. VAN PATTEN: Yes.

21 MR. THOMPSON: And what you're testifying here  
22 today is the executive summary and project description,  
23 facility design, power plant efficiency, transmission system  
24 engineering, power plant reliability, transmission line  
25 safety and nuisance. Is that correct?

1 MR. VAN PATTEN: That's correct.

2 MR. THOMPSON: The other suggested change --  
3 changes, and there are three, I think that we forgot to put  
4 in that you are responsible for Exhibit 1, which is  
5 Applicant's A, of Section 1, which is the executive summary,  
6 executive 3, responses 7 and 12, and Exhibit 6, BLM  
7 responses 1 through 18. Is that correct?

8 MR. VAN PATTEN: That's correct.

9 MR. THOMPSON: Will you provide a brief overview  
10 of the Imperial Valley Solar Project and the major changes  
11 that have occurred in this project?

12 MR. VAN PATTEN: Yes. When Stirling Energy  
13 Systems, the predecessor to the development company, Tessera  
14 Solar North America, was looking for a project in Imperial  
15 Valley, they met with the BLM to try to find a place that  
16 was suitable for such a project.

17 And in that search for a location they came across  
18 the current site and a location that could locate up to 900  
19 megawatts. The BLM thought, we understand, at the time that  
20 it was a disturbed site. It had many features around the  
21 site, like roadways, railways, things of that nature that  
22 would make it something difficult for habitat to cross, and  
23 would be a suitable site for a solar facility, like the one  
24 we were looking for.

25 And so, our initial application to the BLM

1 included a proposal for a 900-megawatt project.

2           Since then, and at the submission of the AFC, we  
3 had subsequently reduced or looked to reduce some of the  
4 impacts that we found in our initial exploration of the  
5 project. And we filed a 750-megawatt project, which was a  
6 result of finding an area to the east of the project site,  
7 the original 900, that had environmentally sensitive items  
8 that we wanted to avoid.

9           There were things that were done in that reduction  
10 of size that included reducing roadway features, as well.

11           Subsequent to filing the ASC, we've been working  
12 under the Army Corps of Engineers' 404-BI process to  
13 identify the least environmentally damaging practicable  
14 alternative.

15           And in that process we're looking to work with the  
16 Army Corps to further reduce impacts at the site. We're not  
17 complete through that process and it's possible that we're  
18 further mitigate or further avoid other impacts to the site  
19 in that process.

20           Another area where we've seen changes is in water  
21 supply. We initially thought that we could, in our original  
22 filing of AFC use IID water. And for one reason or another,  
23 including boundary of service of the IID system, we couldn't  
24 use IID water as we had contemplated.

25           And we moved towards a reclaimed water solution

1 from the City of Seeley, the Seeley Wastewater Treatment  
2 Facility water supply, for which we entered a contract for  
3 supply of water for the project.

4 Subsequent to executing that contract, we  
5 understand that the City of Seeley is undergoing a  
6 permitting process there, which is currently an EIR, and  
7 that that EIR process is scheduled to be completed sometime  
8 late in 2010.

9 We have an objective of starting construction  
10 within 2010 and we're targeting the October time frame. And  
11 as a precaution, and in order to ensure that we could get  
12 started, we have contracted with Dan Boyer Water Company to  
13 supply water until such time as the Seeley Wastewater  
14 Treatment Facility is permitted and constructed.

15 On the hydrogen system, we have -- we're using a  
16 centralized system and through our construction of the  
17 Maricopa Facility, near Phoenix, our test facility -- it's  
18 not a test facility, it's our first commercial demonstration  
19 plan, we've discovered that there needs to be some  
20 modifications to the hydrogen system, that came about as a  
21 result of us building this commercial facility.

22 Two of the changes occurred in that, in the  
23 centralized system we had not calculated the hydrogen fill  
24 quantities accurately and in this test facility, or  
25 demonstration facility at Maricopa, we've determined that

1 the fill quantities have to be increased from what we  
2 originally estimated. That's one change.

3           The other change comes about from our desire to  
4 improve the efficiency of the engine throughout its cycle  
5 during the day, which requires the increase of hydrogen  
6 pressure and supply to the engine at the start of the  
7 production of power, at the early part of the day.

8           And as a result of that higher pressure, earlier  
9 pressurization of the engine hydrogen, we're also  
10 experiencing, as a result of our Maricopa facility, higher  
11 leakage rates of hydrogen, which then requires us then to  
12 use more hydrogen throughout the year.

13           MR. THOMPSON: The Applicant's been criticized for  
14 providing a recent voluminous submittal on several of these  
15 changes. Would you care to comment on that submittal?

16           MR. VAN PATTEN: Most of the changes that were in  
17 there, although voluminous, were not significant.

18           In the case of the Dan Boyer well, this is an  
19 existing, permitted well, and we've supplied information,  
20 including the EIR that was prepared for -- by U.S. Gypsum,  
21 for a study they were doing, which provides information to  
22 the Commission that would help it in its analysis, but that  
23 is, out of an abundance of caution, something that we  
24 thought would be helpful to the Commission and staff for  
25 evaluation.

1           We've also provided some hydrologic data on the  
2 well and the aquifer, again, despite the fact that this is a  
3 permitted well that's been operating since the 50's,  
4 providing the local community with water for a commercial  
5 basis, and up until the time, now, that we're proposing to  
6 use it. And will be providing water on a commercial basis  
7 going forward, once we're done using it.

8           The significant amount of air data that was also  
9 provided in that submittal, as a result of calculating truck  
10 traffic emissions, which is the normal process of the  
11 analysis is to do quite a bit of an extensive study on truck  
12 traffic emissions, and so forth. That's quite voluminous,  
13 but it doesn't change the conclusions that there's less than  
14 significant impacts to the project.

15           It also includes some additional information that  
16 we had available to us as a result of the Seeley EIR  
17 process, there was quite a bit of analysis work done there.  
18 It's information that we thought would be very helpful to  
19 the Commission and staff, as it provides further evidence of  
20 less than significant impacts on the project, from the  
21 things that we were doing there.

22           MR. THOMPSON: Additionally, Mr. VanPatten,  
23 questions have been raised by parties concerning the  
24 viability of the SunCatcher technology. Would you comment  
25 on that, please?

1 MR. VAN PATTEN: The SunCatchers have been in  
2 operation for quite some time. At Sandia, specifically,  
3 they were installed, there was up to six that were installed  
4 between 2004 and 2006, since then have been operating for  
5 more than 38,000 hours.

6 Since Maricopa has been operating, there's a  
7 combined 23,300 operating hours, with 95 percent  
8 availability. We find that those numbers are demonstrating  
9 that the technology is quite viable.

10 MR. THOMPSON: Thank you. One of the exhibits  
11 that you're sponsoring is Exhibit 36, which contains  
12 Applicant suggested changes to conditions of certification  
13 and verifications. Would you comment on that?

14 MR. VAN PATTEN: Most of these are changes to  
15 timing and conditions to allow construction to proceed, and  
16 they're relatively minor.

17 There are several that I'll talk to specifically,  
18 the first one being Bio-8. In Bio-8, it has requested us to  
19 limit our speed on the project site to 15 miles an hour.  
20 Given the size of a project of this nature, a increase,  
21 which we're proposing, to 25 miles per hour, would  
22 significantly reduce the amount of time that it would take  
23 to cross a site this size, and help us with minimizing  
24 additional staff and cost of the project, and would not, in  
25 our understanding, create any additional impact, detrimental

1 impacts to the project.

2 In Bio-9, it talks about a optimum period to  
3 relocate Flat-tailed horned lizards as being in September,  
4 and we need clarifying language in that condition that  
5 allows us to, if we start construction in October and have  
6 not utilized the optimum period to relocate, if required to  
7 relocate Flat-tailed horned lizards, that we be allowed to  
8 continue to look for them in October through whenever we're  
9 doing construction to, in their best interest, try to avoid  
10 harm to them. So, there is a proposal for clarifying  
11 language on Bio-9.

12 In Bio-19, we would like to see the ability for us  
13 to continue construction on the project even though the fall  
14 survey would not have been completed, potentially, by the  
15 time the Commission needs to render a decision.

16 Soil and water XX requires us to do -- or we're  
17 proposing, rather, a condition for soil and water XX that  
18 would require us to report our use of the Dan Boyer water  
19 supply during our use of it, during our entire use of that  
20 water.

21 And on Vis-1, we've mentioned on previous  
22 testimony that we're investigating ways to paint the  
23 SunCatcher, where it's possible, and we're proposing to add  
24 a couple of words of clarification to that condition, that  
25 would allow us to agree on something that would work

1 technologically, and that might be able to mitigate, to some  
2 degree, the visual impact of the SunCatcher. That would  
3 include potentially painting the back of the mirror facets  
4 something other than white, which we currently have, and  
5 going in the direction of a tan shade or a gray shade, but  
6 not very far from white.

7           We're looking at the possibility of doing that and  
8 we think we can get to something that's not a pure white,  
9 but we're not sure how far we can go because it does have a  
10 detrimental impact to the operation of the SunCatcher. The  
11 darker we go it absorbs more heat and the operation of the  
12 SunCatcher is impacted detrimentally.

13           And then there are some areas of the SunCatcher we  
14 just can't paint due to high heat. Obviously, the mirrors  
15 we're not going to paint. The boom gets very hot in the  
16 area where it's focalizing the energy to the heater head and  
17 there are just some areas we just can't paint.

18           MR. THOMPSON: We have -- although possibly not  
19 necessary, we have copies, I believe, of the change to Vis-  
20 1, and solar and water XX, which is the Applicant's proposed  
21 reporting of Dan Boyer water.

22           We can pass these out as information, or if you  
23 want to make them exhibits, we can do that, or we can keep  
24 them in our briefcase.

25           HEARING OFFICER RENAUD: All right. First of

1 all, at the beginning of the questioning about the -- or the  
2 testimony about the proposed changes, I believe, Mr.  
3 Thompson, you said Exhibit 36, and I have that as 38.

4 MR. THOMPSON: I'm sorry, you're right, I can  
5 correct that. Exhibit 38.

6 HEARING OFFICER RENAUD: All right. As far as  
7 the proposed changes you just mentioned, are you saying  
8 those are not contained within 38?

9 MR. THOMPSON: That's correct.

10 HEARING OFFICER RENAUD: All right, I think we  
11 ought to mark those as new exhibits. So, it would be 117  
12 and on.

13 MR. THOMPSON: Actually, now that I look at the  
14 audience, many of them are our witnesses, but we have --  
15 could you pass them out? I think we have about 20 copies or  
16 something like that. We can get more at the noon break, if  
17 need be.

18 MS. HOLMES: Hearing Officer Renaud?

19 HEARING OFFICER RENAUD: Yes, Ms. Holmes.

20 MS. HOLMES: While we're on the conditions, I  
21 don't mean to beat a dead horse here, but I also didn't hear  
22 Mr. Thompson mention Mr. VanPatten's declarations that are  
23 contained in the newly marked Exhibit 115 and 116. So, are  
24 those part of what he is sponsoring today? They were not  
25 listed.

1 MR. THOMPSON: Yes, they are.

2 MS. HOLMES: Thank you.

3 MR. THOMPSON: Okay. I'm now going to be stande  
4 corrected by a member of our team. The soil and water XX is  
5 as it appears in Exhibit 38, so there's no change there.

6 The other one is Vis-4, Corrine? It's Vis-4.

7 HEARING OFFICER RENAUD: All right, the document  
8 you just passed out, Applicant's Revised Proposed Conditions  
9 of Certification to Visual, dated May 24<sup>th</sup>, we'll mark as  
10 Exhibit 117.

11 All right, further testimony?

12 MR. THOMPSON: Not of Mr. VanPatten.

13 HEARING OFFICER RENAUD: All right. Now, Mr.  
14 Gallagher, is he going to be talking about the same  
15 subjects?

16 MR. THOMPSON: Mr. Gallagher overlaps with Mr.  
17 VanPatten in the policy area, so I thought it would be  
18 useful to have them up here.

19 HEARING OFFICER RENAUD: All right.

20 MR. THOMPSON: Most of Mr. Gallagher's testimony  
21 goes to the -- goes to the override issue.

22 HEARING OFFICER RENAUD: Okay.

23 MR. THOMPSON: So, I can take them as a panel or I  
24 can take them individually.

25 HEARING OFFICER RENAUD: I'm just thinking about

1 whether to go through the round of cross-examination now, or  
2 have them both. I'm thinking maybe have them both do their  
3 direct and then, people who want to cross-examine can ask  
4 either or both of them questions.

5           Acceptable to everybody, anyone object to that?  
6 All right, let's do it that way.

7           MR. THOMPSON: Thank you. Mr. Gallagher, I  
8 don't -- have you been sworn?

9           MR. GALLAGHER: Yes.

10          MR. THOMPSON: You are sponsoring, today, your  
11 initial testimony, Exhibit 112; is that correct?

12          MR. GALLAGHER: Yes.

13          MR. THOMPSON: Are there any corrections,  
14 additions or changes to that material?

15          MR. GALLAGHER: I don't believe so, no. There's a  
16 change on the supplemental, is that what you --

17          MR. THOMPSON: Yes. On the May 10, are there any  
18 corrections, additions or changes?

19          MR. GALLAGHER: Yes, on the May 10<sup>th</sup> supplemental  
20 testimony I refer to Exhibit 36 as an exhibit with letters  
21 of support. That really should be labeled Exhibit 35. Or  
22 that has been labeled Exhibit 35 and there's a typo on my  
23 testimony.

24          MS. HOLMES: Are you referring to Exhibit 115,  
25 now?

1 MR. GALLAGHER: Yes.

2 MS. HOLMES: Thank you.

3 MR. THOMPSON: Would you please give a very short  
4 overview of your testimony in this proceeding, for the  
5 benefit of the audience and the Commissioners?

6 MR. GALLAGHER: Yes, I've done essentially two  
7 things. One is I've provided some testimony that would  
8 support the Commission's issuing a statement of overriding  
9 concerns, if that becomes necessary.

10 And I've also submitted some letters of support  
11 from the Governor, from Senator Feinstein, from State  
12 representatives and some local elected officials, as well,  
13 showing support for the project across a number of goals and  
14 mandates.

15 MR. THOMPSON: Well, why is the Applicant  
16 requesting the Commission consider an override?

17 MR. GALLAGHER: Well, we recognize that this  
18 project has impacts on the environment. We've tried to  
19 avoid impacts where we can and we -- I believe that impacts  
20 have been mitigated to the extent feasible, with the  
21 conditions of certification as they'll be adopted.

22 But we recognize that the project may,  
23 nonetheless, have some environmental effects that can't be  
24 fully mitigated and so we would like the Commission to  
25 consider an override at this time, as appropriate.

1           MR. THOMPSON: What do you believe is the basis  
2 for that override?

3           MR. GALLAGHER: Well, in terms of the public  
4 convenience and necessity, the project has benefits that  
5 support a number of federal, state and local policies and  
6 mandates, and I'll go through some of those.

7           First of all, the project supports the President's  
8 goal of developing renewable energy on federal land, as  
9 appropriate. Some of the federal goals are expressed in the  
10 stimulus package that was adopted by the Congress last  
11 spring and signed by the President. And this project will  
12 be eligible for at least two parts of the stimulus package,  
13 the Treasury Grant Program, if we get into production this  
14 year, and the Renewable Energy Loan Guarantee.

15           The project also will provide renewable energy to  
16 meet the State's renewable portfolio standard requirements,  
17 and in particular will make significant contributions to the  
18 obligations that San Diego Gas & Electric has under the RPS  
19 statute, both the existing 20 percent statute and the 33  
20 percent goal that the Governor has announced in his  
21 Executive Order, from May 2008, and it's now been adopted by  
22 each of the energy agencies.

23           The project will also support California's  
24 greenhouse gas production mandates, as expressed by AB 32,  
25 and as supported in the 2009 Integrated Energy Policy

1 Report. The fossil fuel plants represent one of the primary  
2 sources of greenhouse gas emissions in California and the  
3 nation, and development of renewable energy, particularly  
4 solar power, which provides peaking energy, will tend to  
5 reduce greenhouse gas emissions.

6 In addition, the State has adopted a policy to  
7 reduce the use of coastal power plants that use once-through  
8 cooling, and this project will produce renewable energy that  
9 will tend to displace generation from coastal power plants  
10 that use once-through cooling.

11 And associated with the displacement of fossil  
12 generation, there will also be a reduction in criteria air  
13 emissions.

14 And, finally, as you heard from the elected  
15 officials this morning, the project will provide jobs, both  
16 locally, regionally and nationally. The joint construction  
17 would expect the project to provide up to about 700  
18 construction and building trade jobs, most of which we hope  
19 will come from Imperial County. Which, as you heard, is  
20 experiencing an unemployment rate on the order of 27  
21 percent, and we want this project to be a driver of economic  
22 development here, in the Valley.

23 The project will also result in about 160 full  
24 time jobs and will support manufacturing jobs, primarily in  
25 the U.S. auto industry, on the order of several thousand

1 jobs.

2 MR. THOMPSON: Finally, Mr. Gallagher, in terms of  
3 finding reasonable alternatives, do you have any comment on  
4 the alternatives to this project?

5 MR. GALLAGHER: Well, I would refer, primarily, to  
6 the staff assessment, the draft EIS, which concludes that  
7 there -- well, no more feasible alternatives were identified  
8 in either the EFC or in the analysis in the draft, that  
9 would have eliminated -- done a better job of eliminating  
10 potential impacts and while being consistent with the  
11 project's purpose.

12 And our alternatives expert, Carolyn Dunmire, is  
13 available for more detailed questioning on that point.

14 MR. THOMPSON: And does that complete your direct  
15 testimony?

16 MR. GALLAGHER: Yes.

17 MR. THOMPSON: Thank you very much.

18 COMMISSIONER BYRON: A quick question, if I may,  
19 Mr. Gallagher, what was the reference to jobs in the  
20 automotive industry, I didn't quite make that connection?

21 MR. GALLAGHER: The SunCatcher technology is  
22 essentially steel, and glass and engines. And the power  
23 conversion unit, which is mounted at the focal point of the  
24 dish consists primarily of a Stirling engine, which is a  
25 heat engine. That Stirling engine will be manufactured for

1 us by a company called Lenamar, which is an automotive  
2 product supplier that sells engines to car manufacturers.  
3 Lenamar will be -- has been manufacturing engines for us, so  
4 far, in their McClarren facility in Detroit. They will be  
5 manufacturing production volumes both in Ontario, Canada,  
6 and then assembling the power conversion unit in a new  
7 facility they'll be constructing in Arizona.

8           Similarly, the facet, the mirror facet backings,  
9 which support onto which the mirrors, themselves, are  
10 placed, is a piece of stamped steel, and those stamped steel  
11 will be manufactured for us by a company called Tower  
12 Automotive, which makes car doors and car hoods, and those  
13 sorts of things. And those mirror facets will be produced  
14 on an assembly line that use the same technology to stamp  
15 out metal as they do to make -- they make car parts for  
16 their automotive customers.

17           MR. THOMPSON: Thank you, Mr. VanPatten and Mr.  
18 Gallagher. Tendered for cross-examination.

19           HEARING OFFICER RENAUD: All right, thank you.  
20 I'll turn to staff. You didn't indicate cross-examination,  
21 do you wish to?

22           MS. HOLMES: No cross-examination.

23           HEARING OFFICER RENAUD: All right.

24           MS. MILES: I have a couple questions.

25           HEARING OFFICER RENAUD: All right. Maybe, move

1 that mike over toward you so that you'll be a little bit  
2 louder. Thank you.

3 MS. MILES: I just have a few questions for Mr.  
4 VanPatten.

5 You testified that you would like the relocation  
6 or translocation of Flat-tailed horned lizard to occur  
7 beyond the September time frame. Would you like to restate  
8 that, please? I think I heard you say beyond September and  
9 until construction concludes, or I just wanted to clarify  
10 that I heard that correctly.

11 MR. VAN PATTEN: We would like to be able to  
12 relocate Flat-tailed horned lizards throughout the year,  
13 should we find them.

14 MS. MILES: Okay.

15 MR. VAN PATTEN: Whenever they're found.

16 MS. MILES: Are you aware that Flat-tailed horned  
17 lizards are proposed for listing, currently, under the  
18 Federal U.S. Endangered Species Act?

19 MR. VAN PATTEN: I'm aware.

20 MS. MILES: Do you know, according to the staff  
21 assessment, an estimation of the number of Flat-tailed  
22 horned lizards that were found -- or that were estimated to  
23 be on the project site?

24 MR. VAN PATTEN: I'm not aware, specifically, of  
25 that information.

1 MR. THOMPSON: If it's appropriate, you can hold  
2 that question, we have a biology panel that will be coming  
3 up, we'd be happy to answer that.

4 MS. MILES: Okay. And I just wanted to ask  
5 because Mr. VanPatten wanted to testify about the Flat-  
6 tailed horned lizard changes to the conditions of  
7 certification. I thought it might be important to know how  
8 many. The staff assessment, I believe, said 2,000 to 5,000,  
9 potentially, on the project site.

10 So, I wanted to ask, do you know why Flat-tailed  
11 horned lizard, why the range-wide management strategy for  
12 Flat-tailed horned lizard recommends that they be removed  
13 prior to the end of September?

14 MR. VAN PATTEN: That's a question that's probably  
15 better answered by a biologist.

16 MS. MILES: Again, since you were testifying on  
17 this matter, I thought maybe you'd be aware of that.

18 MR. THOMPSON: I believe he was testifying to the  
19 timing and the urgency of starting construction, not the  
20 population of Flat-tailed horned lizard.

21 MS. MILES: Well, I just wanted to clarify on the  
22 record that it's because Flat-tailed horned lizard, my  
23 understanding is that they can't be found after September  
24 because they go underground. And I just wanted to make sure  
25 that that was clear in this room. And we can actually

1 discuss that with the biologists later.

2           And one last question, that you made -- I'm not  
3 sure if you have the answer to this, but this is procedural,  
4 it's regarding the Flat-tailed horned lizard relocation  
5 plan, and I know that's something the Applicant has said is  
6 pending, and that the staff hasn't seen, and that the  
7 parties haven't seen. Do you know when that will be  
8 released?

9           MR. VAN PATTEN: We can probably ask the  
10 biologists, when they're up here.

11           MS. MILES: Okay, thank you. No further  
12 questions.

13           HEARING OFFICER RENAUD: All right, thank you.

14           MS. HOLMES: Hearing Officer Renaud, may I ask one  
15 follow-up question?

16           HEARING OFFICER RENAUD: Please, Ms. Holmes, go  
17 ahead.

18           MS. HOLMES: Mr. VanPatten, would the number of  
19 Flat-tailed horned lizards on the site make a difference to  
20 you in making your recommendation?

21           MR. VAN PATTEN: No.

22           MS. HOLMES: Thank you.

23           HEARING OFFICER RENAUD: Cross-examination of  
24 either witness, by Mr. Budlong.

25           MR. BUDLONG: You testified, I believe, that you

1 changed the hydrogen supply system as a result of what you  
2 learned in the 60-unit demonstration facility in Arizona; is  
3 that correct?

4 MR. VAN PATTEN: That's correct.

5 MR. BUDLONG: Now, originally, in the original  
6 application for certification, in June, you had recommend a  
7 supply system that involve hanging, essentially handing a K  
8 bottle, a bottle of hydrogen on each unit.

9 MR. VAN PATTEN: That's correct.

10 MR. BUDLONG: And then, in June of 2009, you went  
11 to the system that I believe you call a distributed  
12 system --

13 MR. VAN PATTEN: A centralized system.

14 MR. BUDLONG: A centralized system. Which didn't  
15 use the K bottles, so you figured that was a bad idea  
16 because of all the trucks running around delivering K  
17 bottles, and for obvious reasons, and went to a distributed  
18 system with a centralized hydrogen generator, and a system  
19 to distribute hydrogen to the units, as they need it?

20 MR. VAN PATTEN: We went to a centralized system  
21 that distributes to groups of 360 dishes, and they have a --  
22 two bottles, one on the high pressure side, one on the lower  
23 pressure side. We found that that might be a more suitable  
24 technical solution.

25 MR. BUDLONG: Right. And now we have a system

1 which I think you call the centralized system, now.

2 MR. VAN PATTEN: That's the one I just mentioned.

3 MR. BUDLONG: That's the one you just -- so, this  
4 is the third system, now?

5 MR. VAN PATTEN: No.

6 MR. BUDLONG: The first was the K bottle, the  
7 second was the distributed --

8 MR. VAN PATTEN: No, K bottles are distributed,  
9 they're distributed to the SunCatchers.

10 MR. BUDLONG: In the original system you -- if the  
11 bottle -- when the bottle runs out of hydrogen, you deliver  
12 another bottle to it, or the truck runs up to the SunCatcher  
13 and puts another bottle on?

14 MR. VAN PATTEN: I don't recall how it was  
15 described in that system, but you could replace a bottle or  
16 top it off with a supply of hydrogen.

17 MR. BUDLONG: Okay, so you have to drive up to it,  
18 essentially, and that system went away?

19 MR. VAN PATTEN: Correct.

20 MR. BUDLONG: Okay. I call that the first system,  
21 where you had to drive around in trucks and deliver  
22 hydrogen, whether it's another bottle or refilling.

23 Okay, and the second system was the distributed  
24 system and now you have --

25 MR. VAN PATTEN: Centralized.

1 MR. BUDLONG: Centralized. And now we have  
2 distributed?

3 MR. VAN PATTEN: No, the initial system was called  
4 a distributed system because the hydrogen was distributed to  
5 the SunCatchers in K bottles.

6 The new system is a centralized system, where you  
7 have centralized production or storage of hydrogen, which is  
8 distributed to the 360-dish groups. There's a central  
9 hydrogen supply compression system.

10 MR. BUDLONG: Now, on your May 17<sup>th</sup> testimony, on  
11 the second page, it says, "As mentioned in previous rebuttal  
12 testimony on May 10<sup>th</sup>, 2010, when SunCatchers were  
13 constructed at Maricopa, the SunCatchers were modified from  
14 a distributed system to a centralized system."

15 MR. VAN PATTEN: The Maricopa site utilizes a  
16 centralized system.

17 MR. BUDLONG: Also in that testimony, you talk  
18 about the system of the hydrogen at the SunCatcher being  
19 increased from 3.4 to 11 standard cubic feet. And I could  
20 not understand from that testimony why it was necessary to  
21 do that. Can you explain that to me?

22 MR. VAN PATTEN: We need more hydrogen to  
23 initially fill the system than what we previously estimated.

24 MR. BUDLONG: Is the system, is the engine bigger,  
25 that it uses more hydrogen?

1           MR. VAN PATTEN: We need more to initially fill  
2 it. The reason, whether it's an engine that's larger or  
3 tubes that are larger, I can't answer that. But the system  
4 requires more hydrogen.

5           MR. BUDLONG: And there's a possibility the reason  
6 that it's needed is because the engine's bigger?

7           MR. VAN PATTEN: No.

8           MR. BUDLONG: Well, you just said you didn't know  
9 whether it was because it was bigger or --

10          MR. VAN PATTEN: The system requires more  
11 hydrogen. The engine is still a 25 kilowatt engine. It's  
12 not bigger.

13          MR. BUDLONG: I still don't understand why you  
14 need more hydrogen in the system. It's the same size  
15 engine?

16          MR. VAN PATTEN: Correct.

17          MR. BUDLONG: Is the working fluid inside the  
18 engine, has the pressure increased, has that --

19          MR. VAN PATTEN: Not that I'm aware of.

20          MR. BUDLONG: Well, where does this extra, between  
21 3.4 and 11 cubic feet fit, where does it go, where does it  
22 live?

23          MR. VAN PATTEN: That's a different issue. We  
24 made an estimate, initially, of 3.4. We found that by  
25 building the system at Maricopa, it required 11.

1           MR. BUDLONG:  If you keep the same displacement of  
2 the engine, the only way to increase the amount of hydrogen  
3 in it is to increase the pressure in it.

4           MR. VAN PATTEN:  Is that a question?

5           MR. BUDLONG:  Yeah, that's a question.

6           MR. VAN PATTEN:  I'm sorry, Mr. Budlong, could you  
7 repeat it for me so I know what you're --

8           MR. BUDLONG:  I'm trying to find out why it went  
9 from 3.4 to 11 and I haven't found an answer, yet, and I'm  
10 hoping someone here can explain it to me.

11           HEARING OFFICER RENAUD:  It sounds to me as  
12 though you've asked that a few times and the witness doesn't  
13 know.

14           MR. BUDLONG:  Then, my question is who can answer  
15 that question?

16           HEARING OFFICER RENAUD:  You can ask this witness  
17 or either of the witnesses that question, do they know who  
18 knows?

19           MR. BUDLONG:  Okay, excuse me.  Do you know who  
20 knows, who can answer this question for me?

21           MR. VAN PATTEN:  We can call during a break and  
22 get the engineer's answer on it, if you want.

23           MR. BUDLONG:  Yeah, I think that would be  
24 interesting.

25           MR. BUDLONG:  My apologizes, I'm not a practiced -

1 -

2 HEARING OFFICER RENAUD: Mr. Budlong, you're  
3 doing better than some attorneys I've seen, you're doing  
4 very well.

5 MR. THOMPSON: Present company excepted.

6 HEARING OFFICER RENAUD: Present company  
7 excepted, of course.

8 MR. BUDLONG: So, your guidance when it's needed  
9 is appreciated.

10 HEARING OFFICER RENAUD: You're doing just fine.

11 MR. BUDLONG: I believe you've also testified, in  
12 previous testimony, that the amount of leakage that must be  
13 made up in the systems has increased from 195 cubic feet per  
14 year, estimate, to 600 cubic feet per year, estimate. Do  
15 you know why that has changed?

16 MR. VAN PATTEN: Yes.

17 MR. BUDLONG: Okay, why? I'm getting used to  
18 this.

19 MR. VAN PATTEN: There are two reasons. One of  
20 them has to do with pressurization of the system, initially.  
21 At the beginning of the day, when the SunCatcher comes on,  
22 the engineers have found that by pressurizing it sooner  
23 versus going up slowly in pressure and down, if they go to  
24 full pressure initially they get more efficiency out of the  
25 unit and they're able to reduce the stress on the heater

1 head so that they get more of a life cycle reliability of  
2 the material.

3 MR. BUDLONG: Okay, good. Thank you.

4 And I believe as a result of this modification of  
5 the hydrogen system you've presented documents that show how  
6 much the tank size in the hydrogen distribution system  
7 have changed. And I see that in a couple places, it's on  
8 page 215-2 of your -- I believe it's the May 5<sup>th</sup> testimony  
9 and it's one of the major places.

10 Now, I see that what you call a steel tank storing  
11 hydrogen produced by generator has not changed in size. I  
12 see that the hydrogen stored in each SunCatcher, which you  
13 just talked about, from 3.4 to 11 cubic feet has changed by  
14 a factor of a little over three.

15 What's called the low pressure supply tank in the  
16 compressor group has gone 15 times bigger, from 648 to 9,900  
17 cubic feet.

18 The individual high pressure surge tank has gone  
19 from 21 and a half to 489 cubic feet, which is 22 times  
20 bigger.

21 And the high pressure supply tank has gone from  
22 648 cubic feet to 29,333 cubic feet, which is 45 times  
23 bigger.

24 Do you know why there is such a large difference  
25 between the amount of hydrogen at each SunCatcher and the

1 expansion of the tanks in the third -- in the revised  
2 design?

3 MR. GALLAGHER: Please forgive me, can you ask the  
4 question again, what you're trying to get at?

5 MR. BUDLONG: Yeah, to put it more simply, you  
6 need 11 cubic feet, not 3.4, that's about three times as  
7 much. However, in the high pressure supply tank you need  
8 29,000 instead of 648 cubic feet, that's 45 times as much.  
9 And there are other tanks where the increased ratios lie in  
10 between that.

11 Do you know why the great difference in increased  
12 ratios?

13 MR. GALLAGHER: I don't know why.

14 MR. BUDLONG: Do you know someone who does know  
15 why?

16 MR. GALLAGHER: I do know people.

17 MR. BUDLONG: And do you know who that would be?

18 MR. GALLAGHER: If you would like, I can offer up  
19 an answer at a break -- after a break.

20 MR. BUDLONG: Yes, I would. Yeah, I'd appreciate  
21 that. I'd appreciate that.

22 HEARING OFFICER RENAUD: So, Mr. VanPatten, if  
23 you would, once you have that information you'll let us know  
24 and we'll carve out a bit of time for you to come back on  
25 the stand.

1 MR. VAN PATTEN: I will do that.

2 HEARING OFFICER RENAUD: Thank you.

3 MR. THOMPSON: I believe that staff is going to  
4 have someone here at one o'clock or so, on one of the  
5 engineering disciplines, and we were going to volunteer to  
6 put Mr. VanPatten on at the same time, he can answer it  
7 then, if appropriate.

8 HEARING OFFICER RENAUD: That sounds like a good  
9 time to do it.

10 MS. HOLMES: I'm wondering if it's appropriate,  
11 this is just a suggestion, to have the engineer testify so  
12 that Mr. Budlong can ask the questions directly, rather than  
13 going back and forth through intermediaries.

14 HEARING OFFICER RENAUD: I suspect the engineer  
15 is not here.

16 MR. VAN PATTEN: We can have people on the phone.

17 MR. THOMPSON: Let's check into that.

18 HEARING OFFICER RENAUD: Yeah, let's --

19 MR. SILVER: Well, I think it would be appropriate  
20 for Mr. Budlong to be able to examine a witness directly,  
21 otherwise we're just getting hearsay accounts --

22 HEARING OFFICER RENAUD: Yeah, I agree, that --

23 MR. SILVER: -- of what Mr. VanPatten has been  
24 told.

25 HEARING OFFICER RENAUD: That would be the best

1 solution to this is if we could have the person from whom  
2 you will get the information available on the phone for  
3 questioning. If that's not possible, let us know, we'll  
4 work something else out.

5 MR. BUDLONG: Should we then postpone any  
6 technical questions until we have the direct with us?

7 HEARING OFFICER RENAUD: If it's on that limited  
8 topic, I would suggest you do.

9 MR. BUDLONG: Yeah.

10 HEARING OFFICER RENAUD: If you have other  
11 questions for these witnesses, go ahead.

12 MR. BUDLONG: Yeah, I have some more questions.

13 I couldn't find, in the documentation, a schematic  
14 diagram of the hydrogen supply system. It's possible that I  
15 missed it because it's a lot of documentation.

16 MR. VAN PATTEN: There wasn't one included.

17 MR. BUDLONG: There wasn't one. Will you -- can  
18 you provide one?

19 What I'm looking for is something that shows where  
20 all the tanks are, the surge tanks, the supply tanks, the  
21 compressor groups, pressure release valves.

22 MR. VAN PATTEN: I can give you a simplified  
23 description of the system, if you'd like?

24 MR. BUDLONG: There was a description, a verbal  
25 description for one of the systems and I penciled that out as

1 best I could from the verbal, and it still left a lot of  
2 questions. That was on the system just before you modified  
3 it for Maricopa. The Maricopa was even thinner in the  
4 verbal and I couldn't make heads, nor tails, out of it. And  
5 a schematic diagram, which shows where all the components  
6 are and where they lead, where the lines lead, and how big  
7 the lines are, and what the pressures are and the volumes  
8 are that's how you learn how a system is put together, and  
9 that's what I'm looking for.

10 HEARING OFFICER RENAUD: Ask the question.

11 MR. VAN PATTEN: The diagram that you're asking  
12 for would be confidential in regard to pressures, and  
13 volumes, and those kinds of things.

14 However, I can give you a description of the  
15 system, which includes only two tanks. You have a high  
16 pressure tank where the hydrogen that goes to the engine is  
17 stored, it's been compressed. It goes to the engine, it is  
18 used in the engine. Once used, it's rejected to the low  
19 pressure tank. It goes through a compressor back to the  
20 high pressure tank, and so forth. That's a simplified  
21 description of the system.

22 HEARING OFFICER RENAUD: Mr. VanPatten, let me  
23 ask your counsel, we're not very happy with the notion of  
24 something being confidential in these proceedings, unless  
25 that's been arranged in advanced.

1           What's the basis for the confidentiality of an  
2 engineering diagram?

3           MR. VAN PATTEN: I heard Mr. Budlong asking for  
4 pressures, and volumes and flows on a schematic diagram that  
5 would include the engine. The engine is a proprietary piece  
6 of equipment and we can't share the engine technology for  
7 someone to reverse engineer it.

8           HEARING OFFICER RENAUD: Does that sum it up, Mr.  
9 Thompson?

10          MR. THOMPSON: It's better than I could do.

11          HEARING OFFICER RENAUD: Let me ask Mr. Budlong  
12 this, you're asking a lot of questions about hydrogen  
13 system. Why do you want that information, what's your  
14 interest in it?

15          MR. BUDLONG: Hydrogen is dangerous stuff, it  
16 burns easily. In the DEIS, it talks about the total volume  
17 of hydrogen on site being 33,000 cubic feet. In the  
18 revision it talks about the total hydrogen on site being 5  
19 million cubic feet. That's a lot of hydrogen and that can  
20 pose a hazard if not treated right. And I think it's  
21 important we work out --

22          HEARING OFFICER RENAUD: Well, when you get to  
23 your affirmative presentation on this topic will you have  
24 testimony or evidence that the hydrogen system, as proposed,  
25 could constitute a danger?

1 MR. BUDLONG: Yeah.

2 HEARING OFFICER RENAUD: Yeah, I think you'll  
3 need that in order to establish the relevance of this.

4 MR. BUDLONG: Yeah, and the problem is that  
5 without a schematic it's hard to know what's proposed. With  
6 a verbal paragraph of saying there's this tank feeds that  
7 tank, you can't tell without a schematic, you don't know  
8 where the other things are.

9 HEARING OFFICER RENAUD: Right, so --

10 MR. BUDLONG: If, indeed, we have five million  
11 cubic feet here of hydrogen, that's a lot of hydrogen to be  
12 playing with. And, as an example, it's well known, you  
13 know, everybody has images of the Hindenburg burning up in  
14 New Jersey, and that fateful day, and that was something  
15 like seven million cubic feet, where we're talking about  
16 five million cubic feet here.

17 I think there's a good question of -- that brings  
18 up a question.

19 HEARING OFFICER RENAUD: Well, I'm sure the  
20 Applicant at some point will have some evidence or testimony  
21 about safety. Right?

22 MR. THOMPSON: Yes. However, I would point out  
23 that Mr. Budlong did not schedule cross of hazardous  
24 materials management, which is really what he's talking  
25 about.

1 HEARING OFFICER RENAUD: All right. Well, he may  
2 not have understood which topic we would get to this on.  
3 But now that I understand where you're going, I think you  
4 understand what we're going to need from you.

5 MR. BUDLONG: Yeah.

6 HEARING OFFICER RENAUD: And it sounds like, to  
7 me, that the Applicant will have evidence on this subject in  
8 the hazardous materials and possibly worker safety areas.

9 MR. BUDLONG: Yeah. And there's another aspect  
10 and that is that this revision came in very late and we've  
11 had, essentially, a week or two to look at it. And it takes  
12 a while to look at this stuff and figure out what's going  
13 on, and formulate these questions and understand it.

14 And, of course, without a schematic it's really  
15 very difficult to understand.

16 And I'm wondering if some of the data in here  
17 aren't typos. Five million cubic feet of hydrogen is a lot  
18 of hydrogen. Do they really have that much running around?  
19 I don't know, that's what it says here in a couple places.  
20 But that's a huge amount.

21 HEARING OFFICER RENAUD: You can ask that  
22 question.

23 MR. BUDLONG: Yeah.

24 HEARING OFFICER RENAUD: Yes, Ms. Holmes?

25 MS. HOLMES: I was just going to point out that

1 perhaps we can short circuit some of this discussion, now,  
2 is that staff is in the process of evaluating the increased  
3 hydrogen storage on site, increased use of hydrogen, and so  
4 there will be supplemental testimony provided on that  
5 subject, on June 27<sup>th</sup>. And perhaps once we have both the  
6 Applicant's testimony and the staff testimony on the revised  
7 amounts in front of the public and in front of the  
8 Committee, it would be an appropriate time to pick up some  
9 of these additional questions about the changes.

10 HEARING OFFICER RENAUD: Thank you. Thank you  
11 for that. I think that is a good suggestion. The staff is  
12 analyzing the revisions to the AFC that were recently  
13 prepared and there will be staff analysis of that, along  
14 with many, many other topics.

15 MR. BUDLONG: That was another one of my  
16 questions, has staff analyzed it? And I think the answer is  
17 that the staff intends to analyze it.

18 HEARING OFFICER RENAUD: They're on it, yeah.  
19 All right. Well, maybe you can move on to another topic.

20 MR. BUDLONG: Well, I have questions with respect  
21 to the Arizona installation.

22 HEARING OFFICER RENAUD: Go ahead.

23 MR. BUDLONG: I think you mentioned that you have  
24 a five percent -- a 95 percent availability demonstrated in  
25 Arizona, which translates to me to a five percent

1 unavailability. Does that sound about right?

2 MR. VAN PATTEN: That's how I calculate it as  
3 well.

4 MR. BUDLONG: I guess that's a question. Now, in  
5 the DEIS, I think the goal mentioned is a 98 percent  
6 reliability -- availability, which is two percent  
7 unavailability. So the unavailability, which is really what  
8 you're interested in, is something like two and a half times  
9 larger than the goal stated in the DEIS.

10 HEARING OFFICER RENAUD: What's the question,  
11 sir?

12 MR. BUDLONG: Yeah, I'm sorry, what's the  
13 question? Would you confirm that?

14 MR. VAN PATTEN: That appears to be accurate.

15 MR. BUDLONG: I have a question of are you able to  
16 discuss how much maintenance has been required in order to  
17 run the 60-unit Maricopa demonstration facility?

18 MR. VAN PATTEN: Can you be more specific?

19 MR. BUDLONG: Part of the cost of running a system  
20 like this is how much maintenance is required and when you  
21 get 30,000 units in the field that becomes a vital question.  
22 And I'm questioning how much maintenance has been required  
23 in the 60-unit and if you scale that up to the 30,000 unit,  
24 does that make the 30,000-unit still economically viable?  
25 And if that's a question, that's a question.

1           MR. VAN PATTEN: I think I can answer your  
2 question. The Maricopa facility has served us well in  
3 verifying and confirming our estimates of maintenance in the  
4 field for the 30,000 dishes. And it has provided us,  
5 obviously, with an opportunity to hone those processes and  
6 procedures so that we can have a maintenance program on the  
7 site that would support 30,000 dishes.

8           MR. BUDLONG: Can you provide data to support that  
9 to us?

10          MR. THOMPSON: We're getting dangerously close to  
11 proprietary information and information that goes to,  
12 ultimately, the cost of power and the cost of producing  
13 energy and we're very wary of that.

14          HEARING OFFICER RENAUD: You might want to ask  
15 what the basis for his testimony is, Mr. Budlong, see what  
16 you get there.

17          MR. BUDLONG: So asked. Need I repeat the words?  
18 Thank you.

19          HEARING OFFICER RENAUD: How do you know that?

20          MR. BUDLONG: Yeah, how do you know that, what's  
21 the basis for your statement that you show the reliability?

22          MR. VAN PATTEN: These are the words that came  
23 from our head of operations or asset management from the  
24 company, when I asked that question of him.

25          MR. BUDLONG: Is he available to testify?

1 MR. VAN PATTEN: I don't know, we can call.

2 MR. BUDLONG: I'm not a lawyer, is this what you  
3 call hearsay evidence?

4 MS. HOLMES: Yes.

5 HEARING OFFICER RENAUD: Yes, it is. Well,  
6 again, I'm -- the Committee is never comfortable with  
7 suggestions that some evidence may not be made public and we  
8 want to examine those very carefully.

9 So, if there is supporting data for the  
10 reliability claims, you know, I think the Committee would be  
11 very interested in that, unless there is strong legal reason  
12 that you can't provide it.

13 MR. BUDLONG: I think what you're telling me is  
14 that the 60-unit demonstration facility in Maricopa, you're  
15 learning things from that?

16 MR. VAN PATTEN: Absolutely.

17 MR. BUDLONG: And then my next question is, your  
18 next jump in size is going to be something like 60,000  
19 units, considering both Imperial and Calico. And so, you're  
20 going to go from 60 units to essentially full production in  
21 both this facility, Imperial, that we're talking about here,  
22 and others that you have in the State.

23 MR. VAN PATTEN: That's correct.

24 MR. BUDLONG: And that's a factor of a thousand  
25 change, from 60 to 60,000 units. And do you expect that you

1 will learn anything from going to 60,000 units that you  
2 don't know now?

3 MR. VAN PATTEN: I'm sure we will.

4 MR. BUDLONG: And do you have contingency plans  
5 for what happens if you have to make modifications to 60,000  
6 units with regard to financing and mechanical changes?

7 MR. VAN PATTEN: Projects of this nature, and  
8 power projects in general, always have contingency plans and  
9 financial contingencies made available.

10 They're thoroughly vetted by independent engineers  
11 that support either other investors or banks. By the time  
12 we would build this and finance it, it would be fully vetted  
13 and all of its contingencies would have been to appropriate  
14 levels.

15 MR. BUDLONG: Fully vetted by engineers looking at  
16 your designs or by field experience?

17 MR. VAN PATTEN: By engineers looking at our  
18 designs, looking at our field experience as, in this example  
19 it would have been Maricopa. Maybe, I'm speculating, they  
20 would look at the Sandia history or the, you know, couple of  
21 decades of history of technology advancement.

22 MR. BUDLONG: And do you have intention of doing  
23 additional field experience besides the Maricopa field?

24 MR. VAN PATTEN: No.

25 MR. BUDLONG: Okay. I'm curious to know if staff

1 has visited the Maricopa facility?

2 HEARING OFFICER RENAUD: There will be a witness,  
3 brought here by staff this afternoon, and I think that would  
4 be the person to ask that.

5 MR. BUDLONG: Okay.

6 COMMISSIONER BYRON: Mr. Budlong, if I may, along  
7 the lines of your questioning, I'm curious as well, if the  
8 Applicant wouldn't mind addressing it, why -- how it is that  
9 they can project a much higher availability rate, or I  
10 believe that's what it is, it's an availability rate for  
11 these units, than you got from your testing?

12 MR. VAN PATTEN: The availability rates that we  
13 have right now or the lower-than-expected availability rates  
14 are due to issues that are occurring during the daytime.  
15 Given that a solar project operates during the day and you  
16 have all of that time in the evening to maintain a project  
17 like this, you can do all of your maintenance at night.

18 Hypothetically, in a perfect world, you'd have a  
19 hundred percent availability on a solar project because you  
20 can do all the maintenance at night. We think we can get  
21 very high availability.

22 MR. GALLAGHER: Commissioner, if I may add to  
23 that, my understanding is that even on a wind project, in  
24 the first six months operation you don't get availability  
25 more than around 80 percent. And so the fact that we've

1 gotten over 90 percent availability in the first months of  
2 operation is actually a very good sign.

3           And what our people have told us is that that  
4 validates the position that the modularity of the system  
5 will result in very high availability.

6           Because what happens with these systems is if  
7 there's a problem with one unit, with one engine, you take  
8 that engine off and you put the spare on and the unit is  
9 back online right away, you don't have a single point of  
10 failure which takes the whole plant down.

11           And so, the experience today actually supports the  
12 expectations of 98 percent availability going forward.

13           COMMISSIONER EGGERT: Could you just first define  
14 availability, what's the -- so, if you say 95 percent, what  
15 does that actually mean in terms of --

16           MR. GALLAGHER: It's essentially, you know, if  
17 you've got a hundred hours of sunlight or time that the  
18 plant could be producing energy, it's producing energy in 95  
19 of those hours, I believe that's the way that's calculated.  
20 If there's fuel available, is it online, is it ready to  
21 produce.

22           MR. BUDLONG: Do you have mean time between  
23 failure numbers that you've projected for the full  
24 installation?

25           MR. VAN PATTEN: I believe someone must have

1 something like that.

2 MR. BUDLONG: I would be interesting to know.  
3 Mean time between failure of the Maricopa facility and what  
4 you've projected for the full installation at Imperial.

5 Can I digress and explain something here? There's  
6 a difference between availability and mean time between  
7 failure. How often do you take your care into the garage  
8 because something's broken, that's a mean time between  
9 failure.

10 HEARING OFFICER RENAUD: I believe that term is  
11 used and there's information on that in the staff analysis  
12 and, again, staff's witness will be here this afternoon and  
13 might be able to enlighten us on that.

14 MR. BUDLONG: Okay. Yeah. There's a relation  
15 between availability and mean time between failure and  
16 that's what I'd like to explain at the moment, if that's all  
17 right?

18 HEARING OFFICER RENAUD: You want to explain it?

19 MR. BUDLONG: Yeah.

20 HEARING OFFICER RENAUD: Well, are you going to  
21 call yourself as a witness? This would not be the time to  
22 do that but, if you are, that would be the time to do it.

23 MR. SILVER: He is going to be a witness on his  
24 own behalf.

25 HEARING OFFICER RENAUD: All right. I think at

1 the time that you are testifying as a witness would be the  
2 time for you to make such explanations.

3 All right. Right now you want to ask questions of  
4 these witnesses about what they said on direct.

5 MR. BUDLONG: Okay, if we can do that later,  
6 that's fine.

7 HEARING OFFICER RENAUD: Thank you. Anything  
8 further, Mr. Budlong?

9 MR. BUDLONG: No, I think that's it. Thank you.

10 HEARING OFFICER RENAUD: Thank you.

11 All right, Native Plant Society, questions of  
12 these witnesses?

13 MR. BELTRAN: Mr. Gallagher, I've got some  
14 questions to follow up on Mr. Budlong's question about the  
15 hydrogen quantity, and I know that you can't answer this  
16 yourself. But when we speak to the engineer, I'd like to  
17 know if the possible explanation, the explanation for the  
18 difference is an error in calculation or design?

19 You had also made a comment that you had requested  
20 that the maximum travel speed be increased from 15 to 25  
21 miles an hour. Have you done any analysis to determine how  
22 that would affect fugitive dust, air pollution, increase in  
23 wind or water erosion?

24 MR. VAN PATTEN: All of the requisite analyses  
25 would have been done or have been done.

1 MR. BELTRAN: For the 25 miles an hour?

2 MR. VAN PATTEN: Correct. And I, personally,  
3 cannot testify to that analysis result.

4 MR. BELTRAN: Okay.

5 MR. VAN PATTEN: But there's someone here that  
6 can.

7 MR. BELTRAN: Very good. You had mentioned that  
8 construction, you had asked for construction to begin in  
9 October, prior to the fall botanical surveys being  
10 completed?

11 MR. VAN PATTEN: That's not correct.

12 MR. BELTRAN: I misunderstood. Could you please  
13 clarify that?

14 MR. VAN PATTEN: I believe I stated that the  
15 decision rendered by the Commission may be, could be  
16 coincident with the fall surveys, in which case I would need  
17 the decision to be rendered maybe at or prior to the fall  
18 survey having been completed, such that they could use it  
19 for their decision.

20 MR. BELTRAN: When you say the decision, you're  
21 talking about certification?

22 MR. VAN PATTEN: Correct.

23 MR. BELTRAN: Okay. What do you expect is going  
24 to happen to the comments that are going to be -- the public  
25 comments that are going to be rendered on the survey

1 results?

2 HEARING OFFICER RENAUD: I'm not sure why you'd  
3 ask the witness that question, he's not really here to talk  
4 about the Energy Commission process. Maybe I misunderstood  
5 your question.

6 MR. BELTRAN: Yeah.

7 HEARING OFFICER RENAUD: We can tell you that.

8 MR. BELTRAN: Okay. Okay. Is this technology  
9 patented?

10 MR. VAN PATTEN: No.

11 MR. BELTRAN: Can you answer questions about the  
12 financial viability of this project?

13 MR. VAN PATTEN: Yes.

14 MR. BELTRAN: Okay. You conducted botanical  
15 surveys in 2007, this was before the Treasury Grant Program  
16 was available; is that correct?

17 MR. VAN PATTEN: Yes.

18 MR. BELTRAN: So, this project would be  
19 economically viable without that grant?

20 MR. VAN PATTEN: The Renewable Energy Grant, in  
21 lieu of ITC, are you referring to that?

22 MR. BELTRAN: You had mentioned that there are --  
23 that the President's goal is renewable energy on federal  
24 land was backed up by two components, the Treasury Grant,  
25 which expires on 12/31/2010, and the Renewable Energy Loan.

1 Would this be viable without the Treasury Grant?

2 MR. VAN PATTEN: All of the economics of the  
3 project revolve around all of the facts on the financing at  
4 the time it's being financed. Now that we have a power  
5 purchase agreement with SDG&E that fixes the revenue, there  
6 are -- which is now.

7 MR. BELTRAN: Uh-hum.

8 MR. VAN PATTEN: That fixes our ability to fit,  
9 underneath that, a rate of return for the investor is  
10 sufficient interest rate for the lending bank. And that  
11 financial structure incorporates the Renewable Energy Grant  
12 in lieu of ITC as part of the financing of the project.

13 MR. BELTRAN: I take that as no, that it would not  
14 be viable without the Treasury Grant?

15 MR. VAN PATTEN: Today it may not be.

16 MR. BELTRAN: I tried to do some research on  
17 Tessera International and all of the corporate structure.  
18 Is this a publicly traded corporation? You mentioned --

19 MR. VAN PATTEN: Which company are you referring  
20 to?

21 MR. BELTRAN: Well, it's just a guess, but I  
22 assume Tessera Solar is a wholly owned subsidiary of Tessera  
23 International?

24 MR. VAN PATTEN: That's not correct.

25 MR. BELTRAN: Who are the investors in Tessera

1 America?

2 HEARING OFFICER RENAUD: What's the relevance of  
3 that?

4 MR. BELTRAN: I'm trying to determine the -- I'm  
5 trying to understand the need, the economic need to  
6 accelerate the approval of this project.

7 HEARING OFFICER RENAUD: And what's the relevance  
8 of that, I guess?

9 MR. BELTRAN: Because it seems like the CEQA  
10 process is being truncated.

11 HEARING OFFICER RENAUD: Please try and finish up  
12 quickly, we're not very convinced of the relevance of this  
13 line of questioning. So, if you can draw to a close  
14 quickly, we'd appreciate it.

15 MR. BELTRAN: Okay. You'd mentioned that another  
16 reason for getting rid of this -- or for approving this is  
17 to reduce the number of power plants on the coast that use  
18 water for cooling. Does that include power plants that use  
19 a closed cooling system or are you talking about power  
20 plants that use sea water, for example?

21 MR. GALLAGHER: What I testified was that the  
22 production of renewable energy from facilities, including  
23 this one, will tend to displace the production of energy  
24 from fossil plants including, and in particular, the fossil  
25 plants on the coast that use once-through cooling.

1 MR. BELTRAN: Okay. The jobs that, the 200 --  
2 approximately 200 jobs that will be high paying jobs, do you  
3 know if those can be filled from the labor pool in Imperial  
4 Valley?

5 MR. GALLAGHER: Are you talking about construction  
6 jobs or operations jobs, or both?

7 MR. BELTRAN: I'm talking about the permanent  
8 jobs, they were estimated at around 200 jobs.

9 MR. GALLAGHER: We think that most or many of the  
10 operations jobs will be able to be filled from Imperial  
11 County, that's the plan. We're in talks with, for example,  
12 Imperial Valley College to do worker training kinds of  
13 programs, and so it's our intent to do as much of the higher  
14 locally as possible, and our expectation as well.

15 MR. BELTRAN: These are referred to as high paying  
16 jobs. What is an average salary?

17 MR. GALLAGHER: I'm not sure where the reference  
18 is you're citing.

19 MR. BELTRAN: I don't have it handy. Do you know  
20 what the average pay on these jobs would be?

21 MR. GALLAGHER: I do not.

22 MR. BELTRAN: Are you aware that one in ten  
23 workers in Imperial County have college degrees?

24 MR. GALLAGHER: I'm not aware of that.

25 MR. BELTRAN: Will these jobs require a college

1 degree?

2 MR. GALLAGHER: It's going to depend on what jobs  
3 you're talking about. But many of the permanent jobs will  
4 be, for example, maintenance jobs, washing the mirrors.  
5 Those jobs are -- do not -- I would not believe those jobs  
6 would require college degrees.

7 MR. BELTRAN: Okay. You had mentioned that, you  
8 had given a statistic, you said that 80 -- you had made a  
9 comment about 80 percent, that in the first six months that  
10 a wind project is only up 80 percent or that's available 80  
11 percent. Are you an expert in wind technology?

12 MR. GALLAGHER: I am most definitely not.

13 MR. BELTRAN: Okay. I forget the term that you  
14 used, but the attachment points for the mirrors are going to  
15 be made by an automotive manufacturer or subcontractor. In  
16 the documentation of this program there was some discussion  
17 that this structure was redesigned and that approximately  
18 5,000 pounds of material was removed from the design.

19 Is it known how that's going to affect this in  
20 terms of reliability? Are there other companies that use  
21 your technology?

22 MR. GALLAGHER: This technology's been developed,  
23 proprietarily, by Stirling Energy Systems and its suppliers.

24 MR. BELTRAN: Okay. That's all.

25 HEARING OFFICER RENAUD: All right, thank you

1 very much.

2 Mr. Alimamaghani, any questions for these  
3 witnesses?

4 MR. ALIMAMAGHANI: Yes, sir.

5 HEARING OFFICER RENAUD: Please limit your  
6 questions to the -- what they testified to.

7 MR. ALIMAMAGHANI: As far as saying, I got some  
8 answer from previous questions. The only concern I have, in  
9 second proposal you gave for these hydrogen storage, it was  
10 four, now it's two. You changed it to two, instead of four,  
11 for the collection and the distribution of it. Is that  
12 correct?

13 MR. VAN PATTEN: Forgive me, Mr. Alimamaghani, I  
14 don't understand the question. Could you repeat it, again?

15 MR. ALIMAMAGHANI: In the second version of your  
16 proposal for this project it was four storage tank, now the  
17 newest version you sent to us, it's two storage tank for  
18 receiving, is larger storage tanks.

19 My concern is where are these storage tanks  
20 located in this project?

21 MR. VAN PATTEN: The storage tanks are distributed  
22 throughout the project in 360-dish groups. There will be  
23 one storage tank or there will be two storage tanks per 360  
24 dishes. One's a high pressure tank, one's a low pressure  
25 tank. In between them there will be the compressor.

1           MR. ALIMAMAGHANI: Okay. There is a point came  
2 out regarding environmental. Can you a little bit elaborate  
3 more what's going to happen to environmental around this  
4 area, this project?

5           HEARING OFFICER RENAUD: I think that question is  
6 very broad, most of this entire process is about  
7 environmental impacts. Can you narrow that to a specific  
8 topic or species?

9           MR. ALIMAMAGHANI: I think you don't have --  
10 you're saying there are new report coming out, but a concern  
11 about the air, a concern about the residue of this material,  
12 which this project will create in there, and what's going to  
13 happen to the area which is located around this project  
14 regarding air?

15          MR. VAN PATTEN: There's probably others that will  
16 be testifying today, that can better answer that question,  
17 and I'm assuming you'll have the opportunity to ask that  
18 question.

19          MR. ALIMAMAGHANI: Yes.

20          HEARING OFFICER RENAUD: Yeah, I think the  
21 question you're asking really isn't about what he testified  
22 to, there will be witnesses on these various environmental  
23 topics coming up later in the proceedings.

24          MR. ALIMAMAGHANI: Okay, thank you, sir. That's  
25 it.

1 HEARING OFFICER RENAUD: Mr. Thompson, any  
2 redirect?

3 MR. THOMPSON: No.

4 HEARING OFFICER RENAUD: All right, is there  
5 any --

6 MS. HOLMES: Hearing Officer Renaud, can I --

7 HEARING OFFICER RENAUD: Ms. Holmes, please.

8 MS. HOLMES: -- follow up with three quick, I hope  
9 quick questions?

10 HEARING OFFICER RENAUD: Please.

11 MS. HOLMES: First of all, in the discussion  
12 earlier this afternoon, in response to a question from Mr.  
13 Budlong, if I understood you correctly, you said that the  
14 Maricopa facility has confirmed your maintenance estimates.

15 Could you please tell us what those maintenance  
16 estimates were? We had difficulty finding maintenance  
17 estimates when we were doing our assessment, so I would  
18 appreciate a reference to what those maintenance estimates  
19 were?

20 MR. VAN PATTEN: Maintenance estimates can be  
21 anything from how many people does it take to do a function,  
22 how many parts are going to have to be replaced and how  
23 often, what is the cost of that replacement. It's quite  
24 broad.

25 MS. HOLMES: Well, how did you mean it when you

1 used it in your answer?

2 MR. VAN PATTEN: I asked the question very broadly  
3 to the maintenance head or asset management head and I said  
4 how are you finding the operations of Maricopa? And he  
5 mentioned to me that it was confirming our, or verifying  
6 what we had estimated and it's giving us some insight on  
7 what we can do to improve our maintenance on a larger  
8 facility.

9 MS. HOLMES: But you don't know what specific  
10 estimates he was referring to?

11 MR. VAN PATTEN: I have no specifics, whatsoever.

12 MS. HOLMES: That's fine. Thank you.

13 Is there going to be evidence available, from the  
14 Maricopa facility, that we could use as we prepare our  
15 revisions on this, on this topic?

16 MR. VAN PATTEN: Is there something specific that  
17 you want from Maricopa?

18 MS. HOLMES: Well, I'm having trouble getting to  
19 what the specifics are, given your last answer, but we're  
20 looking for any additional information about what the  
21 maintenance requirements for the facility are going to be.

22 As I said, initially, staff found it difficult to  
23 find information about what the maintenance for the project  
24 was likely to be, that's why I asked you the follow-up  
25 question about the Maricopa facility confirming your

1 estimates. We're looking for any information from the  
2 facility that will help us understand what the maintenance  
3 requirements will be.

4 I don't know how -- since you, apparently, didn't  
5 know how narrow or how broadly the project manager or  
6 project director was speaking about, it's difficult for  
7 me -- it's difficult for me to provide the specificity that  
8 you were unable to provide.

9 MR. VAN PATTEN: Maintenance typically deals with,  
10 you know, personnel requirements, material requirements,  
11 frequency of maintenance, and it all boils down to cost.  
12 It's the cost that drives project viability.

13 So, when I was asking him that question, it dealt  
14 mainly with are we verifying that we can maintain the  
15 project at the cost we're estimating? To me, that's the  
16 level of detail I wanted.

17 If you want specific detail on how often are we  
18 replacing parts, our maintenance cycle, which I believe was  
19 part of the AFC, personnel requirements as compared to what  
20 we estimated, things of that nature, if you can ask us what  
21 you would like we're -- you know, we would be glad to look  
22 at that and provide you with additional details.

23 MS. HOLMES: So, this may -- I want to make sure I  
24 understand, when you said that -- I don't want to misquote  
25 you. When you said that the information coming in from the

1 Maricopa facility was confirming your maintenance estimates,  
2 what you meant was that it's confirming that it's within the  
3 costs that you had estimated, not that specific maintenance  
4 activities were required?

5 MR. VAN PATTEN: That's exactly right.

6 MS. HOLMES: Okay. Thank you. I will check this  
7 afternoon, when our witness on reliability shows up and see  
8 if we can specify some information that you would be able to  
9 provide, that would supplement the record.

10 MR. VAN PATTEN: Yes.

11 MS. HOLMES: And the last question I had was, now,  
12 I'm confused about the request is about starting  
13 construction or a Commission decision before the surveys are  
14 finished. Can you state that one more time for me, please?

15 MR. VAN PATTEN: It is my understanding, and maybe  
16 others during the day can clarify, is that fall surveys may  
17 occur around September, but a biologist can tell us when  
18 that's going to be. If that's the case, I need your  
19 decision from the Commission around the end of August,  
20 beginning or middle of September, it will be occurring at  
21 the same time the survey's occurring, your decision will be  
22 rendered.

23 MR. GALLAGHER: Yeah, the proposed change to the  
24 condition is that the surveys be verification, and so the  
25 Commission's decision be issued with the fall surveys to be

1 performed subsequently as a verification.

2 MS. HOLMES: So, there would not be a condition  
3 that required fall surveys to be completed prior to  
4 construction?

5 MR. THOMPSON: That's not -- I don't believe  
6 that's what you --

7 MS. HOLMES: I'm trying to put the two pieces  
8 together, so I apologize if I've got it wrong.

9 MR. THOMPSON: Right. Mr. Gallagher, I don't  
10 think that's what you indicated. Would you kind of go over  
11 that timing again?

12 MR. GALLAGHER: I'm not sure what Caryn's question  
13 is.

14 MS. HOLMES: I'm trying to understand, I'm  
15 hearing -- I'm hearing several different suggestions, one is  
16 that our requirement be moved from a condition to  
17 verification, which is something we could speak generically  
18 about because I think there have been several of those  
19 proposed.

20 But, more specifically, I'm trying to understand  
21 whether what's being suggested is that the fall surveys --  
22 what the timing relationship is with the fall surveys and  
23 the start of construction?

24 MR. THOMPSON: Mr. Gallagher, is it a case of  
25 whether or not the fall surveys have to be conducted prior

1 to a decision or prior to construction?

2 MR. GALLAGHER: They can't be -- they can't be  
3 done prior to the decision. They can be done, if I'm right  
4 and Marc is going to kick me if I'm wrong, prior to  
5 construction.

6 MS. HOLMES: But those -- as I understand it,  
7 those things can be separated by one day, so I'm having  
8 trouble putting that all together. Frequently, we have  
9 applicants, and perhaps you're not one of them, who request  
10 that they be allowed to start construction as soon as the  
11 Commission's decision is final. Are you not asking for  
12 that?

13 MR. THOMPSON: No, no, the difference as I  
14 understand it, again, correct me if I'm wrong here, Mr.  
15 Gallagher and Mr. VanPatten, is whether or not the surveys  
16 have to be conducted prior to a decision or prior to  
17 construction.

18 MR. GALLAGHER: If the schedule holds in this  
19 case, we'll get a decision at the end of August. We can  
20 plan to start construction in, I believe it's early October.

21 MR. VAN PATTEN: Correct.

22 MS. HOLMES: Okay. So, that does, I believe,  
23 answer my questions, that you're not asking for the ability  
24 to begin construction, necessarily, when the decision is  
25 issued, but only when the pre-construction conditions have

1 been met. Thank you, that's very helpful.

2 MR. VAN PATTEN: Yes.

3 HEARING OFFICER RENAUD: All right. Now, bearing  
4 in mind the kind of general scope of these witnesses'  
5 testimony and the fact that there will be other witnesses  
6 coming in with more specific testimony about such areas as  
7 biology, water and so on, I will ask if any of the parties  
8 wishes to present rebuttal evidence at this time, to what  
9 these witnesses testified to. Starting with CURE?

10 MS. MILES: We would like to reserve the  
11 opportunity to do so at a future or subsequent hearing but,  
12 no, not at this time.

13 HEARING OFFICER RENAUD: On those topics, all  
14 right. Thank you.

15 Mr. Budlong?

16 MR. BUDLONG: Yeah, I think the answer to your  
17 question would be the same. It takes a while to digest what  
18 he's said and seeing it in print, after the transcript comes  
19 out, will allow me to study it a little more. So, I'd like  
20 to reserve that, also.

21 HEARING OFFICER RENAUD: Well, typically,  
22 rebuttal is done in response to the live testimony and you  
23 do it live, as well.

24 Since we have acknowledged that there is more  
25 information coming on some topics, I think in this case we

1 can do what you're suggesting.

2 But if you have any evidence here, today, or  
3 testimony here, today that you wish to put on to contradict  
4 or rebut what these witnesses said, you should try to do it.  
5 But if you can't, then we'll allow you to reserve that for  
6 the future.

7 MR. BUDLONG: Good. Thank you. Let's do the  
8 reserve.

9 HEARING OFFICER RENAUD: All right. Mr. Beltran,  
10 Native Plant Society?

11 MR. BELTRAN: The same, I'd like to reserve.

12 HEARING OFFICER RENAUD: All right.

13 All right, Mr. Alimamaghani?

14 MR. ALIMAMAGHANI: I have to reserve, too.

15 HEARING OFFICER RENAUD: All right, thank you.

16 Okay, Commissioners, would you like to ask any  
17 questions of the witnesses?

18 COMMISSIONER EGGERT: I'll wait.

19 HEARING OFFICER RENAUD: I would -- I have a  
20 couple of questions I wrote down.

21 Mr. VanPatten, you mentioned that EIR for  
22 the -- on the well, in connection with the use by USG, did I  
23 misunderstand that?

24 MR. VAN PATTEN: I understand and maybe someone  
25 closer to it can respond more precisely.

1 HEARING OFFICER RENAUD: All right.

2 MR. VAN PATTEN: But there was an EIR, I  
3 understand, produce by U.S. Gypsum for a well that they own.

4 HEARING OFFICER RENAUD: Ah, but not the Boyer  
5 well.

6 MR. VAN PATTEN: Not the Boyer well.

7 HEARING OFFICER RENAUD: Okay.

8 MR. VAN PATTEN: Because it's in the area, we  
9 thought it might provide additional help in your  
10 understanding the aquifer.

11 HEARING OFFICER RENAUD: Do you know whether or  
12 not there's ever been a permit or an EIR done for the Boyer  
13 well?

14 MR. VAN PATTEN: I don't believe so, given that  
15 it's a State-permitted well that's been in operation since  
16 the '50s.

17 HEARING OFFICER RENAUD: Is there a county permit  
18 that you know of?

19 MR. VAN PATTEN: There is. There's a conditional  
20 use permit that allows it to draw up to 40 acre feet per  
21 year.

22 HEARING OFFICER RENAUD: All right. Was any kind  
23 of environmental study done in connection with issuing that?

24 MR. VAN PATTEN: I'm not familiar with any.

25 HEARING OFFICER RENAUD: All right. Okay.

1           Just tell us, briefly, out of interest, what would  
2 the project use water for? I know you said mirror washing,  
3 anything else?

4           MR. VAN PATTEN: It's the larger water use on the  
5 project is mirror washing, and flushing toilets, and things  
6 of that nature. There will be some dust suppression,  
7 primarily during construction, and then some limited dust  
8 suppression during operation.

9           HEARING OFFICER RENAUD: All right. There are no  
10 cooling uses?

11          MR. VAN PATTEN: No cooling.

12          HEARING OFFICER RENAUD: All right. Okay, thank  
13 you. I think we should move on to the next topic.

14          COMMISSIONER EGGERT: I actually have a quick one.

15          HEARING OFFICER RENAUD: Sure.

16          COMMISSIONER EGGERT: You had also mentioned,  
17 initially, that there was some investigation to using IID  
18 water. What was -- I didn't quite catch the reason why you  
19 moved away from that?

20          MR. VAN PATTEN: The reason is the project had --  
21 although a piece of the land falls within the territory that  
22 IID serves, the entire project does not fall within IID  
23 service territory. So, for us to use water outside of the  
24 area that is served by IID would require an extension of  
25 their service, which may take decades.

1 MR. SILVER: May I ask just one clarifying  
2 question?

3 HEARING OFFICER RENAUD: Well, let's finish with  
4 the Commissioners.

5 Oh, just in response to what he just said,  
6 directly?

7 MR. SILVER: No, in response to his answer to your  
8 question, Mr. Renaud.

9 HEARING OFFICER RENAUD: Go ahead.

10 MR. SILVER: What is the State permit that the  
11 Boyer well has obtained? You said it was State-permitted, I  
12 thought.

13 MR. VAN PATTEN: It's county-permitted, State  
14 registered. If I stated it incorrectly before, it is a  
15 county conditional use permit and it's registered with the  
16 State.

17 MR. SILVER: And do you have, in the record,  
18 evidence of the registration with the State?

19 MR. VAN PATTEN: Yes.

20 MR. SILVER: Where in the record is that?

21 HEARING OFFICER RENAUD: Can you point to it  
22 quickly? Just tell us by exhibit number, if you see it.  
23 Exhibit 32, which is the supplement.

24 MR. VAN PATTEN: Exhibit 32.

25 HEARING OFFICER RENAUD: Yeah. All right.

1 That's the thousand-page supplement. So, it's in there,  
2 that's your testimony?

3 MR. VAN PATTEN: Right.

4 HEARING OFFICER RENAUD: I think it is, I've seen  
5 it. It is in there, but you'd need to look through the  
6 supplement.

7 MR. SILVER: I would like an opportunity to look  
8 at it.

9 HEARING OFFICER RENAUD: Okay. So, let's --

10 MR. THOMPSON: It was distributed, filed and sent  
11 out to all the parties.

12 HEARING OFFICER RENAUD: Let's go out to a  
13 question by Commissioner Byron.

14 COMMISSIONER BYRON: Thank you, Mr. Renaud.

15 Gentlemen, this has to do with the water, as well,  
16 from Exhibit 32, the supplemental application for  
17 certification refers to the Ocotillo water supply  
18 indicated -- and we were reviewing this last night, a  
19 current permitted pumping rate, as you said, of 40 acre feet  
20 per year.

21 But then the section that I'm looking at, 142,  
22 goes on to say "the water source is potable and permitted  
23 for use by construction or personnel construction.  
24 Historically, the well has typically extracted over 100 acre  
25 feet per year."

1           And I couldn't reconcile its permitted limit  
2 versus what it typically has been extracting. Can you help  
3 me with that?

4           MR. VAN PATTEN: What I understand is that the  
5 conditional use permit requirement by the county is a recent  
6 requirement. It was registered with the State in the '50s,  
7 as I've testified previously, and at that time there was no  
8 pumping limit on the well. It's only a recent requirement  
9 in the conditional use permit that it be restricted to 40  
10 acre feet per year.

11           COMMISSIONER BYRON: All right, thank you.

12           HEARING OFFICER RENAUD: Just following up on  
13 Commissioner Byron's question, we understand the 40 acre  
14 feet limit. In the next paragraph of the supplement it  
15 indicates construction demand would be approximately 50 acre  
16 feet a year. How do we reconcile those numbers?

17           MR. VAN PATTEN: If we were to do a six-day work  
18 week which, if we had access to the Seeley water from the  
19 start of construction, we would likely try to get an average  
20 of 50. I actually have revised calculations from the  
21 construction people that say it's 42 acre feet per year on a  
22 six-day work week average.

23           But, nonetheless, that number is higher than 40  
24 acre feet per year. We would have to, necessarily, stay  
25 within the permit limits of the Boyer well until such time

1 as the Seeley water is available. And that would have the  
2 impact on the project of possibly delaying some construction  
3 activities until the Seeley water is available.

4 HEARING OFFICER RENAUD: Is the evidence or  
5 document stating 42 going to be put into evidence, or is it  
6 already? Do you know, Mr. Thompson?

7 MR. THOMPSON: I don't believe the 42 is in  
8 evidence. I believe that what we've talked about is the 40  
9 and the 50. Is that right, Mr. VanPatten?

10 MR. VAN PATTEN: That's correct.

11 HEARING OFFICER RENAUD: Well, I think we'll need  
12 that at some point.

13 MR. THOMPSON: We anticipate having a panel of  
14 water folks on later.

15 HEARING OFFICER RENAUD: Very good. All right,  
16 thank you.

17 MS. MILES: Can I ask a quick follow-up question?

18 HEARING OFFICER RENAUD: Please, go ahead, Ms.  
19 Miles.

20 MS. MILES: I noticed in your testimony you  
21 mentioned that it has been used for commercial operations  
22 and that this would be commercial operations. And I wanted  
23 to clarify whether it has been used or is being used for  
24 drinking water needs for local residents?

25 MR. VAN PATTEN: I can't testify to that, I don't

1 know.

2 MS. MILES: So, do you know if it's been permitted  
3 to also be used for potable needs?

4 MR. VAN PATTEN: I don't think it specifies in the  
5 conditional use permit, but I don't recall.

6 MS. MILES: Okay, thank you.

7 MR. SILVER: Mr. Renaud, I'm also -- in response  
8 to your set of questions, I'm unable to find in the record a  
9 so-called conditional use permit. I have found in the  
10 record a document which indicates, supposedly, specific  
11 terms for groundwater well registration, which does not  
12 carry the label of conditional use permit. I'm unable to  
13 find a conditional use permit. And I was wondering whether  
14 the applicant could indicate where in the record that  
15 exists, if it exists?

16 HEARING OFFICER RENAUD: Mr. Thompson, if you  
17 know that, you could tell us. If you don't, I think it's a  
18 reasonable request.

19 Now, sometimes those CUPs are just in the form of  
20 a resolution by the board of supervisors but --

21 MS. FOLEY GANNON: We have a copy of it. I am  
22 having trouble locating it in the record just now.

23 HEARING OFFICER RENAUD: All right. Okay.

24 MS. FOLEY GANNON: But when the water panel is on,  
25 if we'd be able to locate it, where in the record it is, or

1 we can provide it to you by the time the water panel comes  
2 up.

3 HEARING OFFICER RENAUD: Okay.

4 MR. SILVER: Well, we're looking for two  
5 documents, we're looking for registration.

6 MS. FOLEY GANNON: We have the registration  
7 number, I can show you that. That's in this water  
8 supplement, in Appendix A.

9 HEARING OFFICER RENAUD: All right.

10 MR. SILVER: Well, I don't know that the  
11 registration number tells us. The question is, is it  
12 registered with the State? Is it registered with the  
13 county? Is it currently registered?

14 HEARING OFFICER RENAUD: Okay, we're getting into  
15 minute details about the water supply and I think the water  
16 panel is the place to do that kind of questioning.

17 MR. SILVER: Yes.

18 HEARING OFFICER RENAUD: Mr. VanPatten and Mr.  
19 Gallagher were really, fairly general in their testimony.  
20 Does that sound acceptable?

21 MR. SILVER: Sure.

22 HEARING OFFICER RENAUD: All right, good.

23 COMMISSIONER EGGERT: Yeah, this is on a  
24 completely different topic and maybe this was more  
25 appropriate for the discussion on visual, but the suggestion

1 that these be painted something other than white, that was  
2 to deal with visual impacts; is that right?

3 MR. VAN PATTEN: That's correct.

4 COMMISSIONER EGGERT: And then you had suggested  
5 that there might be some efficiency or operational  
6 disadvantages to moving away from a white.

7 MR. VAN PATTEN: The farther we move away from  
8 white, the more detrimental it is to the SunCatcher  
9 function. However, we can move a certain degree from it.  
10 We're currently, actively, looking at how far we can go in  
11 either the tan or the gray direction.

12 COMMISSIONER EGGERT: Okay. I guess I would be  
13 interested if there was information about the tradeoffs  
14 associated with that move away from what sounds like it's  
15 the preferred color of white, what that does imply for  
16 efficiency or operational durability.

17 MR. VAN PATTEN: It creates additional heat on the  
18 back of the SunCatcher panels and has an impact to the  
19 adhesives that hold the mirror onto the panel.

20 COMMISSIONER EGGERT: Right. So, maybe to be more  
21 specific, to the extent that there is some condition put  
22 upon the color, to understand, so that we have a better  
23 understanding of what that tradeoff is -- I understand kind  
24 of the mechanics of it, but if you have data or information  
25 that sort of shows that if you move towards, you know, I

1 don't know if it's a particular reflectivity number and heat  
2 gain, you know, how that actually affects the operational  
3 characteristics of the SunCatcher, that would be useful. If  
4 that exists.

5 MR. THOMPSON: Well, maybe we should try and -- it  
6 is an active -- my understanding is it is an active, ongoing  
7 analysis. And Mr. VanPatten, if you want to call someone  
8 and see where that is, and give that after the lunch break?

9 MR. VAN PATTEN: I can. If I can get more --

10 MR. THOMPSON: Yeah, go ahead.

11 MR. VAN PATTEN: -- specific, what exactly I need  
12 to provide, I can get the right person to answer the  
13 question for you.

14 COMMISSIONER EGGERT: So, I guess maybe, to be  
15 more specific, the motivation for the information is where  
16 we might, as a Commission, require certain things for  
17 mitigation, we want to understand what other negative  
18 impacts that might have on the project.

19 So, if we're requiring, for example, something  
20 other than a particular color, that has negative impacts on  
21 the project with respect to efficiency, operational  
22 durability, it's very useful for us to understand those  
23 tradeoffs.

24 HEARING OFFICER RENAUD: And, Mr. Thompson, I  
25 notice you do have a witness, named Seth Thompkins [sic],

1 for visual. Perhaps he would be available to help?

2 MR. THOMPSON: Yes.

3 HEARING OFFICER RENAUD: To help us out with  
4 these things?

5 MR. THOMPSON: Yes, Mr. Hopkins is here.

6 HEARING OFFICER RENAUD: All right, good. And  
7 you plan to put him on at some point today?

8 MR. THOMPSON: We do. All right, good, then we  
9 should move on. Which topic would you like to proceed on  
10 next?

11 MR. THOMPSON: We'd like air quality.

12 HEARING OFFICER RENAUD: All right. Call your  
13 witnesses.

14 MS. HOLMES: Hearing Officer Renaud, my  
15 understanding is that the district will be able to provide a  
16 witness this afternoon to sponsor the final determination of  
17 compliance.

18 HEARING OFFICER RENAUD: Perfect, thank you.

19 MR. THOMPSON: We were told that the Air District  
20 was here. Are Air District representatives here? So, maybe  
21 we can do it.

22 MS. HOLMES: That would certainly make sense.

23 HEARING OFFICER RENAUD: That makes sense, good.  
24 All right, good.

25 Are you calling either one of them as witnesses,

1 do you want them up here? You're fine.

2 MS. HOLMES: Typically, staff doesn't.

3 HEARING OFFICER RENAUD: All right, good, you  
4 guys can stay there. Thank you. So, let's have the witness  
5 sworn.

6 THE REPORTER: Please raise your right hand.

7 Whereupon,

8 JULIE MITCHELL

9 was called as a witness and, having been first duly sworn,  
10 was examined and testified as follows:

11 THE REPORTER: Would you please state your name  
12 for the record and would you please spell it for me, as  
13 well?

14 MS. MITCHELL: Julie Mitchell. J-u-l-i-e,  
15 Mitchell is M-i-t-c-h-e-l-l.

16 THE REPORTER: Thank you.

17 HEARING OFFICER RENAUD: And if you would, put  
18 that mike right in front of you, that will help us out.  
19 Thank you.

20 MR. THOMPSON: Ms. Mitchell, am I correct that you  
21 have submitted direct testimony and analysis in this case  
22 and that you're first piece of prepared testimony is Exhibit  
23 102, and that you had a -- are sponsoring a part of the May  
24 17 analysis, which has been identified as Exhibit 116?

25 MS. MITCHELL: That is correct.

1 MR. THOMPSON: Do you have any corrections or  
2 additions to any of your testimony?

3 MS. MITCHELL: No, I do not have any corrections  
4 or additions to my testimony.

5 MR. THOMPSON: Do you have any comments on the  
6 suggested air quality conditions that are contained in  
7 Exhibit 38, the conditions of certification?

8 MS. MITCHELL: We made a few comments on the  
9 conditions of certification, most of them are fairly minor.  
10 Really, the only primary comment that we'd like to see  
11 changes is that actual equipment brand names not be put as a  
12 condition, but a generic piece of equipment be placed in, so  
13 that the applicant is not limited on the equipment they can  
14 purchase.

15 MR. THOMPSON: Ms. Mitchell also sponsored public  
16 health. Would it be -- this was an area that had little  
17 interest and no cross examination, would it be appropriate  
18 to have Ms. Mitchell put that in, now?

19 HEARING OFFICER RENAUD: Sure.

20 MR. THOMPSON: Ms. Mitchell, I'm searching for the  
21 number of your public health testimony.

22 HEARING OFFICER RENAUD: 102.

23 MR. THOMPSON: Thank you. 102, it's contained  
24 within your air quality and safety testimony. And you are  
25 also sponsoring testimony in the area of public health

1 today; is that correct?

2 MS. MITCHELL: That's correct.

3 MR. THOMPSON: Ms. Mitchell is tendered for cross-  
4 examination.

5 HEARING OFFICER RENAUD: Thank you. Cross-  
6 examination by staff?

7 MS. HOLMES: No.

8 HEARING OFFICER RENAUD: No cross.

9 CURE?

10 MS. MILES: No.

11 HEARING OFFICER RENAUD: Budlong?

12 MR. BUDLONG: Yeah, I have one question, I don't  
13 know the answer to it. There's a large, OHV open area on  
14 the north boundary of the site and have you considered the  
15 dust that comes from that area, when considering air quality  
16 with respect to -- when considering air quality?

17 MS. MITCHELL: And my understanding is that the  
18 area that you're discussing, and that is an off-road  
19 vehicle, is that what you mean?

20 MR. BUDLONG: Yeah, it's an off-road vehicle open  
21 area, the kind where you can get on your motorcycle and go  
22 wherever you want, you're not restricted to certain roads  
23 and trails.

24 MS. MITCHELL: My understanding is that that area  
25 will operate the same as it does now, when the plant is in

1 operation. And so, from an air quality stand point, the  
2 same emissions that may occur there will probably continue  
3 to occur.

4 MR. BUDLONG: Do you know if the dust coming from  
5 that area has been considered in designing the mirrors, and  
6 how often they need to be washed, and what the effect --

7 HEARING OFFICER RENAUD: I don't really think  
8 this gets into the witness's scope of testimony.

9 MR. BUDLONG: Yeah.

10 HEARING OFFICER RENAUD: You're talking about,  
11 more about, again, design. All right.

12 MR. BUDLONG: All right. Is there something in  
13 the record that tells you -- tells us what is coming from  
14 that area onto the site, particulate matter -- fugitive  
15 dust, particulate matter.

16 MS. MITCHELL: From a --

17 MR. BUDLONG: From the OHV area.

18 MS. MITCHELL: We did not do an estimate of the  
19 actual emissions that are expected to come off of that area,  
20 primarily because that would be considered in the background  
21 air quality analysis portion of what we provided. When we  
22 take -- when we look at background air quality data, it  
23 includes all of the sources in the local region, and so that  
24 would be inclusive in that.

25 MR. BUDLONG: Okay, thank you.

1 MS. MITCHELL: You're welcome.

2 HEARING OFFICER RENAUD: Mr. Beltran, any  
3 questions?

4 MR. BELTRAN: My -- you know, when reading the  
5 documentation I pulled off of your website, your  
6 regulations, and in the discussion of that plan it mentioned  
7 that the air basin in Imperial Valley is already impacted.  
8 I don't know if that's exactly the word that they use.

9 What are the sources of contaminants in Imperial  
10 Valley, within your control district?

11 MS. MITCHELL: I do not work for the Imperial  
12 County Air Pollution Control District. I work for URS,  
13 which is an engineering consulting firm. I think that might  
14 be maybe you're confusing the two, I'm not sure.

15 MR. BELTRAN: Let me rephrase the question. What  
16 do you know about the contaminants in the Imperial Valley  
17 district?

18 MS. MITCHELL: There is air pollution --

19 MR. BELTRAN: From a public health stand point?

20 MS. MITCHELL: There is air pollution in the  
21 Imperial County basin, but I think you would find that  
22 anywhere in the United States. I don't understand your  
23 direct question.

24 MR. BELTRAN: Well, I think that this project is  
25 going to contribute to the problem that exists in Imperial

1 Valley and I was wondering how the applicant had analyzed  
2 the additional problems that would be created and how it  
3 would impact public health?

4 HEARING OFFICER RENAUD: Maybe I can help. You  
5 do look at the background levels?

6 MS. MITCHELL: Correct.

7 HEARING OFFICER RENAUD: So, I think that's what  
8 he's going to.

9 MS. MITCHELL: Right. And from our analysis, I  
10 think on this question I can answer it a little more. From  
11 our analysis, we looked at the project and what the impacts  
12 of the project would be on the surrounding area, and then to  
13 ensure that we've encompassed other sources in the region,  
14 which would be the background air quality from all of the  
15 sources near the facility. We use background data that are  
16 monitored by the California Air Resources Board and we  
17 include that as our -- what we considered our background  
18 condition.

19 So, we take the impacts from the facility, plus  
20 the background, and we see if there's an impact that is  
21 significant. And a significant impact would be something  
22 that would be above national or California ambient air  
23 quality standard, and we look at those for impacts.

24 MR. BELTRAN: Did you just look at PM2.5 and PM10,  
25 or were there other impacts?

1 MS. MITCHELL: We looked at all of the criteria  
2 pollutants. That would include PM10, PM2.5, NOx, SoX, CO.

3 MR. BELTRAN: You say that you looked at the  
4 impacts on the project site and the surrounding area. How  
5 much surrounding area did you consider?

6 MS. MITCHELL: We go out ten kilometers from the  
7 facility.

8 MR. BELTRAN: Okay, thank you.

9 HEARING OFFICER RENAUD: Mr. Alimamaghani?

10 MR. ALIMAMAGHANI: No question, thank you.

11 HEARING OFFICER RENAUD: Okay. Any redirect?

12 All right. Rebuttal testimony, anybody, on air  
13 quality, public health?

14 Okay, we should perhaps pause at this point to go  
15 through the ritual of when you were asking for admission of  
16 the exhibits you've mentioned so far and seeing if there are  
17 any objections.

18 MR. THOMPSON: Yeah, I was actually wondering if  
19 you wanted -- if you would entertain a motion to put all of  
20 the exhibits on the list into the record?

21 HEARING OFFICER RENAUD: We could, but there may  
22 be objections to them, individually. But as to the topics  
23 we've covered so far, let's just see if anybody would object  
24 to their being admitted into evidence?

25 MS. HOLMES: No objections.

1 MS. MILES: No objections.

2 HEARING OFFICER RENAUD: No objections.

3 MR. BELTRAN: No objections.

4 HEARING OFFICER RENAUD: All right, they'll be  
5 admitted then, thank you. All right.

6 MR. THOMPSON: I think the Air District folks are  
7 here, it would be nice to get them --

8 HEARING OFFICER RENAUD: Good idea. Would you  
9 like to put on your Air District people, Ms. Holmes?

10 MS. HOLMES: Thank you.

11 MR. THOMPSON: Julie, you can go home. Get well.

12 MS. MITCHELL: Thank you.

13 MS. HOLMES: I have to confess, I don't know the  
14 Air District people, but I'm delighted that they're here.

15 HEARING OFFICER RENAUD: Okay. We are, too.

16 MS. HOLMES: Court Reporter, could you swear the  
17 witnesses?

18 THE REPORTER: Would you please raise your right  
19 hand?

20 Whereupon,

21 REYES ROMERO

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

24 THE REPORTER: Thank you. Would you please state  
25 your name for the record, please, and spell it for me as

1 well?

2 MR. ROMERO: Reyes, R-e-y-e-s, Romero, R-o-m-e-r-  
3 o. I'm the Assistant Air Quality Control Officer, County  
4 Control District.

5 With me.

6 Whereupon,

7 JAIME HERNANDEZ

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

10 THE REPORTER: Thank you. Would you please state  
11 your name for the record and spell it for me?

12 MR. HERNANDEZ: Jaime Hernandez, J-a-i-m-e H-e-r-  
13 n-a-n-d-e-z.

14 THE REPORTER: Thank you.

15 MS. HOLMES: Mr. Hernandez and Mr. Romero, did you  
16 prepare or was it prepared under your supervision, the  
17 determination of compliance for this facility, that was  
18 filed with the Energy Commission on October 14<sup>th</sup>, 2009?

19 MR. ROMERO: Yes. The supervisor in charge of  
20 reviewing and approving the project, Mr. Hernandez, is the  
21 senior engineer, he was the one in charge of preparing the  
22 packet.

23 MS. HOLMES: So, are the facts contained in the  
24 determination of compliance true and correct to the best of  
25 your knowledge?

1 MR. HERNANDEZ: That is correct.

2 MS. HOLMES: And the opinions represented in the  
3 determination of compliance represent your best professional  
4 judgment?

5 MR. HERNANDEZ: That's correct.

6 MS. HOLMES: Could you provide a very brief  
7 summary of the determination of compliance?

8 MR. HERNANDEZ: Well, the determination of  
9 compliance process began in August 2008, with an application  
10 by the applicant, SES Solar II. This application was  
11 reviewed, first for completeness, and then a professional  
12 engineer review was performed.

13 The initial application contained two emission  
14 sources and during the process we identified a third. And  
15 after the review, a preliminary determination of compliance  
16 was produced. It was put for a public commenting around  
17 August of 2008 -- 2009, excuse me. It was available for  
18 three days, for public commenting.

19 And a final determination of compliance was issued  
20 on October -- October 17<sup>th</sup>, 2009.

21 MS. HOLMES: Hearing Officer Renaud, I'd ask that  
22 that be marked as Exhibit 301. Since the Applicant didn't  
23 identify it, I guess staff will.

24 HEARING OFFICER RENAUD: Thank you. That would  
25 be the final determination of compliance?

1 MS. HOLMES: Yes.

2 HEARING OFFICER RENAUD: All right. Do you want  
3 to mark the PDOC, as well?

4 MS. HOLMES: No.

5 HEARING OFFICER RENAUD: All right, 301. Any  
6 objection?

7 All right, that will be admitted, 301.

8 Further questions.

9 MS. HOLMES: I have no additional questions, but I  
10 think the witnesses are probably available to answer  
11 questions from other parties?

12 HEARING OFFICER RENAUD: Applicant?

13 MR. THOMPSON: No. And thank you for coming here  
14 today.

15 HEARING OFFICER RENAUD: CURE?

16 MS. MILES: No.

17 HEARING OFFICER RENAUD: All right. Mr. Budlong?

18 MR. BUDLONG: No.

19 HEARING OFFICER RENAUD: All right. Mr. Beltran?

20 MR. BELTRAN: No.

21 HEARING OFFICER RENAUD: All right, thank you.

22 MR. HERNANDEZ: Thank you.

23 MR. THOMPSON: Thank you, gentlemen.

24 HEARING OFFICER RENAUD: We can move on to  
25 another topic, Mr. Thompson, if you're ready.

1 MR. THOMPSON: Caught me off guard, I didn't  
2 realize what time it was.

3 HEARING OFFICER RENAUD: Yeah, we'll take our  
4 break at 1:00.

5 MR. THOMPSON: At 1:00, okay.

6 HEARING OFFICER RENAUD: If you're not ready, we  
7 could take our break, now. But, I mean, if you have someone  
8 here, let's try and get it done.

9 MR. THOMPSON: I just have a slow computer.

10 HEARING OFFICER RENAUD: Okay.

11 MR. THOMPSON: And a slow operator.

12 MR. BELTRAN: Mr. Renaud, we had requested to  
13 testify on air quality. It could either be in the soils or  
14 it can be in air quality. I don't see it on the final  
15 witness list. I submitted that Wednesday, before the close  
16 of business.

17 HEARING OFFICER RENAUD: Okay. Are you prepared  
18 to do that today?

19 MR. BELTRAN: Yeah, I've got the -- it shouldn't  
20 take me too long to read it into the record.

21 HEARING OFFICER RENAUD: What do you have there?  
22 You don't need to read it, if it's already been submitted,  
23 but tell me what it is.

24 MR. BELTRAN: Well, I have some additional  
25 exhibits. You and I had spoken on Friday --

1 HEARING OFFICER RENAUD: Right.

2 MR. BELTRAN: -- and I had mentioned that I would  
3 bring some studies, that they were referenced in our  
4 testimony, but I had not actually submitted the articles.  
5 If you'd like, I can just submit the articles and whatever  
6 was in the written testimony can --

7 HEARING OFFICER RENAUD: All right.

8 MR. BELTRAN: As long as it's in the record,  
9 that's fine with me.

10 HEARING OFFICER RENAUD: So, you're not saying  
11 you have live testimony to present at this time, on air  
12 quality, is that right?

13 MR. BELTRAN: If what I have submitted in writing  
14 is on the record, I don't need to add anything.

15 HEARING OFFICER RENAUD: Yeah, it is. Well, if  
16 it's on the exhibit list, it's on the record. If not, you  
17 may need to mark it today.

18 MR. BELTRAN: It's not on the exhibit -- well, no,  
19 my -- I submitted last -- on the 17<sup>th</sup> I submitted my written  
20 testimony. I don't see it on the exhibit list. The only  
21 things that appear on the exhibit list were those items that  
22 I submitted April 1.

23 HEARING OFFICER RENAUD: Okay, let me just check  
24 here.

25 MR. BELTRAN: I think that there are six exhibits

1 for CMPS. The supplemental testimony's not included.

2 HEARING OFFICER RENAUD: The supplemental  
3 testimony, I see it here.

4 MR. THOMPSON: Was this served on all the parties?

5 MR. BELTRAN: Yes.

6 HEARING OFFICER RENAUD: Yeah.

7 MS. HOLMES: Would it be the May 17<sup>th</sup> testimony?

8 HEARING OFFICER RENAUD: May 17<sup>th</sup>.

9 MR. BELTRAN: Yes.

10 MS. HOLMES: Staff received it.

11 HEARING OFFICER RENAUD: Okay. Well, let me ask  
12 you a question about that. Whose testimony -- who's the  
13 witness? You?

14 MR. BELTRAN: I am.

15 HEARING OFFICER RENAUD: All right. All right,  
16 and do you intend it as a supplement to your opening  
17 testimony?

18 MR. BELTRAN: Yes.

19 HEARING OFFICER RENAUD: And so the opening  
20 testimony is already -- has already -- is already in the  
21 record.

22 MR. BELTRAN: I haven't seen that in the record,  
23 either.

24 HEARING OFFICER RENAUD: All right, let me see.

25 MS. HOLMES: I think it's identified as an

1 exhibit. Is there a confusion about whether things have  
2 actually been entered into the record versus identified?

3 HEARING OFFICER RENAUD: Well, no. Let's just  
4 find his exhibits here.

5 All right, Mr. Beltran, you have an exhibit list  
6 and the exhibits we have from you are 600 through 605.

7 MR. BELTRAN: Correct.

8 HEARING OFFICER RENAUD: Now, in the -- what you  
9 submitted on May 17<sup>th</sup> obviously is not included in there.  
10 Would you like that marked as 606?

11 MR. BELTRAN: Actually, I have an entire list of  
12 things and that is one of the included items.

13 We talked on Friday and I had --

14 HEARING OFFICER RENAUD: Yeah, and you  
15 submitted -- you need to submit your evidence in writing.  
16 All right. And you submitted something on May 17<sup>th</sup>, which we  
17 have.

18 MR. BELTRAN: But it's not on the exhibit list.

19 HEARING OFFICER RENAUD: Well, now, I'm asking  
20 would you like to add it as 606?

21 MR. BELTRAN: Yes.

22 HEARING OFFICER RENAUD: All right. And am I  
23 understanding that there is more to it than what you  
24 submitted on May 17<sup>th</sup>?

25 MR. BELTRAN: Correct. The articles -- the

1 references that support 606.

2 HEARING OFFICER RENAUD: All right, I get you.  
3 All right, 606 you have, at the end, listed a number of  
4 publications.

5 MR. BELTRAN: Correct.

6 HEARING OFFICER RENAUD: All right. Are you  
7 telling us, now, that you now have those publications,  
8 rather than just the reference to them.

9 MR. BELTRAN: Correct.

10 HEARING OFFICER RENAUD: All right. And you'd  
11 like to have those admitted into the record?

12 MR. BELTRAN: Correct.

13 HEARING OFFICER RENAUD: All right. First of all  
14 let me ask, does anybody object to Exhibit 606, which is the  
15 May 17<sup>th</sup> submission from California Native Plant Society,  
16 being entered, admitted into evidence.

17 MS. HOLMES: Staff has no objections.

18 HEARING OFFICER RENAUD: All right.

19 MS. MILES: No objections.

20 HEARING OFFICER RENAUD: No objections, that will  
21 be admitted.

22 Now, that Exhibit 606 refers to a number of  
23 publications on its last two pages, and without naming all  
24 of them, but referring to them, Mr. Budlong, [sic] would you  
25 now like to request the admission of those publications into

1 evidence?

2 MR. BELTRAN: Tom Beltran.

3 HEARING OFFICER RENAUD: I'm sorry, Mr. Beltran.

4 Excuse me.

5 MR. BELTRAN: Yes, I would like to request the  
6 admission into evidence.

7 HEARING OFFICER RENAUD: And do you have copies  
8 of those?

9 MR. BELTRAN: I have two copies for the  
10 Commission.

11 HEARING OFFICER RENAUD: All right. Would  
12 anybody object to the admission into evidence of those  
13 publications?

14 MS. HOLMES: Staff does not object.

15 MS. MILES: No.

16 HEARING OFFICER RENAUD: Anybody? All right,  
17 they'll be admitted, 607.

18 MR. BELTRAN: The other part of our conversation  
19 was the supplemental -- the supplement to the AFC that was  
20 submitted.

21 HEARING OFFICER RENAUD: Yes.

22 MR. BELTRAN: You had requested that we come here,  
23 today, and testify, if possible, and I had mentioned that  
24 there were some items on there that I would be prepared to  
25 testify about. I can either do that today or I can do it at

1 a future hearing.

2 HEARING OFFICER RENAUD: All right. Well, we try  
3 and do this by topic, so maybe you can tell me which topic  
4 or topics?

5 MR. BELTRAN: Well, it has to do with the  
6 economics of the project. This term that's used in the --

7 HEARING OFFICER RENAUD: Just name me the topics.  
8 Okay, economics, what else?

9 MR. BELTRAN: Air quality.

10 HEARING OFFICER RENAUD: Anything else?

11 MR. BELTRAN: That should do it.

12 HEARING OFFICER RENAUD: All right. Now, it's  
13 testimony, do you have a witness? Who would be the witness?

14 MR. BELTRAN: I would be the witness.

15 HEARING OFFICER RENAUD: Are you prepared to  
16 establish yourself as an expert --

17 MR. BELTRAN: I am not an expert witness.

18 HEARING OFFICER RENAUD: -- in economics or air  
19 quality?

20 MR. BELTRAN: I think, you know, I have over 30  
21 years of experience in business. I'm very qualified to  
22 speak on that topic.

23 HEARING OFFICER RENAUD: Well --

24 MR. BELTRAN: I don't know whether it would meet  
25 the threshold of your requirements.

1 HEARING OFFICER RENAUD: Evidence levels. We'd  
2 have to let the parties question your credentials before we  
3 make that decision. And I think now would be the time to do  
4 it, actually.

5 I don't think we're going to get anything else on  
6 economics, right, from the Applicant?

7 MR. THOMPSON: We hadn't anticipated it all, no.

8 HEARING OFFICER RENAUD: Okay. Although  
9 economics is -- has sort of limited connection to this  
10 environmental analysis, it can be said that it would go to  
11 the viability of the project. That is, we want to make sure  
12 that any project that gets built is going to operate, rather  
13 than being abandoned.

14 So, there's a limited relevance to it and I think  
15 we would proceed on that basis, that this is not going to be  
16 an extensive discussion.

17 If you want to testify as an expert on economics,  
18 you'll need to be sworn in and you'll need to state what  
19 your qualifications are, and then the other parties can ask  
20 you questions about your qualifications before we'll  
21 establish that you are an expert entitled to give opinion  
22 testimony.

23 MR. BELTRAN: Well, let me explain what I would  
24 like to do. The supplement -- the Applicant's supplement to  
25 the AFC includes letters from public officials. The

1 implication is that this project is desirable and needed, as  
2 well as the public officials that appeared here today, that  
3 it's desirable and needed for the economy of the County of  
4 Imperial, California.

5 HEARING OFFICER RENAUD: Maybe I can reassure  
6 you, letters of support are of interest to us, but they  
7 don't really count as expert testimony, they are not  
8 opinion. There's a letter from the Governor and I'm sure he  
9 says he's in favor of the project, but he's not been  
10 established as an expert witness, able to give opinion  
11 testimony.

12 So, there's a limited degree of weight given to  
13 such letters. And we receive letters and comments from  
14 members of the public, as well.

15 MR. BELTRAN: Then maybe this is better saved for  
16 public comment.

17 You know, the unemployment figure in Imperial  
18 County and along the border is not comparing apples to  
19 apples in other regions.

20 HEARING OFFICER RENAUD: All right.

21 MR. BELTRAN: And if the unemployment is an issue  
22 with regard to this project, I think it's relevant to add  
23 some comments.

24 HEARING OFFICER RENAUD: It's pretty limited.

25 MR. BELTRAN: If it's very little, then there's no

1 need for me to include anything today.

2 HEARING OFFICER RENAUD: It was here, it was  
3 discussed primarily as a number of factors that might go  
4 into a Commission decision to override certain laws,  
5 ordinances, regulations or standards, and that's it.

6 MR. BELTRAN: Well, in that light --

7 HEARING OFFICER RENAUD: All right.

8 MR. BELTRAN: -- then it's not necessary for me to  
9 testify.

10 HEARING OFFICER RENAUD: Thank you. Okay, let's  
11 try now on, what was it, air quality?

12 MR. BELTRAN: Yes.

13 HEARING OFFICER RENAUD: All right. The same  
14 thing, if you want to testify as an expert, you need to  
15 state your qualifications and then the other parties can ask  
16 you about your qualifications, before we decided you are an  
17 expert.

18 MR. BELTRAN: I'm not an expert on it. You know,  
19 the items that I have in our supplemental testimony, if  
20 they're in the record, then I think that's adequate.

21 HEARING OFFICER RENAUD: Very good, thank you.  
22 Appreciate your help there. All right, good. And there  
23 will be more testimony, and so on, coming in on these  
24 topics, at any rate, as we go along. So, you should have  
25 further opportunities to review evidence and cross-examine.

1 All right, thank you.

2 All right. Now, Mr. Thompson, it appears you have  
3 a witness standing there.

4 MR. THOMPSON: Yes, Mr. Hopkins, have you been  
5 sworn?

6 MR. HOPKINS: No.

7 THE REPORTER: Would you please raise your right  
8 hand?

9 Whereupon,

10 SETH LOGAN HOPKINS

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

13 THE REPORTER: Thank you. Would you please state  
14 your full name for the record and spell it for me, please?

15 MR. HOPKINS: My name's Seth Logan Hopkins. It's  
16 S-e-t-h L-o-g-a-n H-o-p-k-i-n-s.

17 THE REPORTER: Thank you very much.

18 MR. HOPKINS: You're welcome.

19 MR. THOMPSON: The way I would like to proceed, if  
20 it's acceptable to the Committee, Mr. Hopkins has submitted  
21 testimony in three areas, land use, socioeconomics and  
22 visual, and I'd like to take them one at a time, if I may.

23 We can combine them all for cross, if you'd like,  
24 but we have an additional witness in visual, Mr. Pfaff, on  
25 the glint and glare study.

1           So, if it's acceptable to you, we can go through  
2 land use, see if there's cross, socio, and then supplement  
3 the panel by one when we get to visual.

4           HEARING OFFICER RENAUD:    I'm with a hundred  
5 percent on that, topic by topic.

6           MR. THOMPSON:   Very good.

7           So, Mr. Hopkins, with regard first of all to the  
8 topic of land use, am I correct that your testimony is  
9 Exhibit 113?

10          MR. HOPKINS:   Yes, that's correct.

11          MR. THOMPSON:   And you've submitted rebuttal  
12 testimony in Exhibit 115?

13          MR. HOPKINS:   Yes.

14          MR. THOMPSON:   You heard testimony this morning, I  
15 believe, from Mr. VanPatten, that there were a number, a  
16 small number of conditions of certification that the various  
17 witnesses for the Applicant wanted to discuss a little  
18 further. I believe one of them is Land I.

19          If that is correct, would you briefly describe the  
20 Applicant's position with regard to that suggested condition  
21 of certification change?

22          MR. HOPKINS:   Okay, there are several private  
23 parcels interior to the project boundary. Land I --

24          HEARING OFFICER RENAUD:   Mr. Hopkins, if you  
25 could keep your voice a little louder, that would help both

1 us and the people on the phone. Appreciate that. Thank  
2 you. Bring that closer, if you would. Thank you.

3 MR. HOPKINS: There are several private parcels  
4 interior to the project boundary. There's a county  
5 ordinance that requires a set-back on those parcels as they  
6 are adjacent to either BLM lands or the other private  
7 parcels.

8 The Applicant would like to request the LORS  
9 override since they are not along the project boundary. The  
10 Applicant's willing to comply with set-back standards on the  
11 project boundary, but within the boundary we believe that a  
12 LORS override is important.

13 MR. THOMPSON: Does that conclude your additional  
14 testimony?

15 MR. HOPKINS: Yes.

16 MR. THOMPSON: Mr. Hopkins is tendered for cross-  
17 examination in the area of land use.

18 HEARING OFFICER RENAUD: All right. Staff?

19 MS. HOLMES: No questions.

20 HEARING OFFICER RENAUD: CURE?

21 MS. MILES: No. No questions at this time.

22 HEARING OFFICER RENAUD: We'll get to you. Okay,  
23 Mr. Budlong?

24 MR. BUDLONG: No questions.

25 HEARING OFFICER RENAUD: All right. And just

1 bear in mind his testimony includes what he sent in, in  
2 writing, so if you want to question him about the written  
3 testimony, now's the time. No, all right.

4 All right. Mr. Alimamaghani.

5 MR. ALIMAMAGHANI: Yes, I have a question. I have  
6 160 acres right in the middle of this project, that your own  
7 map. Can you tell me what's going to happen to my land, is  
8 right here, it's not part of it, part of the project?

9 MR. HOPKINS: Yes.

10 MR. ALIMAMAGHANI: What can I do with this land,  
11 if you don't mind, please explain it to me, after your  
12 project came to work?

13 MR. HOPKINS: You can to anything that's allowable  
14 under the county code.

15 MR. ALIMAMAGHANI: Will you please elaborate a  
16 little bit more, what can I do with it?

17 HEARING OFFICER RENAUD: I think that's very  
18 broad. Maybe we should establish whether or not the land  
19 will be affected by the project, first.

20 MR. ALIMAMAGHANI: Yes.

21 HEARING OFFICER RENAUD: Tell us that, if you  
22 know?

23 MR. HOPKINS: There will be no development on that  
24 land from our project. Any areas abutting that land will  
25 comply with the set-back standards of the county.

1 MR. ALIMAMAGHANI: What is the set-backs?

2 MR. HOPKINS: Well, private parcels zoned for open  
3 space require a 30-foot set-back. So that along your  
4 property line there will be a 30-foot set-back.

5 MR. ALIMAMAGHANI: Thirty-foot set-back for what?

6 MR. HOPKINS: Development of structures. Your  
7 property will not be built upon or affected in any way,  
8 other than there will be development around it.

9 MR. ALIMAMAGHANI: Okay. You mean all around  
10 these four corner of my property there's going to be a 30-  
11 foot set-back, right, for your project?

12 MR. HOPKINS: I'm not looking at the map right  
13 now. I don't think that it --

14 MR. ALIMAMAGHANI: I will provide it to you, if  
15 you don't mind?

16 MR. HOPKINS: Yeah.

17 MS. HOLMES: Could we get it marked, perhaps, so  
18 that when people look at the record they understand what  
19 we're discussing?

20 HEARING OFFICER RENAUD: Sure. Where did you get  
21 the map, Mr. Alimamaghani?

22 MR. ALIMAMAGHANI: Right there in that table.

23 HEARING OFFICER RENAUD: All right. So, we'll  
24 mark that as your Exhibit 704.

25 MS. HOLMES: Could we have a title so the rest of

1 us can find it?

2 HEARING OFFICER RENAUD: Sure. Mr. Alimamaghani,  
3 your Exhibit 701 is Parcel and Water District Maps. Is that  
4 -- that's not the same as this map, I take it?

5 MR. ALIMAMAGHANI: No, that's not the same.

6 HEARING OFFICER RENAUD: All right.

7 MR. ALIMAMAGHANI: I got this today, this morning,  
8 here.

9 HEARING OFFICER RENAUD: All right. What should  
10 we call it?

11 MS. HOLMES: Does it have a title on it?

12 MR. HOPKINS: This is a supplement map, it's the  
13 project overview map labeled Figure No. 1.

14 MS. HOLMES: Is this from one of the existing  
15 exhibits?

16 HEARING OFFICER RENAUD: Yeah, it looks like it  
17 is.

18 MS. HOLMES: Could we get -- could we find out  
19 where it is in one of the existing exhibits, please?

20 HEARING OFFICER RENAUD: It's dated April 6<sup>th</sup>,  
21 2010. Would that mean it's in the supplement?

22 MR. HOPKINS: Well, it's Exhibit 32.

23 HEARING OFFICER RENAUD: Just so we can keep  
24 going, let's just mark it 704. The title is "Project  
25 Overview Map Imperial Valley Solar," dated April 6<sup>th</sup>, 2010.

1 All right.

2 MR. HOPKINS: Okay, so this shows a parcel  
3 interior to the boundary of the project. There will be  
4 development on, yes, four sides of your property.

5 HEARING OFFICER RENAUD: Just for clarity of the  
6 record, Mr. Alimamaghani, one of the parcels in yellow is  
7 your parcel?

8 MR. ALIMAMAGHANI: Yes, the middle one that's not  
9 a part.

10 MR. HOPKINS: There are two not-a-parts, though,  
11 the one that is southeast.

12 MR. ALIMAMAGHANI: No, the 160 acres, that one  
13 section.

14 MR. HOPKINS: Uh-hum.

15 MR. ALIMAMAGHANI: Yeah.

16 HEARING OFFICER RENAUD: Okay, describe it for  
17 us.

18 MR. ALIMAMAGHANI: It's the 450 MW.

19 HEARING OFFICER RENAUD: To the right of it, all  
20 right, that says NAP. The large square one that says NAP is  
21 the parcel that you're talking about?

22 MR. ALIMAMAGHANI: Correct.

23 HEARING OFFICER RENAUD: Thank you.

24 MR. ALIMAMAGHANI: Correct.

25 HEARING OFFICER RENAUD: All right. Now, is

1 there a question?

2 MR. ALIMAMAGHANI: Yes. What can I do with this  
3 land after your project start running?

4 HEARING OFFICER RENAUD: I think you've asked it  
5 and that's been answered.

6 MR. THOMPSON: Yeah, this has been asked and  
7 answered.

8 MR. ALIMAMAGHANI: Okay. What is the condition of  
9 this land after you put all these 11-foot SunCatcher around  
10 it, what is the visual condition of this land?

11 MR. HOPKINS: Well, the condition of the ground  
12 will be unchanged. Are you asking -- the project will be  
13 visible, there will be SunCatchers surrounding the property.

14 MR. ALIMAMAGHANI: I realize that, but if you put  
15 these SunCatcher around this land, what is the visual of  
16 this land, situation of the visual? Do I have any visual  
17 outside?

18 Like right now the mountains, you can see the  
19 mountains or you can see the surrounding lands, am I able to  
20 see that?

21 HEARING OFFICER RENAUD: Mr. Alimamaghani, there  
22 will be -- well, I guess, he's also going to present visual  
23 resources testimony?

24 MR. THOMPSON: Yeah, I wasn't going to object  
25 because it's the same witness.

1 HEARING OFFICER RENAUD: All right. This same  
2 witness is going to testify about the visual impacts of the  
3 project. So, questions about the impact, the visual impacts  
4 from your property probably ought to wait until we're on  
5 that topic, even though it will be with this witness. Is  
6 that understandable?

7 MR. ALIMAMAGHANI: Yes, sure, I understand that.

8 HEARING OFFICER RENAUD: All right.

9 MR. ALIMAMAGHANI: But I thought maybe this  
10 gentleman can answer this.

11 HEARING OFFICER RENAUD: Let's let him do his  
12 visual testimony, first, and then you can --

13 MR. HOPKINS: I'll answer that question, yeah,  
14 later.

15 HEARING OFFICER RENAUD: All right.

16 MR. ALIMAMAGHANI: But in general can you conclude  
17 for me something which -- what I can do with this project  
18 after you put this SunCatcher around it? What can I do with  
19 this land after you put this SunCatcher around it?

20 HEARING OFFICER RENAUD: You've already asked  
21 that and he's answered it. Please ask a different question  
22 or let us know if you're done.

23 MR. ALIMAMAGHANI: I don't have any other  
24 questions, sir.

25 HEARING OFFICER RENAUD: All right. Any redirect

1 or other questions of this witness?

2 MR. THOMPSON: O.

3 HEARING OFFICER RENAUD: All right. Does anybody  
4 have rebuttal testimony on the topic of land use, at this  
5 time?

6 All right. Let's move on then.

7 MR. THOMPSON: Mr. Hopkins, you've been previously  
8 sworn. In the topic of socioeconomics, which was part of  
9 your testimony that's contained in Exhibit 113, do you have  
10 any corrections, additions to that testimony?

11 MR. HOPKINS: No.

12 MR. THOMPSON: Mr. Hopkins is tendered for cross-  
13 examination in the area of socioeconomics.

14 HEARING OFFICER RENAUD: Okay, so parties, you  
15 understand the testimony in socioeconomics is his written  
16 testimony that's been submitted, and now would be your  
17 opportunity to question him about that.

18 Staff?

19 MS. HOLMES: No cross-examination.

20 HEARING OFFICER RENAUD: CURE?

21 MS. MILES: No cross.

22 HEARING OFFICER RENAUD: Mr. Budlong, questions  
23 on socioeconomics?

24 MR. BUDLONG: No.

25 HEARING OFFICER RENAUD: Mr. Beltran?

1 MR. BELTRAN: No.

2 HEARING OFFICER RENAUD: Mr. Alimamaghani?

3 MR. ALIMAMAGHANI: Regarding this land, in your  
4 professional opinion, you think it will have the same value  
5 after you put your project around this land?

6 HEARING OFFICER RENAUD: That's not really what  
7 his testimony is about, it's not about land values. It's  
8 really about the socioeconomic impact.

9 MR. ALIMAMAGHANI: But this has an effect in my  
10 social economy as an individual.

11 (Laughter.)

12 HEARING OFFICER RENAUD: I understand. I  
13 understand.

14 MR. ALIMAMAGHANI: Right.

15 HEARING OFFICER RENAUD: Well, you can ask him,  
16 see if he has any information about your question and then  
17 we'll move on.

18 MR. ALIMAMAGHANI: Do you have any information,  
19 sir?

20 MR. HOPKINS: You're asking me if it will affect  
21 the value of your property?

22 MR. ALIMAMAGHANI: Yes.

23 MR. HOPKINS: I don't know. It depends.

24 MR. ALIMAMAGHANI: May I ask you how many years  
25 you have experience in this field you are?

1 MR. HOPKINS: Four.

2 MR. ALIMAMAGHANI: Thank you.

3 HEARING OFFICER RENAUD: All right, testimony on  
4 -- well, any redirect on that?

5 MR. THOMPSON: No redirect in that area.

6 HEARING OFFICER RENAUD: All right, in visual.

7 MR. THOMPSON: Visual. Can I ask, call to the  
8 stand Mr. Pfaff.

9 Whereupon,

10 JASON PFAFF

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

13 THE REPORTER: Thank you. Would you please state  
14 your full name for the record and spell it for me?

15 MR. PFAFF: Jason Pfaff, J-a-s-o-n, and P-f-a-f-f.

16 THE REPORTER: Thank you.

17 MR. PFAFF: Thank you.

18 MR. THOMPSON: Mr. Pfaff, I believe you submitted  
19 prepared testimony in two occasions. One is in Exhibit 101  
20 and the second is a part of Exhibit 115, May 10 submittal.  
21 Is that correct?

22 MR. PFAFF: That's correct.

23 MR. THOMPSON: And the sole other exhibit that you  
24 are testifying to is the Glint and Glare Study, which I  
25 believe is Exhibit 25. Is that correct?

1 MR. PFAFF: That's correct.

2 MR. THOMPSON: Do you have any additions,  
3 corrections or deletions to make to your testimony or those  
4 documents?

5 MR. PFAFF: No, I don't.

6 MR. THOMPSON: We would offer a panel of two --  
7 oh, wait a minute, I haven't done Seth on visual, have I?

8 Mr. Hopkins, on the area of visual resources,  
9 again it's contained in a document entitled Exhibit 113; is  
10 that correct?

11 MR. HOPKINS: Yes.

12 MR. THOMPSON: And, Mr. Hopkins, with regard,  
13 again, to conditions of certification, the previous topic we  
14 talked about in Exhibit 38, would you please summarize the  
15 Applicant's position with regard to Visual IV, the set-  
16 backs?

17 MR. HOPKINS: Yeah, Visual IV asks for a 500-foot  
18 set-back for the nearest SunCatcher to I-8. The Applicant  
19 would like to request that be revised to 300 feet, from 500  
20 feet.

21 MR. THOMPSON: And condition of certification  
22 Visual 8 -- or, I'm sorry, Visual 6 concerns a fence and a  
23 berm. Do you have any -- you know, would you please  
24 summarize the Applicant's position on that condition?

25 MR. HOPKINS: The consents that led to the

1 condition requiring a 20-foot fence were raised prior to the  
2 full understanding of potential glint and glare, a fact of  
3 the project. Since that time the Applicant has provided  
4 data in the Glint and Glare Analysis, which will speak to  
5 the potential for glint and glare, and we believe that  
6 information shows the fence is unnecessary.

7 MR. THOMPSON: Thank you. That completes the  
8 additional direct. I present Mr. Pfaff and Mr. Hopkins for  
9 cross-examination.

10 HEARING OFFICER RENAUD: Cross-examination?

11 MS. HOLMES: No, none from the staff.

12 HEARING OFFICER RENAUD: CURE?

13 MS. MILES: No.

14 HEARING OFFICER RENAUD: Mr. Budlong?

15 MR. BUDLONG: No.

16 HEARING OFFICER RENAUD: All right. Mr.  
17 Alimamaghani?

18 MR. ALIMAMAGHANI: No, sir.

19 HEARING OFFICER RENAUD: All right. Let me ask  
20 you, Ms. Holmes, you've listed witnesses in land use and  
21 visual. Will any of them be here today?

22 MS. HOLMES: The visual resources witness is  
23 available and I believe he's on the line right now.

24 HEARING OFFICER RENAUD: All right.

25 MS. HOLMES: And he's joined by an additional

1 person, who should have been listed as a sponsor of staff  
2 testimony on visual resources, and I believe they are both  
3 available.

4 Bill and James, are you on the line?

5 MR. KANEMOTO: Yes, we are.

6 MR. JEWELL: Yes.

7 HEARING OFFICER RENAUD: Would you care to  
8 present their testimony at this time or did you intend to do  
9 that later?

10 MS. HOLMES: We can do that now.

11 HEARING OFFICER RENAUD: All right. Let's go  
12 ahead, yeah.

13 All right. We need to swear these witnesses on  
14 the phone. You can't see them raising their hands, but  
15 you'll just have to trust that they are.

16 THE REPORTER: Can you tell me where you're  
17 located?

18 HEARING OFFICER RENAUD: Where are you two  
19 located?

20 MR. KANEMOTO: This is Bill Kanemoto, I'm located  
21 in Oakland.

22 THE REPORTER: Oakland, California?

23 MR. JEWELL: And this is James Jewell and I'm in  
24 San Francisco.

25 HEARING OFFICER RENAUD: All right.

1 THE REPORTER: Okay, you're both in California, is  
2 that correct?

3 MR. KANEMOTO: Yes.

4 MR. JEWELL: Yes.

5 THE REPORTER: Thank you very much. I can't see  
6 you doing this, but I've asked you to raise your hands,  
7 right hand.

8 Whereupon,

9

WILLIAM KANEMOTO

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

12

JAMES JEWELL

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

15 THE REPORTER: I need you both to state your full  
16 names for the record, please, and if you would also spell  
17 them. And when you're talking, if you would make sure that  
18 I know who it is that's talking, since I can't see you.

19 HEARING OFFICER RENAUD: Very important.

20 MR. KANEMOTO: This is Bill.

21 MR. JEWELL: Go ahead, Bill.

22 MR. KANEMOTO: This is Bill. My name is William  
23 Kanemoto. That's spelled K-a-n-e-m-o-t-o.

24 THE REPORTER: Okay, the next one?

25 MR. JEWELL: My name is James Jewell, spelled J-e-

1 w-e-l-l.

2 THE REPORTER: Thank you.

3 MS. HOLMES: Thank you. Mr. Kanemoto, was the  
4 visual resources section of Exhibit 33, the staff  
5 assessment, prepared by you or under your direction?

6 MR. KANEMOTO: Yes.

7 MS. HOLMES: And at this point staff would like to  
8 point out that we should have, and did not, name Mr. Jewell  
9 as a co-author.

10 Mr. Jewell, did you assist in the preparation of  
11 Exhibit 300, as an expert on glint and glare?

12 MR. JEWELL: Yes.

13 MS. HOLMES: Mr. Kanemoto, is a statement of your  
14 qualifications included in Exhibit 300?

15 MR. KANEMOTO: I believe so.

16 MS. HOLMES: Mr. Jewell, we could either have  
17 party's stipulate to his qualifications or we could have him  
18 summarize them, which would the Committee prefer?

19 MR. JEWELL: Well, I've filed with the Commission  
20 on a number of times, but I think I can say, briefly, that  
21 I've been practicing as an expert and consultant in the  
22 field and light and vision for some 60 years, and I've been  
23 consulting with the Commission, now, for a year and a half.

24 MS. HOLMES: Thank you.

25 HEARING OFFICER RENAUD: Does anybody have

1 objection to either witness being admitted as an expert?

2 MR. THOMPSON: Are you kidding?

3 (Laughter.)

4 HEARING OFFICER RENAUD: Not quite. All right,  
5 they'll be admitted as experts.

6 MS. HOLMES: Mr. Kanemoto, it's my understanding  
7 that you are still working on some refinements to your  
8 testimony. Is that correct?

9 MR. KANEMOTO: Yes, that's correct. There's a  
10 certain amount of information we obtained since the  
11 publication of the staff assessment, DIS, that will probably  
12 result in some modifications to a number of the conditions  
13 of certification, including the Vis 2, the Vis 4, the Vis 5  
14 and Vis 6.

15 MS. HOLMES: And those changes will appear in the  
16 staff assessment, the supplemental staff assessment that  
17 will be filed on June 27<sup>th</sup>?

18 MR. KANEMOTO: Correct.

19 MS. HOLMES: And with the understanding that there  
20 will be additional changes, are the facts contained in your  
21 testimony true and correct?

22 MR. KANEMOTO: Yes.

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

25 MR. KANEMOTO: Yes.

1 MS. HOLMES: I think what I'd like to do, so that  
2 people can have a good understanding of where we are, is  
3 have Mr. Kanemoto, with assistance from Mr. Jewell, explain  
4 what information that they are referring and how it's  
5 affecting the testimony.

6 So, would you like to begin with that?

7 MR. KANEMOTO: Okay. Well, like I say, there's  
8 several issues that need to be resolved as far as the  
9 conditions of certification are concerned. Maybe if I take  
10 them one by one.

11 Mr. Hopkins mentioned the issue of condition Vis  
12 4, which involves set-backs from the highways, of the  
13 SunCatchers.

14 We called for a minimum set-back of 500 feet from  
15 the adjoining roadways, primarily to reduce glare intensity,  
16 as well as to reduce the prominence of the units.

17 And the Applicant is arguing that the existing  
18 set-backs of 360 feet are adequate.

19 And just to clarify our recommendation, staff was  
20 not aware of any proposal by the Applicant to establish a  
21 set-back of 360 feet, which I don't believe is cited in the  
22 AFC, at least to my knowledge.

23 So that we can up with the figure of 500 feet but,  
24 however, after discussions about this, 360 feet seemed to  
25 appear to be adequate to achieve the general objections of

1 Vis 4. And so, I believe staff is willing to stipulate to  
2 that figure. And James Jewell can confirm that.

3 MR. JEWELL: I agree.

4 MR. KANEMOTO: The Park Service, in its comments  
5 on the DEIS, identified reflection of night lighting in the  
6 SunCatcher mirrors as a potential substantial issue that  
7 should be identified. And I believe Mr. Jewell will address  
8 that in a moment. This could involve a revision to  
9 condition Vis 2.

10 Let's see, as I mentioned, the Park Service also  
11 brought up the issue of Vis 5 and the specifics of Vis 5,  
12 and measures that should be taken to mitigate impacts to the  
13 Anza National Historic Trail.

14 And, essentially, Vis 5 is what we were  
15 considering a placeholder for now. There are a number of  
16 issues that need to be resolved at this time in Vis 5, and  
17 we intend to work with the Park Service between now and the  
18 supplemental staff assessment to finalize those.

19 One of the issues that we hope to address is the  
20 fact that at the request of the Park Service, the Applicant  
21 prepared a visual study of possible effects to the Historic  
22 Trail, and came up with a recommended mitigation measure to  
23 address impacts to the Trail that may be appropriate to  
24 include in the conditions of the supplemental staff  
25 assessment.

1           But there again we'll -- this is something that  
2 the staff needs to work with the Park Service to determine  
3 and those will appear in the supplemental staff assessment.

4           As far as Vis 6 is concerned, Vis 6 addresses  
5 reflective glare mitigation and, as I mentioned -- well, you  
6 know, additional glare studies were conducted by the  
7 Applicant since publication of the staff assessment, and  
8 including quantitative studies of glare at the Maricopa  
9 site.

10           And CURE has recommended a discussion of the  
11 results of that study and so I believe Mr. Jewell will  
12 summarize some of the results of that study, which he finds  
13 relevant to the conditions that have been called for so far.

14           So, I believe that those are the outstanding  
15 issues that I'm aware of.

16           MS. HOLMES: And I think since we have people  
17 here, I would like to have Mr. Jewell prepare -- or, excuse  
18 me, provide a brief summary of his review of the Glint and  
19 Glare Study, although I will note that there will be written  
20 testimony provided on that subject on June 27<sup>th</sup>.

21           So, with that, Mr. Jewell, could you provide a  
22 brief summary of your review of the Glint and Glare Study?

23           MR. JEWELL: Well, we certainly appreciate the  
24 Applicant undertaking the measurements at the Maricopa  
25 plant. It is interesting that they have confirmed the

1 bright spot at the top of the mirror, which occurs in every  
2 photograph, specifically those photographs that are on the  
3 cover of the Applicant's documents submitted to the  
4 Commission over the progress of this whole effort.

5           We are in the process of analyzing those  
6 brightnesses. We believe that at 360 feet the effect at the  
7 highway will be perfectly reasonable, but we have not  
8 completed the analysis. There's a great deal of data that  
9 came from the firm engaged by the Applicant, Lighting  
10 Sciences, from Scottsdale, Arizona, a distinguished firm in  
11 the field.

12           The data is correct and it is all plausible, but  
13 it has taken us a great deal of time to analyze it all.

14           As I say, my supposition is that it will be -- may  
15 prove to be satisfactory.

16           We also have reviewed, with some care, the  
17 additional material submitted by the Applicant, the research  
18 done for them by Power Engineers, and find that the full  
19 recommendations of mitigation included in the Power Engineer  
20 document, which has been submitted to the Commission, will  
21 presumably occur in our final recommendations.

22           It has to do with, particularly, the location of  
23 the off-access focus of the mirrors when the Stirling  
24 engines must be protected from a sudden burst of heat based  
25 on the passage of clouds, a fact which I've studied with the

1 actual Stirling Engine website.

2           With respect to Vis 2, I have been of the general  
3 opinion that the Vis 2 is not quite exact enough and have  
4 proposed that we use certain documents published by the  
5 Illuminating Engineering Society of North America, all of  
6 which have gone through review and public consistent  
7 standards. And which will provide for this Applicant, and  
8 if used in other jobs, a way to measure nighttime lighting  
9 effects and deal with obtrusive lighting in a substantive  
10 and standardized way. I think that will be beneficial to  
11 all of us.

12           I think that -- Counsel, I think that takes care  
13 of everything I've prepared to say.

14           MS. HOLMES: Thank you. So, when we file our  
15 testimony on June 27<sup>th</sup>, you will see the additional analysis,  
16 the staff analysis of glint and glare and you will see  
17 modified conditions pursuant to the discussion that you've  
18 just heard with Mr. Kanemoto and Mr. Jewell.

19           And with that, I would make the witnesses  
20 available for cross-examination.

21           HEARING OFFICER RENAUD: Okay. Just for clarity  
22 of the record, the Glint and Glare Study is the study marked  
23 Exhibit 25. Am I correct about that?

24           MR. THOMPSON: Correct.

25           HEARING OFFICER RENAUD: All right, good.

1 Cross-examination by Applicant.

2 MR. THOMPSON: Mr. Jewell, would you elaborate a  
3 little more on what you anticipate Vis 2 would contain?

4 MR. JEWELL: Vis 2 will be based on the  
5 Illuminating Engineer Society document on obtrusive light,  
6 which has been adopted by a number of jurisdictions in the  
7 country as a means of dealing with light pollution and light  
8 trespass. It has specific values, which can be measured.

9 It will provide both the Commission and the  
10 county, if it wishes, the way to determine whether or  
11 not -- and the National Park Service, whether or not the  
12 night lighting system of Imperial Valley produces obtrusive  
13 light and light trespass.

14 MR. THOMPSON: And with regard to Vis 5, I think  
15 that was also under yours, the Anza Historic Trail, can you  
16 give us an idea of what this condition is going to say?

17 MR. KANEMOTO: Well, that would probably be  
18 addressed to me, this is Bill.

19 MR. THOMPSON: Oh, to Bill.

20 MR. KANEMOTO: Should I answer now or would you  
21 like to go onto the next clear question?

22 MR. THOMPSON: No, no, go ahead.

23 MR. KANEMOTO: Well, there's a number of issues.  
24 The Park Service raised a lot of very specific questions  
25 about the use of the beneficial assessment that's called for

1 in that measure to mitigate effects to the Anza Trail. And  
2 we just -- you know, those need to be discussed at length  
3 with them.

4 But, however, one of which is assessing the amount  
5 of assessment and so on, and so forth. But aside from that,  
6 as I think I mentioned, in the visual study that was  
7 prepared by I believe Mr. Hopkins, for the Park Service on  
8 effects to the Anza Trail, there was a mitigation measure  
9 proposed that suggested relocating the designated Anza Trail  
10 within the Yuha Desert ACEC further southward, which would  
11 place it outside of the view shed of the project. And that  
12 seems like a possible mitigation measure, if it's acceptable  
13 to the Park Service.

14 But, again, that's something that needs to be  
15 discussed with the Park Service to see whether they find  
16 that to be a feasible measure.

17 MR. THOMPSON: Mr. Kanemoto, I don't know if you  
18 were on the line when Mr. Hopkins testified a few minutes  
19 ago about Vis 4, and the set-back?

20 MR. KANEMOTO: Yes.

21 MR. THOMPSON: I understand that you testified  
22 that 360 is acceptable. Mr. Hopkins testified that after  
23 further review and, Mr. Hopkins, correct me if I'm  
24 mischaracterizing your testimony here, that after further  
25 review he's recommending a set-back of 300 feet, not 360.

1 Do you have any comment on that?

2 MR. KANEMOTO: Well, we were having a very  
3 difficult time with this measure because we have many, many  
4 documents indicating what the layout of the project is, and  
5 every single one of them is contradictory, so we don't know  
6 what the Applicant is proposing.

7 But as far as the distance, I don't know, I would  
8 refer to Mr. Jewell as to whether that's a sufficient set-  
9 back.

10 MR. JEWELL: Well, my opinion would be that we  
11 need to know exactly the distance from the highway to the  
12 first row of mirrors, that's what really counts, as opposed  
13 to anything having to do with the fence line, and security  
14 fences, and whatever.

15 If they propose 300 feet, then we'll go back and  
16 recalculate and decide whether or not 300 feet is  
17 acceptable.

18 MR. THOMPSON: That completes my cross with these  
19 witnesses. I do have one question for Mr. Hopkins on  
20 redirect.

21 HEARING OFFICER RENAUD: Okay, I think it's  
22 appropriate to do that right now, since I take it, it  
23 pertains to what was just said.

24 MR. THOMPSON: It does.

25 Mr. Hopkins, did you just hear the response of Mr.

1 Kanemoto and Mr. Jewell regarding the set-back?

2 MR. HOPKINS: Yes, I did.

3 MR. THOMPSON: And your recommendation of 300 feet  
4 would encompass what, in the distance from the road?

5 MR. HOPKINS: It would be from the edge of the  
6 shoulder of the road to the nearest SunCatcher pedestal.

7 MR. THOMPSON: So, the fence would be closer to  
8 the road from that?

9 MR. HOPKINS: Yes, the fence would be closer, the  
10 SunCatchers would be at that distance, the nearest  
11 SunCatcher to the road.

12 MR. THOMPSON: Dish or pedestal?

13 MR. HOPKINS: Dish.

14 MR. THOMPSON: Dish. Thank you. That completes  
15 our redirect.

16 HEARING OFFICER RENAUD: Okay, thank you. Any  
17 cross-examination by CURE, of staff's witnesses?

18 MS. MILES: So, I hear that you have reviewed the  
19 National Park Service letter and so I just wanted to confirm  
20 that you will also be reviewing the additional comments that  
21 are submitted this week, on the CEQA and NEPA comment  
22 period, and that that will be incorporated into your revised  
23 staff assessment?

24 MR. KANEMOTO: I'm sorry, we're having a very  
25 difficult time understanding what was just said.

1 MR. JEWELL: Yes, I couldn't hear her, either.

2 MS. MILES: Sorry. That's odd.

3 HEARING OFFICER RENAUD: Let me see if I can move  
4 this phone over closer.

5 MS. MILES: Oh, that's the problem, okay. I  
6 thought if I spoke into the mike that would be sufficient.

7 HEARING OFFICER RENAUD: We're moving you,  
8 gentlemen. Okay. There, maybe that will help.

9 MS. MILES: Okay. So, I just heard that you are  
10 reviewing the comments submitted by the National Park  
11 Service and I just wanted to confirm that you will be  
12 reviewing the comments submitted on this project, in the  
13 comment deadline that's ending this week, under CEQA and  
14 NEPA, and that that will also be considered in your revised  
15 staff assessment?

16 MR. KANEMOTO: I'm sorry, could you repeat that?

17 MS. MILES: Well -- okay, I'm sorry. Will you be  
18 reviewing the comments that are submitted during the comment  
19 period this week, on the NEPA document and the CEQA  
20 document, I believe there's a comment ending this week, and  
21 I just wanted to confirm that you'll be reviewing those  
22 comments prior to the revised staff assessment, prior to  
23 your developing of that document?

24 MR. KANEMOTO: Oh, yes, yes.

25 MS. MILES: Okay. So, I just wanted to clarify

1 that. I didn't understand, prior to this meeting, that you  
2 would be providing additional testimony on this topic and so  
3 I would like to reserve my cross-examination until I review  
4 the revised staff assessment.

5 HEARING OFFICER RENAUD: That's fine. I think  
6 there will be a lot of response to the revised staff  
7 assessment and we're all looking forward to that.

8 All right. Any cross-examination by Mr. Budlong?

9 MR. BUDLONG: Yeah, I have a question of  
10 terminology. You were talking about the de Anza Trail.  
11 Isn't that really the de Anza Corridor?

12 MR. KANEMOTO: Well, we can't you, there's a  
13 tremendous amount of foreground noise.

14 MR. BUDLONG: I can come over there.

15 HEARING OFFICER RENAUD: All right, this will  
16 make it clearer for you.

17 MR. BUDLONG: Can you hear me?

18 MR. KANEMOTO: Fine, perfect.

19 MR. BUDLONG: Can you hear me now? A terminology  
20 question, you were talking about the de Anza Trail, isn't  
21 that the de Anza Corridor?

22 MR. KANEMOTO: Well, what we were referring to is  
23 the BLM designated Anza Trail. As you know, there's a broad  
24 corridor that's defined and then within that BLM has  
25 designated an open trail -- not open trail but, you know, an

1 OHB trail that they refer people to who want to travel on  
2 the trail. And as I understand it, there's no specific  
3 trail identified, they simply know that the trail exists  
4 somewhere within that corridor.

5 Is that what you're referring to?

6 MR. BUDLONG: Yeah, I wanted to know whether  
7 you're talking about a trail, which is a few feet wide, or a  
8 corridor which is a quarter of a mile wide, something like  
9 that. You were also talking about --

10 MR. KANEMOTO: Yeah, I believe that the  
11 Applicant's suggestion for the mitigation measure may have  
12 related to that fact. I don't know, I'm speaking for them  
13 and I shouldn't do that.

14 But, you know, because of the fact that there's  
15 some arbitrariness to the location of the designated trail,  
16 maybe that's where the notion that re-siting is a  
17 possibility came from. I don't know.

18 MR. BUDLONG: If you relocated it, presumably,  
19 that would refer to relocating something you could drive a  
20 car on, rather than a wide corridor of unknown location?

21 MR. KANEMOTO: Yeah, these are -- these are pre-  
22 existing designated trails under the NICO Plan Amendment  
23 that are currently used. Track -- visitors are referred to  
24 these trails, you know, if they want to travel on the Anza  
25 Trail. And the campsites are located along there and

1 they're also routed to go by other points of interest, like  
2 the geoglyphs, and so on.

3 MR. BUDLONG: Okay, that answers my question.  
4 Thank you.

5 HEARING OFFICER RENAUD: Mr. Beltran, cross-  
6 examination?

7 MR. BELTRAN: No.

8 HEARING OFFICER RENAUD: Mr. Alimamaghani?

9 MR. ALIMAMAGHANI: No questions.

10 HEARING OFFICER RENAUD: All right, thank you.

11 Let's see, where are we? All right. Well, any  
12 redirect?

13 MS. HOLMES: No questions.

14 HEARING OFFICER RENAUD: All right. Okay, and I  
15 think it's a good time to break. But before we do that,  
16 evidence to move in, to move for admittance?

17 MR. THOMPSON: Yeah, I would move into evidence  
18 all of the exhibits that we have referenced this morning.

19 HEARING OFFICER RENAUD: All right.

20 MR. THOMPSON: That are not previously moved.

21 HEARING OFFICER RENAUD: Any objection by any  
22 party?

23 MS. HOLMES: No objection.

24 HEARING OFFICER RENAUD: All right. Staff any  
25 motions?

1 MS. HOLMES: Staff would like to move in the  
2 visual resources section of Exhibit 300, as well as the  
3 determination of compliance, Exhibit 301, and ask that Mr.  
4 Kanemoto and Mr. Jewell be excused until a further hearing?

5 HEARING OFFICER RENAUD: Any objection?

6 MR. THOMPSON: No objection.

7 HEARING OFFICER RENAUD: All right, thank you.  
8 Good.

9 MR. THOMPSON: Thank you, gentlemen. Thank you.  
10 You can hang up or you can keep listening.

11 MR. KANEMOTO: Okay.

12 HEARING OFFICER RENAUD: All right. Well, I  
13 think we're pretty on track for our one o'clock break. So,  
14 unless anybody objects, we'll break until two o'clock.

15 Those of you on the phone -- okay, ten past 2:00  
16 we'll be back.

17 (Thereupon the lunch recess was held.)

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AFTERNOON SESSION

HEARING OFFICER RENAUD: Thank you for coming back promptly and we'll resume for our afternoon session of the evidentiary hearing for the Imperial Valley Solar Project.

Staff has -- staff's counsel has brought in a witness, flown in today to testify about reliability. And on any other topics?

MS. HOLMES: Reliability, efficiency and facility design.

HEARING OFFICER RENAUD: All right. Would you like to call that witness then, please?

MS. HOLMES: Shahab Khoshmashrab.  
Could we have the witness sworn, please?

THE REPORTER: Would you stand, please?

MS. HOLMES: Do you want to get your papers out?

THE REPORTER: Would you raise your right hand?  
Whereupon,

SHAHAB KHOSHMAHRAB

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

THE REPORTER: Thank you. Would you please state your full name for the record and spell it for me, please?

1 MR. KHOSHMAHRAB: Shahab Khoshmashrab, S-h-a--h-  
2 a-b, the last name is K-h-o-s-h-m-a-s-h-r-a-b.

3 THE REPORTER: Thank you.

4 MS. HOLMES: Shahab, do you want to have your  
5 testimony in front of you and we'll get started?

6 MR. KHOSHMAHRAB: Yes.

7 MS. HOLMES: Thank you. Mr. Khoshmashrab, did you  
8 prepare the power plant reliability, facility design and  
9 power plan efficiency testimony that's contained in Exhibit  
10 300, which is the staff assessment for this project?

11 MR. KHOSHMAHRAB: Yes.

12 MS. HOLMES: And was a statement of your  
13 qualifications included in the staff assessment?

14 HEARING OFFICER RENAUD: Excuse me, Mr.  
15 Khoshmashrab, just turn that other mike -- did I get that  
16 right?

17 MR. KHOSHMAHRAB: Khoshmashrab.

18 HEARING OFFICER RENAUD: Just turn that other  
19 mike around so you're facing it.

20 MR. KHOSHMAHRAB: The tall one, you mean.

21 HEARING OFFICER RENAUD: That's the one, thank  
22 you. Yes.

23 MS. HOLMES: Was a statement of your  
24 qualifications included in that exhibit?

25 MR. KHOSHMAHRAB: Yes.

1 MS. HOLMES: Earlier this morning we heard  
2 testimony, when you were out of the room, relating to  
3 reliability, and we understand that there may be additional  
4 information coming in from the Applicant on the topic.

5 With the understanding that there may be  
6 additional public comment and additional Applicant  
7 testimony, are the facts contained in the sections of  
8 Exhibit 300, that I just identified, true and correct to the  
9 best of your knowledge?

10 MR. KHOSHMAHRAB: Yes.

11 MS. HOLMES: And do the opinions contained in that  
12 testimony represent your best professional judgment?

13 MR. KHOSHMAHRAB: Yes.

14 MS. HOLMES: Thank you. The witness is available  
15 for cross-examination.

16 HEARING OFFICER RENAUD: Thank you. Cross by  
17 Applicant?

18 MR. THOMPSON: Let me make a suggestion here.  
19 Wayne Votan, who is -- I'm sorry, Votaw, I'll leave it to  
20 him to spell his name, he's on the phone right now, and he  
21 was the engineer that we are going to propose to answer the  
22 question on the maintenance activities at Maricopa. I think  
23 it would be appropriate to bundle him in a panel of your  
24 efficiency, reliability, and the fellow on the phone, if  
25 that's acceptable?

1 MS. HOLMES: I'm not -- well, I think that we may  
2 have questions of him, so I'm not sure that the panel  
3 members ought to be asking each other questions. Perhaps we  
4 could have him present his summary so we could, in essence,  
5 take a break, now, and have him present his testimony, and  
6 we could get -- and people could conduct cross-examination  
7 of that and the move to the staff testimony.

8 HEARING OFFICER RENAUD: That sounds all right.  
9 If he's on the phone and is ready to go, let's do that.

10 MR. THOMPSON: Mr. Votaw, I would ask that you  
11 stand and raise your right hand and the court reporter will  
12 swear you in, on the phone.

13 THE REPORTER: Is he on the phone?

14 HEARING OFFICER RENAUD: All right, he's there.

15 THE REPORTER: Sir, can you tell me where you're  
16 located?

17 MR. VOTAW: I'm in Houston, Texas.

18 THE REPORTER: I'm sorry?

19 HEARING OFFICER RENAUD: Houston.

20 MS. HOLMES: Houston, Texas.

21 THE REPORTER: I cannot swear him in if he's in  
22 Texas.

23 HEARING OFFICER RENAUD: All right. Well, I'll  
24 do it. All right.

25 Sir, you have your right hand raised?

1 MR. VOTOW: I do.

2 HEARING OFFICER RENAUD: I'm Raoul Renaud, I'm  
3 the Hearing Advisor, and I'll swear you in.  
4 Whereupon,

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

8 HEARING OFFICER RENAUD: All right. Please state  
9 your full name and spell your last name?

10 MR. VOTAW: My name is Waymon Votaw. The last is  
11 V-o-t-a-w.

12 HEARING OFFICER RENAUD: All right, thank you.

13 COMMISSIONER BYRON: And, Mr. Votaw, I don't think  
14 this is anything against Houston, Texas. I have a feeling  
15 that our court reporter is limited to Californians.

16 (Laughter.)

17 MR. THOMPSON: Mr. Votaw, I don't know if you were  
18 on the phone this morning when questions emerged regarding  
19 the efficiency and reliability of the Maricopa project. Are  
20 you familiar with the Maricopa project?

21 MR. VOTAW: I am. I am the asset manager for the  
22 project.

23 MR. THOMPSON: Would you please comment on what  
24 you have learned about the efficiency and reliability of the  
25 Maricopa project during it's operational phase?

1 MR. VOTAW: Yeah, so I'll focus primarily on  
2 availability and reliability. And so, the project has been  
3 in operation for 69 days, as of today. Over that period  
4 we've maintained a plant-wide availability of 94 percent.

5 The SunCatcher, the primary -- the primary  
6 technological component, the SunCatcher, has maintained  
7 availability in excess of 96 percent. As of today it's 96.2  
8 percent.

9 The initial period of commercial operations we  
10 experienced some initial teething issues, as most projects  
11 do. Over the last 30 days of operations, the field -- the  
12 field has operated at more of a steady state basis, at 97.8  
13 percent over the last 30 days.

14 And I did not hear the questions of this morning,  
15 but I'd be happy to address any of those, if I can be led.

16 MR. THOMPSON: Thank you. Let me tender you for  
17 cross-examination and the parties can ask those questions,  
18 if they remain unanswered.

19 HEARING OFFICER RENAUD: All right. Questions by  
20 staff?

21 MS. HOLMES: What types of difficulties have you  
22 encountered that have led to less than a hundred percent  
23 availability?

24 MR. VOTAW: We've had a couple of primary  
25 contributors. Two of them were design related and, you

1 know, there's a brief description. This is a first-of-its-  
2 kind project in commercial operations of a facility with  
3 this technology.

4           The hydrogen system that provides centralized  
5 hydrogen supply for each of the SunCatchers required minor  
6 hydrogen -- it required minor changes in the design, which  
7 were completed on April 24<sup>th</sup>. Until those design  
8 modifications were made in the field, we were receiving some  
9 availability impact due to reduce hydrogen supply from that  
10 hydrogen skid.

11           And then we've also experienced a couple of  
12 mechanical failures. Usually, they're one of a kind. And  
13 by that I mean they're not recurring failures of the same  
14 type. We're seeing a couple of minor component failures  
15 that we're dealing with on a typical maintenance  
16 intervention basis.

17           HEARING OFFICER RENAUD: No further questions?

18           MS. HOLMES: No.

19           HEARING OFFICER RENAUD: All right. Let's see,  
20 CURE, questions?

21           MS. MILES: So, I just heard you say that there  
22 were minor component failures on a typical maintenance  
23 basis, is that what you said?

24           HEARING OFFICER RENAUD: Can you hear the  
25 question, sir?

1 MR. VOTAW: Barely. If you could repeat that last  
2 question?

3 HEARING OFFICER RENAUD: If you're very loud, I  
4 think, if you get real close, he should be able to hear it.

5 MS. MILES: Okay. Can you hear me, now?

6 MR. VOTAW: I can.

7 MS. MILES: Okay. So, if I understood you  
8 correctly, I just heard you say that there were minor  
9 component failures on a typical maintenance basis; is that  
10 correct?

11 MR. VOTAW: Well, I'm saying that we, as with any  
12 power generation facility, you're going to have failures.  
13 Our maintenance program is designed to address those  
14 failures and repair them on site. We have had failures of  
15 that kind that are, again, that are dealt with, with the on-  
16 site maintenance staff, the maintenance process and the on-  
17 site available spares.

18 MS. MILES: And can you tell me how many -- how  
19 many technicians you have on site or what the number of your  
20 staff is for maintenance at that facility?

21 MR. VOTAW: For Maricopa Solar, the total staff  
22 is -- it includes seven technicians, four for an operating  
23 shift, to operate the facility, and three maintenances  
24 technicians on staff for Tessera Solar.

25 MS. MILES: Okay. And so, that's just three

1 maintenance workers working 40 hours a week, typically?

2 MR. VOTAW: That's correct.

3 MS. MILES: So far in your experience?

4 MR. VOTAW: Yes.

5 MS. MILES: Okay. And I guess that's all, that's  
6 all my questions for now, thank you.

7 HEARING OFFICER RENAUD: All right, thank you.  
8 Questions by Mr. Budlong?

9 HEARING OFFICER RENAUD: Yeah, right into the  
10 mike.

11 HEARING OFFICER RENAUD: Mr. Budlong, you're  
12 going to have to speak real close and real loud so that he  
13 can hear it. That's it.

14 MR. BUDLONG: Is that any better? Can you hear  
15 me?

16 MR. VOTAW: I can.

17 MR. BUDLONG: You mentioned two design  
18 difficulties, could you describe those?

19 MR. VOTAW: There was the additional one was the  
20 hydrogen compressor, which I described in a little bit of  
21 detail.

22 The other was a -- one of our suppliers provided  
23 for us the drives that move the dish. There was a quality  
24 control issue with the manufacturer of that drive. Our  
25 provider has not provided drives that initially met our

1 quality, so there was some additional work required on site  
2 to try to move those back to anticipated design quality.

3 For the large volume manufacturing of those drives  
4 for future facilities, the quality control program has been  
5 modified to ensure that we maintain quality on the output of  
6 their facility X works.

7 MR. BUDLONG: How soon after you opened the  
8 facility did you find these QC problems with the drive?

9 MR. VOTAW: I'm sorry, please restate that?

10 MR. BUDLONG: I'm wondering how long it took to  
11 find the QC problems, to learn that you had a QC problem  
12 with the drive, after you opened the facility?

13 MR. VOTAW: We're tracking our facility  
14 performance, obviously, on an hour-by-hour basis. The  
15 operators are in the field doing rounds for the status of  
16 the equipment. We were noticing the drive issues within the  
17 first week or ten days, the first week to ten days of the  
18 operations.

19 Went into operations on March 16<sup>th</sup>, realized there  
20 was an issue and resolved the drive issue subsequently.

21 MR. BUDLONG: You mentioned something about a  
22 hydrogen compressor was the other design problem that you  
23 had, could you explain that a little more.

24 MR. VOTAW: Right. Right, essentially, the  
25 compressor specification generated a compressor size that

1 was slightly under-sized. That has been corrected with the  
2 replacement of the hydrogen compressor.

3 MR. BUDLONG: And do you know how many hours of  
4 operation you've run so far? The SunCatcher hours?

5 MR. VOTAW: One moment and I can tell you.

6 MR. BUDLONG: Or SunCatcher days?

7 MR. VOTAW: Bear with me just one moment, I'm just  
8 pulling up the file.

9 MR. BUDLONG: Yeah, as a rough approximation we  
10 could say 60 times how long have you been running.

11 HEARING OFFICER RENAUD: Again, you have to talk  
12 into the microphone for him to hear you. If it's off, he  
13 won't hear you.

14 MR. VOTAW: We're at approximately 36,000 on-sun  
15 hours since commercial operations.

16 MR. BUDLONG: Okay. Is it time to ask questions  
17 about the hydrogen supply system?

18 HEARING OFFICER RENAUD: Yeah, does this witness  
19 know about that?

20 MR. THOMPSON: No. Mike, are you on the phone,  
21 Michael Alhalabi?

22 MR. AMHALABI: Yes. Yes, I'm on the phone.

23 MR. THOMPSON: Would you like to swear another  
24 out-of-state witness and get his name for the record?

25 HEARING OFFICER RENAUD: What's his topic?

1 MR. THOMPSON: The hydrogen.

2 HEARING OFFICER RENAUD: What do you think,  
3 Counsel, any --

4 MS. HOLMES: Staff has -- staff would agree with  
5 Mr. Budlong that this is related to the reliability issue,  
6 so I think we should do it at the same time.

7 HEARING OFFICER RENAUD: All right. So, who's  
8 the witness, again?

9 MR. THOMPSON: His name is Mike Alhalabi.

10 HEARING OFFICER RENAUD: Mike Alhalabi, are you  
11 there?

12 MR. ALHALABI: Yes.

13 HEARING OFFICER RENAUD: All right. Raise your  
14 right hand, please?  
15 Whereupon,

16 MOHAMED (MIKE) ALHALABI  
17 was called as a witness herein and, having been first duly  
18 sworn, was examined and testified as follows:

19 HEARING OFFICER RENAUD: Please state your name  
20 and spell your last name?

21 MR. ALHALABI: My name is Mohamed, M-o-h-a-m-a-d,  
22 the last name is Alhalabi, A- l, as in Larry, h-a-l-a-b-i.  
23 And I go by Mike.

24 HEARING OFFICER RENAUD: Good. Thank you.

25 MR. THOMPSON: Mike, would you please give us the

1 benefit of your position and your experience with regard to  
2 the hydrogen system at the Maricopa facility?

3 MR. ALHALABI: Yes. My title is Senior Mechanical  
4 Engineer. I am a licensed professional engineer with more  
5 than 28 years of engineering design and construction  
6 experience. I've been with Stirling Energy and Tessera  
7 Solar for about a year and a half, now.

8 And it's my responsibility to design and  
9 commission the hydrogen system for Imperial Valley.

10 MR. THOMPSON: Thank you. Mr. Alhalabi is  
11 tendered for cross examination on the issue of the hydrogen.

12 HEARING OFFICER RENAUD: Are you going to ask him  
13 any questions about it or let the others ask the questions?

14 MR. THOMPSON: I was going to let the others ask.

15 HEARING OFFICER RENAUD: All right, go ahead.  
16 Staff, do you want to ask any?

17 MS. HOLMES: Can you tell me how many feet, or  
18 perhaps miles is the correct term, of hydrogen piping that's  
19 involved in the facility?

20 MR. ALHALABI: As of today, we have not really  
21 decided on how many feet of piping. We have a general  
22 contractor working on sizing the piping system to optimize  
23 it. So, if I tell you a number, I'll be guessing.

24 MS. HOLMES: Is this for the Maricopa facility?  
25 Is he speaking to the Maricopa facility or is he speaking to

1 this facility?

2 MR. ALHALABI: Oh, okay, yes. I can respond to  
3 the Maricopa facility.

4 MS. HOLMES: Okay, thank you.

5 MR. ALHALABI: Yes, we have about 7,000 feet  
6 piping in the ground.

7 MS. HOLMES: And have you experienced any leaks or  
8 any difficulties in keeping the piping pressurized?

9 MR. ALHALABI: No, not in the ground. In the  
10 ground we have continuous, solid tubing in the ground.  
11 There is no connections, no fittings, there is no  
12 possibility of hydrogen leaking.

13 We have experienced some hydrogen leaks in the  
14 manifolds, as we started out the system. When we  
15 commissioned the system, we had some minor leaks. We fixed  
16 those leaks. And since then we have maintained pressure  
17 both on the high and low side, and maintained it at the  
18 operating conditions.

19 MS. HOLMES: So, was there no loss of hydrogen in  
20 the system then?

21 MR. ALHALABI: I'm sorry?

22 MS. HOLMES: Is there any loss of hydrogen?

23 MR. ALHALABI: Well, typically, we expect to have  
24 regular hydrogen losses on the PCU, itself. But the piping  
25 system, distribution system and the compressor, itself, I

1 have heard only one reported incident where the found some  
2 minor leaks on the piping manifold above ground and it was  
3 fixed.

4           Otherwise, mainly, hydrogen leaks on the PCU  
5 during the day when we operate the system and sometimes at  
6 night, overnight, we have some hydrogen leak in one of the  
7 PCUs.

8           COMMISSIONER BYRON: Mr. Alhalabi, what is a PCU?

9           MR. ALHALABI: The PCU is power conversion unit.  
10 It's the engine, itself.

11           COMMISSIONER BYRON: That's what I thought. Thank  
12 you.

13           MR. ALHALABI: Sure.

14           MS. HOLMES: Thank you. Those are my questions.

15           HEARING OFFICER RENAUD: Thank you. All right,  
16 CURE, questions?

17           MS. MILES: No questions at this time?

18           HEARING OFFICER RENAUD: Mr. Budlong?

19           MR. BUDLONG: Yeah. I think it was the 5<sup>th</sup> or 6<sup>th</sup>  
20 of May when the supplemental, oh, it's a revision to the  
21 system came in and it had a description of the revised  
22 hydrogen system that came through as a result, according to  
23 previous testimony, of using the -- of experiencing the  
24 Maricopa system. And I tried to figure out how that worked  
25 and how the system worked, and the description was verbal, I

1 drew my own schematic and I have no confidence of whether I  
2 drew it right or not.

3           There was a subsequent testimony that had an even  
4 thinner paragraph and I couldn't find anything out from  
5 there.

6           I curious if you can supply a schematic that shows  
7 where, with respect to the hydrogen system, where all the  
8 pipes, and the tanks, and the compressors, and maybe relief  
9 valves, and shut-off valves and so on and so forth? A  
10 schematic like that would be very helpful to see what's  
11 going on.

12           HEARING OFFICER RENAUD:   You're referring to the  
13 proposed project, not Maricopa, right?

14           MR. BUDLONG:   Yes, I'm referring to the proposed  
15 project. And I think there was some push-back on that  
16 question earlier today, with respect was I asking details on  
17 how the Stirling engine works, and I'm not asking that.

18           HEARING OFFICER RENAUD:   Mr. Thompson, you were  
19 about to speak?

20           MR. THOMPSON:   I was about ready to object, but I  
21 was informed that we have such a schematic and we will make  
22 it available.

23           HEARING OFFICER RENAUD:   All right. Would you  
24 like to put it into evidence here, today?

25           MR. THOMPSON:   I prefer not because I don't really

1 see the relevance of it. I don't know if we have copies  
2 here, today.

3 HEARING OFFICER RENAUD: So, you're telling us  
4 you have an exhibit, but your objecting to it?

5 MR. THOMPSON: If that's where my legal career  
6 leads me --

7 (Laughter.)

8 MR. THOMPSON: If we can make copies overnight and  
9 enter it into the record tomorrow, that would be preferable.  
10 It's just on a hand tool right now.

11 HEARING OFFICER RENAUD: Fine. And then we can  
12 discuss the admissibility once we have it.

13 MR. THOMPSON: All right.

14 HEARING OFFICER RENAUD: All right. Good. So,  
15 proceed, Mr. Budlong.

16 MR. BUDLONG: Okay. Up until this morning I  
17 couldn't figure out why you went from 3.4 to 11 cubic feet  
18 in the unit, itself. And I think I got an inkling this  
19 morning, but if you could tell me why your documentation  
20 describes it going from 3.4 to 11 cubic feet at the Stirling  
21 engine?

22 MR. ALHALABI: Yes. Is the question to Mike?

23 MR. BUDLONG: Either one, or whoever's best at  
24 answering it, please.

25 MR. ALHALABI: Yeah, okay. The change was made in

1 the PCU, the engine, itself, the heater head on the engine.  
2 They made some changes in the design requiring the heater  
3 head -- I guess it required more hydrogen. So, the bottom  
4 line is they wanted to increase the life of the heater head  
5 and, therefore, they changed the parameters of how much  
6 hydrogen we support and we allow to flow into the engine at  
7 any given time.

8           Mainly, that is a direct impact of going from 3.6  
9 to 11 standard cubic feet of hydrogen at any given time.

10           MR. BUDLONG: Now, the engine size has not  
11 changed, so the displacement in the engine hasn't changed, I  
12 presume that's true?

13           MR. ALHALABI: Yeah, the engine size has not  
14 changed. What changed was typically, once you put the  
15 engine on sun, you have rapid increase in temperature across  
16 the eye of the engine, increase in temperature by about 720  
17 degrees centigrade, about 1,300 degree Fahrenheit. So, you  
18 can introduce a certain amount of hydrogen, have it stay in  
19 the engine for a few seconds, and then once it reaches a  
20 certain temperature the heater head will discharge the  
21 hydrogen, allowing for fresh and cooled hydrogen to come in.

22           By doing so, you're moving heat away from the eye  
23 of the engine and by doing so, of course, you'll be  
24 converting the solar energy into mechanical, into electrical  
25 energy.

1           MR. BUDLONG: Yeah. Now, I presume this increases  
2 the internal pressure in the working fluid inside the  
3 Stirling engine?

4           MR. ALHALABI: The pressure stays the same. What  
5 controls the operation of the engine is mainly the  
6 temperature. Once you have increase in the temperature and  
7 we have certain dead band, set criteria for a dead band,  
8 like if the temperature difference is more than five, or  
9 seven, or ten, or 15 degrees, we dump hydrogen and we bring  
10 in fresh hydrogen.

11           So, the flow rate and the amount of hydrogen  
12 introduced to the engine, it's mainly coupled with the  
13 heater head, how much temperature is in the eye of the  
14 engine.

15           MR. BUDLONG: I'm going to -- if I can paraphrase  
16 what's going on, so maybe I can understand it, it sounds  
17 like you're getting more temperature gradient than you want  
18 to have in the morning, when you turn the machine on, and in  
19 order to keep it cool you flush hydrogen through it to take  
20 away the excess heat. Does that sound right?

21           MR. ALHALABI: Exactly, yes, you're one hundred  
22 percent correct.

23           MS. HOLMES: Thank you.

24           MR. BUDLONG: You have to have more hydrogen on  
25 site to do this; is that correct?

1           MR. ALHALABI: Yes, you have to have hydrogen on  
2 site, without it we can't get any work done.

3           MR. BUDLONG: You missed one word. You have to  
4 have more hydrogen on site in order to do this?

5           MR. ALHALABI: Exactly, yes. We needed more  
6 hydrogen. Based on the initial design conditions, I was  
7 told the heater head was going to last from two to five  
8 years. By changing certain parameters, we were able to  
9 increase the life of the heater head to possibly ten to 11  
10 years.

11           MR. BUDLONG: Okay. Now, in the revision that  
12 came through, there's a table that shows the tank sizes  
13 before and after this modification. You've changed the,  
14 quote, hydrogen stored at the SunCatcher from 3.4 to 11, we  
15 just understood that, which is a factor of about three, a  
16 little over three.

17           But I see that the high pressure supply tank, and  
18 I don't know what that is, because I haven't seen the  
19 schematic, yet, all we got was a verbal, it went from 648 to  
20 29,000 and some cubic feet, which is a factor of 45 times  
21 bigger.

22           I see the lower pressure supply tank has gone from  
23 648 to 9,900, which is 15 times bigger.

24           I see a surge tank that's gone 22 times bigger.  
25 Your leakage rate has gone three times bigger, from 195 to

1 600.

2 I'm confused by if the amount of hydrogen that you  
3 use to flush, and not to use, has really not changed the  
4 amount of hydrogen, why have your tanks changed by so much  
5 and by so much different amounts?

6 MR. ALHALABI: Well, the original application was  
7 submitted before I was hired by Stirling Energy, so I  
8 couldn't testify to under what conditions and what design  
9 parameters they used.

10 But I can talk about the existing tank sizing and  
11 why we need so much hydrogen to support our application.

12 MR. BUDLONG: No, no, no that wasn't my question.

13 HEARING OFFICER RENAUD: I think he understood  
14 your question and he said he doesn't -- he wasn't there when  
15 the original specs were written, so he doesn't know.

16 MR. ALHALABI: Yes, you're right.

17 MR. BUDLONG: That's what I heard, I wanted to  
18 verify that. I heard that, also.

19 But this change in sizes came through recently.  
20 The June 2009, one year ago, is the old sizes we're talking  
21 about and now we have new sizes, which apparently is  
22 something that came in after the Maricopa demonstration  
23 facility was started.

24 And certainly, now, you've been employed there for  
25 a year and a half, I think you said?

1 MR. ALHALABI: Yes.

2 MR. BUDLONG: And so the change in size was a year  
3 and a half before this recent, two-week-old document came  
4 out.

5 MR. THOMPSON: I'm going to --

6 HEARING OFFICER RENAUD: Is that a question?

7 MR. BUDLONG: Yeah, I don't know -- yeah, I guess  
8 the question is why wasn't that disclosed earlier?

9 MR. THOMPSON: I'm going to object to this line of  
10 questioning. It's been belabored. I don't mind questions  
11 about the present day configuration, although I think we've  
12 beaten that horse as well. But to go back and ask somebody,  
13 who wasn't there at the time, what the design was in the  
14 beginning, he's asked how it was changed, we've answered  
15 that, so I'm going to object to any further questions on  
16 this.

17 HEARING OFFICER RENAUD: Well, I think we've  
18 established for Mr. Budlong that your concern, your reason  
19 for asking all of this is due to safety. Right?

20 MR. BUDLONG: Well, it's due to safety for one  
21 thing and I think it's also, perhaps, due to disclosure.  
22 Because if this design change went through a year and a half  
23 ago --

24 HEARING OFFICER RENAUD: Safety is your concern  
25 and I think we've already established that when we get to

1 hazardous materials handling, that will be where safety  
2 issues will be addressed.

3           And I think you've established beyond any need  
4 that there has been an increase in the amount of hydrogen as  
5 the project design has evolved.

6           So, unless you have something else to go through,  
7 I think we should move on.

8           MR. BUDLONG: Yeah, I understand what you're  
9 saying. I guess my question, now, is increased compared to  
10 what? And now I'm confused because I thought what --  
11 increased compared to when and what.

12           And I thought the increase compared to when, the  
13 when was before they put the 60-unit system together. And  
14 now, I'm hearing that the when was more than a year and a  
15 half ago.

16           HEARING OFFICER RENAUD: How does that pertain to  
17 anything?

18           MR. BUDLONG: It pertains to what I read in the  
19 DEIS, which describes --

20           HEARING OFFICER RENAUD: I don't see the  
21 relevance of further questioning on that and I'm going to  
22 ask you to move on to a different topic.

23           MR. BUDLONG: Okay. All right.

24           HEARING OFFICER RENAUD: That's it? All right.

25           MR. BUDLONG: I guess.

1 HEARING OFFICER RENAUD: Questions by Mr.  
2 Beltran?

3 MR. BELTRAN: No questions.

4 HEARING OFFICER RENAUD: All right.

5 MR. ALIMAMAGHANI: No questions.

6 HEARING OFFICER RENAUD: All right, good.

7 MS. HOLMES: Can I ask one?

8 HEARING OFFICER RENAUD: Please, yeah. Yes.

9 MS. HOLMES: This is an issue that's relevant to  
10 some of the staff testimony that I think is going to come up  
11 later. Do you know what the mean time for failure has been  
12 for the individual SunCatcher units?

13 MR. ALHALABI: I can't hear the question. Can you  
14 speak closer to the mike?

15 MS. HOLMES: Do you know what the mean time to  
16 failure has been for the individual SunCatcher units since  
17 the Maricopa facility came online?

18 MR. ALHALABI: I'm not --

19 MR. THOMPSON: Waymon, is that you? Is that you  
20 that's answering this?

21 MR. VOTAW: Yeah. No, I can try to respond, again  
22 it's Waymon Votaw.

23 For MTBS, again, we've been in operation for 69  
24 days and typically, from a reliability engineering stand  
25 point, you're running for a considerable amount of time

1 beyond that before we start developing liable curves or  
2 MTBS.

3 MS. HOLMES: I'm sorry, can you explain what those  
4 initials are?

5 MR. VOTAW: MTBS?

6 MS. HOLMES: Are you talking about mean time to  
7 failure, specifically?

8 MR. VOTAW: Yes.

9 MS. HOLMES: Okay, thank you.

10 MR. VOTAW: Yes. So, I mean, I can't tell you  
11 what the mean time to failure is for the SunCatcher to  
12 Maricopa, in that we haven't calculated it. What typically  
13 would happen is after a considerably longer period than one,  
14 the reliability engineers would be looking at those, at  
15 failures through that time frame and determining MTBS from  
16 that.

17 THE REPORTER: Wait a minute, can we clarify who  
18 that was that was just talking?

19 MS. HOLMES: Mr. Votaw.

20 THE REPORTER: It was Mr. Votaw. Thank you.

21 HEARING OFFICER RENAUD: Anything further, Ms.  
22 Holmes?

23 MS. HOLMES: No.

24 HEARING OFFICER RENAUD: All right. Redirect?

25 MR. THOMPSON: No.

1 HEARING OFFICER RENAUD: All right. Yes,  
2 Commissioner Byron has some questions.

3 COMMISSIONER BYRON: I do. And I think I can  
4 speak loud enough. I guess, in the spirit of full  
5 disclosure, as a young engineer, I had the opportunity to  
6 work on a similar kind of design and machine as this, over  
7 30 years ago, a two-axis parabolic collector with Stirling  
8 engines. And it would be really fun and interesting to get  
9 into the technical details of all of this, as I'm sure  
10 Commissioner Eggert would love to do, as a mechanical  
11 engineer, himself.

12 But I do have some questions for our staff  
13 witness, partly because I don't want you to travel all the  
14 way here from Sacramento for no reason.

15 MR. KHOSHMAHRAB: Thank you. Did staff assess  
16 the reliability of the SunCatcher, individually, and  
17 individual machines? Did you assess the reliability of  
18 them?

19 MR. ALHALABI: Well, Waymon, I think that's your  
20 question.

21 HEARING OFFICER RENAUD: No, no.

22 COMMISSIONER BYRON: I'm actually asking my staff.

23 MR. ALHALABI: Oh, I'm sorry.

24 HEARING OFFICER RENAUD: The witness who's  
25 present here.

1 COMMISSIONER BYRON: Mr. Khoshmashrab.

2 MR. KHOSHMAHRAB: The reliability of each  
3 SunCatcher?

4 COMMISSIONER BYRON: Individual SunCatchers?

5 MR. KHOSHMAHRAB: No, no. Because the reason was  
6 that the concept -- the concept of this design has been  
7 around for a long time and the machine, itself, has been  
8 operating. I don't know how many thousands of hours, but it  
9 was my understanding.

10 HEARING OFFICER RENAUD: Keep your voice up,  
11 please, speak into the mike?

12 COMMISSIONER BYRON: Yeah, you have to be very  
13 loud so that it gets from there to here.

14 MR. KHOSHMAHRAB: Do I need to repeat that?

15 COMMISSIONER BYRON: Please do.

16 MR. KHOSHMAHRAB: The concept of the Stirling has  
17 been around for a long time, so, no, I did not individually  
18 ask to assess the -- ask any information on the reliability  
19 of the machine, itself.

20 COMMISSIONER BYRON: All right. Well, that takes  
21 out the next two or three questions that I was going to ask  
22 you. But what I'm interested in is some sort of assessment,  
23 on the part of my staff, that we've looked at the likelihood  
24 that this project, that the equipment will be designed, and  
25 operated, and maintained in a way such that we can convince

1 the public that this will be, indeed, generating electricity  
2 for the next 40 years and not become a large static  
3 monument, occupying ten square miles of the desert.

4           So, that's what I'm interested in having some  
5 assessment of.

6           Do you have enough information from the Applicant  
7 to make that assessment?

8           MR. KHOSHMAHRAB: I don't have enough information  
9 to make that assessment at this point. When I wrote my  
10 testimony, I based it on any demonstration status of a  
11 large-scale Stirling engine power plant, and I could not  
12 find any information about it.

13           Typically, North American Reliability Counsel has  
14 issues of availability factors for different power plants.  
15 For example, fossil fuel plants, of simple cycle, combined  
16 cycle, and those numbers are available based on experience,  
17 with tons of power plants in the past and many hours of  
18 operations.

19           So, if an application claims a 95 percent, for  
20 example, availability factor for a G-frame, combined cycle  
21 plant, you know, I would not hesitate to agree with that,  
22 and most likely they are going to make that.

23           But since the information is not there for this  
24 particular project, as a large scale plant, I couldn't  
25 assess and I could not agree that the plant would be 99

1 percent available.

2           COMMISSIONER BYRON: Right. And, of course, I  
3 would contend that availability is not the only factor that  
4 we'd be interested in evaluating here. We're also  
5 interested in, you know, a single mode failure of some kind  
6 that would cause the design of this equipment to affect all  
7 of them simultaneously.

8           So, I guess I would turn to the Applicant and if  
9 there's -- if either of the gentlemen on the phone, and it's  
10 wonderful to have you with us, because these gentlemen are  
11 designing and operating an existing plant, build with these  
12 devices, can you contribute anything to my understanding?

13           If you understand, the question I'm really trying  
14 to get at is assuring the public that these equipment,  
15 indeed, will perform as advertised?

16           MR. THOMPSON: Waymon, you want to take a crack at  
17 that, first?

18           MR. VOTAW: Yeah, I can give you a summary level  
19 view. Can everyone hear me?

20           MR. THOMPSON: Yes.

21           COMMISSIONER BYRON: Yes.

22           MR. VOTAW: So there is, obviously, because this  
23 technology has been around in R&D phases for at least two  
24 decades, at Sandia National Labs, there's been a lot of  
25 operating data collected on the equipment. Not the current

1 production versus that's at Maricopa, we're at the X-1  
2 version. There are a few X-1 units at Sandia and prior  
3 versions. But over time that equipment, with similar  
4 components, similar design characteristics, had accumulated  
5 an extensive history of operating.

6 From that we have done extensive analysis to  
7 understand, on a component-by-component basis, what the --  
8 how the equipment will perform from a reliability stand  
9 point.

10 In addition, for the X-1 equipment, X-1 and Gen-1  
11 equipment that is in production at Maricopa, or will be  
12 going into large-scale facilities, there's a large-scale  
13 validation program of reliability of various components  
14 underway, as we speak. Much of it is taking place at our  
15 Tier-1 supplier for the PCU. They are testing on test  
16 stands, through either cyclical testing or continuous  
17 operation testing, the various failure modes for the  
18 majority of the components at risk, such as heater head, or  
19 seals, or other primary components.

20 The results of that validation are probably too  
21 extensive to try to handle by phone, but there is an  
22 extensive program underway to validate and ensure that the  
23 equipment will perform as designed.

24 COMMISSIONER BYRON: All right, thank you. One  
25 more question, please?

1 HEARING OFFICER RENAUD: Go ahead.

2 COMMISSIONER BYRON: And I'll direct them again,  
3 in the same manner, first to my staff.

4 And that is, Mr. Khoshmashrab, Mr. Alhalabi, he  
5 couldn't answer the question that -- the inadvertent  
6 question that came up earlier from counsel about the length  
7 of the piping for this project, which led me to think that  
8 maybe the hydrogen system had not been completed designed,  
9 yet.

10 We do have the Applicant's supplemental AFC, I  
11 believe, from May 6<sup>th</sup>. But does it have sufficient  
12 information in it for you to assess the design of the  
13 hydrogen piping and storage system?

14 MR. KHOSHMAHRAB: This is the May 6<sup>th</sup>, 2010?

15 COMMISSIONER BYRON: Yes.

16 MR. KHOSHMAHRAB: I don't believe I've seen that.

17 MS. HOLMES: That would be the supplement, Mr.  
18 Khoshmashrab. I believe the staff has just begun looking at  
19 that document.

20 MR. KHOSHMAHRAB: I have not seen that document,  
21 yet.

22 COMMISSIONER BYRON: Understood.

23 So, let me ask Mr. Alhalabi, have you provided a  
24 complete design, in that supplement, of the hydrogen piping  
25 and storage system?

1           MR. ALHALABI: I think we have. I did not give  
2 you any specific numbers because we have asked the general  
3 contractor to optimize the system.

4           COMMISSIONER BYRON: Understood.

5           MR. ALHALABI: So, yes, we do have -- I can give  
6 you -- I'm looking at the bill of material here and I can  
7 give you a long list of different sized piping, fittings,  
8 valves.

9           COMMISSIONER BYRON: No, we'll spare everyone that  
10 detail. But what I'm really after is understanding whether  
11 our staff's got sufficient information to evaluate the  
12 design, and we can't have a definitive answer on that, yet,  
13 at this point.

14           I think that's the last of my questions.

15           HEARING OFFICER RENAUD: Do you want to respond  
16 to that or --

17           MR. KHOSHMAHRAB: Yes. I mean, if I can -- I can  
18 give you, basically, the numbers I'm looking at here, one  
19 and one-half-inch pipe we have, for phase one --

20           HEARING OFFICER RENAUD: Well, I think those are  
21 the details that we'll spare everyone for now.

22           I can see Mr. Thompson, though, has something to  
23 say here. Let's let him speak.

24           MR. THOMPSON: Mike, can you give us an idea of  
25 how you assessed the reliability of project, such as

1 Imperial Valley Solar, that's going to be built out, given  
2 that the technology is modular -- I'm sorry, this is for  
3 Waymon. The technology is modular, a large number of  
4 modules the size of Maricopa. Correct me if I'm wrong in  
5 that assumption, but would you address that?

6 MR. VOTAW: Well, it is -- the large-scale  
7 facility is exactly that, it's an aggregation of multiple  
8 60-unit blocks.

9 The other part of your question, in terms of how  
10 you approach that, I'm not sure if I follow.

11 MR. THOMPSON: You know, to a simple lawyer here,  
12 if one 60-megawatt or one 60-unit block, like Maricopa,  
13 works well, is there any reason to believe that multiple 60-  
14 unit blocks will not work well?

15 MR. VOTAW: No, no, you're exactly right. What we  
16 have done in our projections for the maintenance approach  
17 for the operation of the large-scale facilities is, based on  
18 our operating history from Sandia, and elsewhere, made  
19 assumptions on how we would maintain that equipment.

20 We've used things, such as the tear down and  
21 rebuild timing from those facilities to apply to large  
22 facilities.

23 What we're seeing at Maricopa is a validation of  
24 those assumptions. So, how we approached the modular swap-  
25 out of the power conversion units, what we assume we're

1 finding is working in practice in Maricopa. The maintenance  
2 process that we assumed for the large-scale facilities, we  
3 have implemented at Maricopa for validation.

4 The maintenance systems, the supervised  
5 computerized maintenance management system at Maricopa will  
6 be the same that we roll into the large facilities, so it  
7 serves as the commercial proving ground for the processes,  
8 the capabilities, and the tools and systems that we will  
9 roll out in the large-scale facilities.

10 MR. THOMPSON: Thank you.

11 HEARING OFFICER RENAUD: All right, any further  
12 questions of the witnesses on the phone, by anybody?

13 MR. BUDLONG: Yeah.

14 HEARING OFFICER RENAUD: Yes, Mr. Budlong, all  
15 right.

16 MR. BUDLONG: Can you hear me?

17 MR. ALHALABI: Yes.

18 MR. BUDLONG: Very good. I'm presuming that this  
19 change in hydrogen flowing through the heads was not  
20 anticipated before you put together the 60-unit  
21 demonstration facility in Maricopa?

22 MR. ALHALABI: That's correct, yes.

23 MR. BUDLONG: And after, when you get done with  
24 your Maricopa and start installing the commercial systems in  
25 Imperial, here, do you anticipate any further changes?

1           MR. ALHALABI: I don't believe so. I think the  
2 changes they made to the PCU, to the engine, itself, is  
3 functioning proper at Maricopa Solar, and the redesign in  
4 the hydrogen compressor to support that has been proven not  
5 only beneficial, but it's working just fine.

6           So, I really don't anticipate any problems going  
7 past Maricopa Solar to Imperial Valley.

8           MR. BUDLONG: Okay, thank you.

9           HEARING OFFICER RENAUD: All right. Ms. Holmes,  
10 any further testimony from Mr. Khoshmashrab?

11          MS. HOLMES: Well, if somebody would like to  
12 cross-examine him, I guess that's an option.

13          HEARING OFFICER RENAUD: You've listed him in  
14 facility design, power plant efficiency, reliability.

15          MS. HOLMES: Correct, those are the three subjects  
16 that he's sponsoring for this project.

17          HEARING OFFICER RENAUD: That's it. All right,  
18 and he's sponsored the testimony on those three. Any cross-  
19 examination on any of those?

20          MR. THOMPSON: Just a couple. Good afternoon.  
21 Have you visited the Maricopa facility?

22          MR. KHOSHMAHRAB: No, I haven't.

23          MR. THOMPSON: We've put out an invitation to  
24 staff to visit there and I guess I would, without my clients  
25 hitting me on the head over here, I would extend that

1 invitation to you, to go visit and gather data there, if you  
2 would like, if it would help you reach conclusions.

3 MR. KHOSHMASHRAB: That would be wonderful, yes.

4 COMMISSIONER BYRON: Mr. Thompson, we would love  
5 to be able to travel, to go visit that facility. I suspect  
6 that you will have just as much difficulty, as I have, in  
7 getting approval for that.

8 MR. THOMPSON: Well, I wish we could bring  
9 Maricopa here, but we can't do that, either.

10 MR. BUDLONG: I have a further question.

11 HEARING OFFICER RENAUD: Go ahead.

12 MR. BUDLONG: If you go, can I go along?

13 MR. THOMPSON: I'm starting to believe you're a  
14 competitor of ours?

15 MR. BUDLONG: No, absolutely not. I'm retired, I  
16 don't work for a living anymore.

17 HEARING OFFICER RENAUD: All right. Anything  
18 further of this witness, Mr. Khoshmashrab?

19 All right. And I take it, Counsel, you would like  
20 to move into evidence the appropriate sections of Exhibit  
21 300?

22 MS. HOLMES: Correct, I would like to move  
23 facility design, power plant efficiency, and power plant  
24 reliability, and ask that Mr. Khoshmashrab be excused.

25 HEARING OFFICER RENAUD: Thank you. Any

1 objection from any party?

2 No. All right, those will be admitted.

3 And, Mr. Thompson, your two witnesses, do you have  
4 further for them?

5 MR. THOMPSON: Nothing further for them.

6 HEARING OFFICER RENAUD: All right, thank you,  
7 good.

8 All right, Mr. Thompson, do you have another topic  
9 that you'd like to address at this time?

10 MR. THOMPSON: I do have another topic, but before  
11 that I'd like to ask the Committee and you, as the Hearing  
12 Officer, for some guidance.

13 We received the May 3<sup>rd</sup> hearing order, which was as  
14 direct as you could get in directing the parties to submit  
15 material on time and to come to this proceeding ready to  
16 cross and close out subjects.

17 HEARING OFFICER RENAUD: Yes.

18 MR. THOMPSON: And we did come prepared for that,  
19 we have a number of witnesses, many of which are still in  
20 the audience.

21 I would hope and maybe we can get some guidance  
22 before the end of the day, or at least before the hearing  
23 closes, from you, but I would hope that certain topic areas  
24 would be closed off. And I'm thinking of public health,  
25 socioeconomics, the override issue, land, those topics like

1 that.

2 HEARING OFFICER RENAUD: Why don't we go through  
3 it. I think that's a good idea, why don't we take a moment  
4 and kind of go back over our steps and see what we can deem  
5 complete at this point.

6 So, let's take those one by one, why don't you  
7 start with the first one you mentioned?

8 MR. THOMPSON: Maybe we could just go down this  
9 list?

10 HEARING OFFICER RENAUD: Sure. Executive  
11 summary, I think we still need to hear from staff's witness,  
12 Mr. Meyer.

13 MS. HOLMES: I beg your pardon?

14 HEARING OFFICER RENAUD: Well, we're going to go  
15 through this.

16 MS. HOLMES: I'm sorry, I'm somewhat confused as  
17 to what we're doing right now.

18 HEARING OFFICER RENAUD: I know. We're going  
19 through the list of topics to see which ones, at this point,  
20 would be suitable for deeming closed.

21 MS. HOLMES: Well, I think that staff would have  
22 an objection to deeming anything closed at this point  
23 because we have the public comment period has not yet been  
24 closed, and we do not want to categorically state that we  
25 will not change the staff assessment in response to public

1 comment, should we receive public comment that indicates  
2 that there is an environmental issue that we have not  
3 addressed. We want to reserve the ability to address that.

4 Furthermore, we understand that there's  
5 outstanding information coming in from other federal, and  
6 state, and local agencies. And, again, we want to reserve  
7 the right to have those types of comments reflected in the  
8 staff assessment.

9 So, I understand the Committee's interest in  
10 moving this case along, but staff would object to closing  
11 any of the topic areas at this point.

12 HEARING OFFICER RENAUD: All right. Well, would  
13 you be prepared to commit to some of those being closed  
14 tomorrow? Do you expect anything to change between now and  
15 then?

16 MS. HOLMES: No.

17 HEARING OFFICER RENAUD: All right.

18 MS. HOLMES: The public comment period closes, I  
19 believe, on the 27<sup>th</sup> or the 29<sup>th</sup>.

20 HEARING OFFICER RENAUD: May 27<sup>th</sup>, right.

21 MS. HOLMES: And we're also expecting additional  
22 information, as I said, from -- we are aware of information  
23 that's coming in from local, state and federal agencies.

24 HEARING OFFICER RENAUD: All right.

25 HEARING OFFICER RENAUD: And Intervenor Budlong

1 would join in that objection with regard to closure.

2 HEARING OFFICER RENAUD: I think what we ought to  
3 look at, though, is closing out topics with the right to  
4 reopen should there be grounds to do so.

5 MR. THOMPSON: Yeah, I would agree with that  
6 completely.

7 HEARING OFFICER RENAUD: All right.

8 MR. THOMPSON: What we've heard a number of times  
9 this morning from Intervenors is we want to reserve the  
10 right, we want to reserve the right.

11 HEARING OFFICER RENAUD: Yeah.

12 MR. THOMPSON: And we would argue that that time  
13 is over in many of these topic areas.

14 HEARING OFFICER RENAUD: Well, we're expecting a  
15 supplemental staff analysis at the end of June. That may  
16 contain new information or conclusions, and if a party  
17 wanted to reopen a topic based upon the information in that,  
18 I think the Committee would be inclined to allow that.

19 So, we aren't going to slam the door and lock it  
20 at this point. But I agree, it would be a good idea to see  
21 if we can get some level of finality on some topics today.

22 Maybe we should wait until we're closer to the end  
23 of the day and we've got more of the witness testimony  
24 complete, and then we'll address that again.

25 MR. THOMPSON: Or we can do it tomorrow, when more

1 topic areas have been digested.

2 HEARING OFFICER RENAUD: All right, thank you.

3 Yes?

4 MR. THOMPSON: One other item for you the  
5 Committee and you to digest upon, we're concerned about  
6 staff's June 27 date. That's a long ways out there. We  
7 were hoping that we could see something from staff a lot  
8 earlier than that. And I guess I would ask if there's  
9 anything the Committee could do to urge resources upon the  
10 staff, which I know are very heavily worked and have a  
11 terrible workload, if there's anything this Committee would  
12 do, we would pray that you would do that to help the staff  
13 get that out earlier.

14 HEARING OFFICER RENAUD: Well, one thing with  
15 respect to that is on the witness and topic lists staff  
16 counsel has indicated that it would summarize the status of  
17 various topics at this hearing.

18 Would this be a good time to do that?

19 MS. HOLMES: I'd be happy to do that at this  
20 point.

21 HEARING OFFICER RENAUD: Okay, why don't we start  
22 with biological resources, then? That will give us some  
23 idea of how it's going.

24 MS. HOLMES: With respect to biological resources,  
25 there are a number of topics that staff is still exploring

1 and I'll just march through them one by one.

2           With respect to the Seeley Wastewater Treatment  
3 Plant expansion, there are surveys underway for, I believe  
4 it's four different federally and state listed species. I  
5 believe that with respect to the California Endangered  
6 Species Act, those species are fully protected.

7           Staff is trying to, at this point, figure out how  
8 to move forwards without knowing whether or not a biological  
9 opinion will be required.

10           We understand that the surveys will not be  
11 completed until mid-July. We have never completed the staff  
12 assessment without having a sense of whether or not a  
13 biological opinion is going to be required and without  
14 having reviewed some sort of a draft biological opinion.

15           HEARING OFFICER RENAUD:   And how will you know --  
16 when will you know that or how will you know that?

17           MS. HOLMES:   Well, the surveys will not be  
18 completed until mid-July, is my understanding, associated  
19 with the diversions of water from the wastewater treatment  
20 plan.

21           HEARING OFFICER RENAUD:   All right.

22           MS. HOLMES:   And so we are struggling and we are  
23 working with the U.S. Fish and Wildlife Service and the  
24 California Department of Fish and Game in trying to figure  
25 out how to move forward. As I said, it's an unprecedented

1 situation.

2 HEARING OFFICER RENAUD: Okay.

3 MS. HOLMES: And that's really all I can say about  
4 the wastewater treatment plant expansion is that we are  
5 working with our state and federal partners, trying to  
6 figure out how to go forward in the face of incomplete  
7 information on endangered species.

8 With respect to the Peninsular bighorn sheep,  
9 unfortunately, we have received something of mixed messages  
10 from the wildlife agencies. You'll see that in the staff  
11 assessment we were originally told by them that there was  
12 not much concern about the sighting of the sheep last year,  
13 or two years ago.

14 More recently, both the U.S. Fish and Wildlife  
15 Service and the California Department of Fish and Game, as  
16 well as, I believe, as BLM have indicated concern about the  
17 potential presence of Peninsular bighorn sheep.

18 This issue has been raised at the REAT, Renewable  
19 Energy Action Team, meeting recently and there's a meeting  
20 planned to try to discuss how to move forwards with this  
21 issue.

22 Again, the sheep is a fully protected species in  
23 California, which means that there's not a take permit  
24 that's available. So, we have to figure out how to resolve  
25 this problem and we have to do I by June 27<sup>th</sup>, and we may not

1 have an answer from the agencies at that point, which  
2 creates quite a challenge for us.

3           With respect to the least environmentally damaging  
4 practicable alternative, that we've all heard about, that  
5 the U.S. Army Corps of Engineers will be identifying, that  
6 document or the analysis that supports the LEDPA affects the  
7 acreages, and as well as it may identify specific mitigation  
8 ratios for habitat acquisition. We don't have that  
9 information, we may get it mid to late June which, again,  
10 pushes us up very close to the date at which we are supposed  
11 to be filing a supplemental staff assessment.

12           We're trying to figure out how we can go forward  
13 if we don't know what the final project design looks like in  
14 terms of which washes are affected, and if we don't know  
15 what ratios might be required for habitat acquisition.

16           With respect to rare plants, parties who are  
17 following some of our other proceedings are probably aware  
18 that we're developing an approach for dealing with  
19 unanticipated discoveries of rare plants for the I-10  
20 projects.

21           We will be doing the same sort of approach for  
22 that, in this case, where we will be identifying the surveys  
23 that need to be done and contingency plans for what happens  
24 if they are discovered post-certification.

25           With respect to the Flat-tailed horned lizard,

1 there are three separate issues. One has to do with habitat  
2 compensation and management measures that could be used as  
3 mitigation for loss of the habitat.

4 We are working with BLM to try to establish the  
5 appropriate mix of habitat acquisition and enhancement  
6 measures, and a funding mechanism, and a dollar amount to  
7 ensure that mitigation is actually implemented.

8 With respect to a relocation plan, there is a lot  
9 of uncertainty about how or whether a relocation plan could  
10 work. As somebody indicated earlier this morning, there are  
11 somewhere between two to five thousand lizards on the site.  
12 That's a lot of lizards to lose. And we don't have a  
13 mechanism, yet, that the agencies are comfortable with for  
14 moving them off the site, we're continuing to work on that.

15 The last issue with respect to the Flat-tailed  
16 horned lizard is connectivity. And, quite frankly, at this  
17 point, we have not been able to identify any kind of  
18 mitigation that would ensure connectivity from the different  
19 populations, and this may be a situation where we end up  
20 saying that there's a significant adverse impact that cannot  
21 be mitigated associated with connectivity.

22 The Flat-tailed horned lizard is not a listed  
23 species under the California Endangered Species Act. It's  
24 not a conclusion we want to reach, but we have not been able  
25 to come up with an alternative, yet, or a mitigation

1 measure, yet, that would avoid connectivity problems.

2 So, that's I think where we are with biology.

3 Except that my project manager is writing me a note, so see  
4 if I've missed something.

5 He's asking me to point out that the Flat-tailed  
6 horned lizard is a species that's under consideration by  
7 U.S. Fish and Wildlife Service. And so, we need to be sure  
8 that if there's going to be -- if it is listed, we want to  
9 make sure that the conditions in our license are sufficient  
10 to ensure that there's no take pursuant to the Federal Act.

11 So, we're trying to, again, coordinated with U.S.  
12 Fish and Wildlife Service on that.

13 That's where we are with respect to biological  
14 resources.

15 HEARING OFFICER RENAUD: Well, let me stop you  
16 there, on that topic. Do any of those issues that you  
17 mentioned, that are making it difficult for staff, pertain  
18 to the Applicant's issuance of the revised AFC on May 6<sup>th</sup>?  
19 The revision or supplemental, or have those issues existed  
20 prior to that?

21 MS. HOLMES: Those issues have existed prior to  
22 that.

23 HEARING OFFICER RENAUD: All right. Do you  
24 project that by June -- you'll still be able to issue the  
25 supplemental staff assessment by June 27<sup>th</sup> or it's hard to

1 predict?

2 MS. HOLMES: We have committed to issuing the  
3 supplemental staff assessment by June 27<sup>th</sup>, but I'm not  
4 committing to say that it will -- that what we file will say  
5 that all issues are affirmatively resolved.

6 HEARING OFFICER RENAUD: Okay. Questions by the  
7 Committee on this topic before --

8 COMMISSIONER EGGERT: With respect to dates, you'd  
9 say mid-July to fully understand the impacts associated with  
10 the Seeley water, is that right?

11 MS. HOLMES: My understanding is that the surveys  
12 will be completed mid-July.

13 COMMISSIONER EGGERT: Mid-July. So does that, in  
14 terms of the next essay, how does that get resolved before  
15 that?

16 MS. HOLMES: The surveys will not be completed by  
17 the time the next staff assessment, the final staff  
18 assessment, the supplemental staff assessment is revised.  
19 We are struggling with the question of how to prepare a  
20 supplemental or a final staff assessment where we don't know  
21 whether or not the federally and state listed species are  
22 present.

23 COMMISSIONER EGGERT: Yeah, I think that was the  
24 main question I had.

25 HEARING OFFICER RENAUD: Okay, why don't you move

1 onto the next topic, or you'd indicated you'd summarize for  
2 us.

3 MS. HOLMES: I will talk briefly about  
4 alternatives. As I discussed with respect to the biological  
5 resources, we don't know whether or not -- well, we don't  
6 know exactly when we're going to be receiving the U.S. Army  
7 Corps of Engineers identification of the least  
8 environmentally damaging practicable alternative.

9 We do believe that we need to have that both for  
10 biological resources, as well as for the alternatives  
11 section, and we're concerned about proceeding without the  
12 LEDPA being identified, in the event that it's significantly  
13 different than what we've analyzed. That creates potential  
14 problems with our alternatives analysis, which we're trying  
15 to finish at this point.

16 I would also like to point out that we recently,  
17 as the Applicant, I think, has indicated as well, received  
18 indication from the Environmental Protection Agency that  
19 they had not approved the LEDPA, yet, that's been proposed,  
20 and that they had concerns about the new river being an  
21 aquatic resource of national importance. And my  
22 understanding is that they are working with U.S. Army Corps,  
23 but we are not privy to those discussions.

24 And so I don't know whether the mid-June or late  
25 June date is feasible. I think it's a fairly good bet that

1 the LEDPA will not have been identified by the time that the  
2 staff assessment is filed. And that, obviously, raises  
3 concerns about the sufficiency of the alternatives analysis.  
4 If we don't have the project appropriately identified, then  
5 it's difficult to make comparisons with alternatives, which  
6 is one of the requirements that we have under CEQA.

7 With respect to water and cultural resources, I'll  
8 turn the status report, those over to Mr. Meyer.

9 HEARING OFFICER RENAUD: All right, thank you.

10 Mr. Meyer.

11 MR. MEYER: Are you ready for cultural?

12 Okay, I'll start with cultural.

13 HEARING OFFICER RENAUD: Good.

14 MR. MEYER: The cultural resource, due to the  
15 draft nature of the original report the staff was working  
16 on, it was determined early on that working cooperatively  
17 with the Bureau of Land Management, under a programmatic  
18 agreement, and having the Energy Commission sign on as an  
19 invited signatory to that programmatic agreement was really  
20 the only viable way to expeditiously work through the  
21 process. Recognizing that there were still many unanswered  
22 questions on exactly what was out there and the significance  
23 of those cultural resources.

24 In working through that process, the Energy  
25 Commission has had some concerns over the specificity of

1 that programmatic agreement. It's still in draft at this  
2 point. There have been several comments on that document  
3 and so we won't know exactly what the final is until I  
4 believe late June. But at least at this point there's  
5 concerns that in its state staff will need to add an  
6 additional level of specificity to our document and do more  
7 analysis than we originally anticipated to make sure that  
8 the document that comes out of the Energy Commission fully  
9 meets CEQA requirements.

10           And one of the challenges that we're going to be  
11 working through is, one, getting access to all of the latest  
12 cultural resource information, because there's a little bit  
13 of confusion exactly how we're going to proceed between the  
14 Energy Commission and the BLM on sharing the latest  
15 information. One of them being the supplement they provided  
16 is a re-route of about a 300-foot offset of the transmission  
17 line, of where you're entering into the substation, I  
18 believe, and that was outside the area originally surveyed  
19 for cultural resources.

20           So, there will be a slight bit of new information.  
21 And as you may remember from the supplemental, under  
22 cultural resources they just had a little blurb in there,  
23 talking about how this information was not available at this  
24 point because of the latest direction with the BLM about not  
25 sharing that information until it's finalized.

1           So, we don't have an idea of exactly when the  
2 staff is going to be able to get that latest information or  
3 any other revisions to the cultural resource report on the  
4 project side, itself, if there will be revisions.

5           So, that's a brief challenge. But the main issue  
6 on timing, on the cultural resources, is writing in that  
7 additional specificity, writing in more of an idea of almost  
8 a best management practices, of what's going to be expected  
9 in the programmatic agreement and how that's going to meet  
10 CEQA requirements.

11           HEARING OFFICER RENAUD: All right, thank you.

12           Mr. Stobaugh, are you on the phone, still?

13           MR. STOBAUGH: All right, good. I think  
14 Commissioner Byron may have a question for you.

15           COMMISSIONER BYRON: Mr. Stobaugh, thank you for  
16 joining us, being with us today. I don't think we can swear  
17 you in, you're probably in Washington D.C.

18           That's just a joke, Mr. Stobaugh.

19           MR. STOBAUGH: No, I can't be sworn in but --

20           COMMISSIONER BYRON: We don't need you for  
21 testimony. I just need to ask some information --  
22 informational type questions.

23           Mr. Meyer just indicated that we've got some  
24 difficulty as to when staff will have access to cultural  
25 resource information and I was wondering if you might be

1 able to shed any light on that particular topic.

2 MR. STOBAUGH: My honest answer is I don't know  
3 exactly when they'll be finished up with it, but they are  
4 reviewing what has been a technical cultural resources  
5 report that BLM requires for survey work, and that hasn't  
6 been completed to date. So, that's the best I can answer at  
7 this particular time, they're looking at the survey  
8 information that had been -- one, there had been a survey  
9 done. Of course, there actually had been a re-survey  
10 involved on the project, as well. They're looking at those  
11 draft, technical cultural resources report at this time, and  
12 looking at trying to get those in a completed manner.

13 COMMISSIONER BYRON: Am I correct to assume that  
14 the federal government has significant legal and other  
15 obligations to protect the confidentiality of that  
16 information and to conduct these kind of surveys?

17 MR. STOBAUGH: Yes, we do. The location of such  
18 resources, cultural resources, whatever, is something that  
19 has to be protected and that is our responsibility.

20 COMMISSIONER BYRON: I don't know if everyone can  
21 hear that in the audience, but the answer was essentially  
22 yes.

23 I do have one more question and I'm trying to  
24 remember it. In the interest of time, I think we'll have to  
25 move on.

1 MR. STOBAUGH: Okay.

2 COMMISSIONER BYRON: Well, if I may? I'm sorry, I  
3 do just recall the question. And that has to do with  
4 the -- no, I think I'll skip it, still. I apologize.

5 MR. STOBAUGH: Okay.

6 MR. MEYER: Hearing Officer, if I could add one  
7 more thing that I had on my notes?

8 HEARING OFFICER RENAUD: Go ahead, Mr. Meyer.

9 MR. MEYER: One of the things that we've committed  
10 to working with the BLM on, on cultural resources, is when  
11 we get to the very end and staff has looked at the staff's  
12 testimony, revised as it will be for the new information,  
13 and any changes to the condition of certification, we have  
14 committed to the BLM that we will work with their cultural  
15 resource staff, as we would anticipate working with all  
16 their staff, to make sure that nothing that we put in our  
17 testimony is substantially different or comes to  
18 substantially different conclusions or different  
19 recommendations for treatment of those facilities than the  
20 BLM does, so that we have an agreement on how we're going to  
21 handle those, even though we're writing separate documents.

22 And that's one of the reasons we need the latest  
23 information, since the BLM will be writing their analysis  
24 for their final document based on this latest.

25 COMMISSIONER BYRON: Mr. Meyer, another question

1 with regard to the programmatic agreement that you  
2 mentioned. Commissioners, namely myself and Commissioner  
3 Eggert, are not privy or have any knowledge of these  
4 negotiations that are underway, but I would be interested in  
5 knowing who all the parties are that are involved in  
6 negotiating the programmatic agreements. Can you share that  
7 with us?

8 MR. MEYER: Yes, the programmatic agreement is  
9 actually between the Bureau of Land Management and the State  
10 Historic Preservation Officer. Those are really -- that's  
11 what the agreement is between.

12 However, it's opened up to pretty much all parties  
13 under the Section 106 process. And those, all the parties  
14 that request being part of it will choose a working group.  
15 In this case, that smaller working group includes the BLM,  
16 CURE is part of the process.

17 MS. MILES: They're not in the small working.

18 MR. MEYER: They're not, excuse me. CURE is part  
19 of the interested parties, but the smaller working group is  
20 BLM, Energy Commission. I would have to check with Carrie,  
21 from the BLM, she might be able to explain who, exactly, is  
22 in the smaller group. I believe the Native American groups  
23 are within that as well. But is Carrie available to clarify  
24 that?

25 COMMISSIONER BYRON: Or Mr. Stobaugh, can you

1 confirm it?

2 MR. STOBAUGH: Whether Carrie Simmons is  
3 available, I don't --

4 (Laughter.)

5 MS. SIMMONS: Did you want me to come up there  
6 and --

7 MR. STOBAUGH: No, but I can --

8 COMMISSIONER BYRON: Mr. Stobaugh, just a moment.  
9 She is here, I'm sorry. I was really asking if you could  
10 confirm the question. But I think she can for us.

11 MR. STOBAUGH: Yes. Carrie?

12 MS. SIMMONS: Hi, I'm here, Jim. Can you hear me?

13 COMMISSIONER BYRON: You have to speak loudly.

14 HEARING OFFICER RENAUD: And you are Carrie  
15 Simmons.

16 MS. SIMMONS: My name is Carrie Simmons, I work  
17 for the BLM, El Centro Field Office.

18 And I believe the question was who is -- who are  
19 the consulting parties working on the programmatic  
20 agreement?

21 And there was -- Christopher is correct, the  
22 agreement is mainly between the BLM, the State Historic  
23 Preservation Officer, or Office, and the Advisory Council  
24 for Historic Preservation.

25 We also have a number of parties along in this

1 process, there is the California Energy Commission, National  
2 Park Service, Army Corps of Engineers. We have some  
3 individuals, who have requested consulting party status,  
4 Greg Semesta, Edie Harmon. We also have some other  
5 agencies, National Trust for Historic Preservation, CURE,  
6 Sacred Sites International Foundation.

7 COMMISSIONER BYRON: Ms. Simmons, who's not  
8 involved in negotiating for this?

9 MS. SIMMONS: Yes, and Tessera.

10 COMMISSIONER BYRON: It seems like there's a lot  
11 of parties involved.

12 MS. SIMMONS: Correct, there are many parties.  
13 And Christopher alluded to a working group that was  
14 nominated, a small subset of all the parties, to come  
15 together to develop a draft, the original draft that was  
16 released to all the parties for comment at the end of March.

17 And the working group, that put together the  
18 original version, was BLM, CEC, there was a Native American  
19 representative from the Cocopah Tribe, URS, representing the  
20 Applicant, and BLM's third-party consultant, LSA, was also a  
21 participant.

22 COMMISSIONER EGGERT: So, if I may, Commissioner,  
23 just a follow up. Do you have -- does either the staff or  
24 BLM have an estimate of when we might have either a draft or  
25 a final PA release?

1 MS. SIMMONS: Well, the draft has already been  
2 released to all the consulting parties for comment. The  
3 comment period, the first cutoff date for comments came to a  
4 close on May 7<sup>th</sup>. We are working on incorporating all of  
5 those comments and producing a revised draft to back out to  
6 the consulting parties for another round of review, by the  
7 end of this week, that's our goal.

8 Then we would have another period of comments and  
9 take comments back and work on revising it once again, so  
10 that it could be released into the final staff -- excuse me,  
11 final environmental impact statement, and so that the public  
12 would get a chance to review.

13 COMMISSIONER EGGERT: And if you had to estimate  
14 approximately when that date would occur, I'm trying to add  
15 up all of those in sequence?

16 MS. SIMMONS: Well, our final EIS is supposed to  
17 go out June 9<sup>th</sup>, so we are hoping to have a new, revised  
18 version at the beginning of July so that it can be  
19 incorporated.

20 COMMISSIONER EGGERT: By the beginning of July?

21 MS. SIMMONS: Correct.

22 MR. MEYER: Could I clarify, just are you talking  
23 about going out to the public or going out for internal  
24 review?

25 MS. SIMMONS: Going out to the public.

1 MR. MEYER: Okay.

2 MS. SIMMONS: So, and that would be included in  
3 the document, the environmental document.

4 MS. HOLMES: It's July 9<sup>th</sup>, for the EIS; right?

5 MS. SIMMONS: July 9<sup>th</sup>.

6 COMMISSIONER EGGERT: So, July 9<sup>th</sup> is the date, the  
7 target date for BLM's FEIS on this project? Okay.

8 HEARING OFFICER RENAUD: That was a yes.

9 COMMISSIONER EGGERT: That was a yes.

10 MS. SIMMONS: Correct.

11 COMMISSIONER EGGERT: Okay. And then I guess this  
12 is a question for Mr. Meyer, as it relates to what we  
13 anticipate we're going to see out of the PA, you had  
14 mentioned that there may be additional need for site-  
15 specific, additional site-specific information to align with  
16 some of the best management practices, I think was the term.  
17 Could you maybe say a little bit more about that process and  
18 the timing that that could occur in, to get that information  
19 to line up with the PA and the best management practices  
20 that would be coming out of this?

21 MR. MEYER: Yeah, the staff's estimate and we've  
22 been working hard to shave any time off of it, and we will  
23 continue to do so, but the best time that the environmental  
24 office could provide us the document right now is the 27<sup>th</sup>  
25 of -- or excuse me, the 29<sup>th</sup> of July for the cultural

1 resource. With that new specificity, new information, also  
2 giving them time to coordinate with the BLM on any changes  
3 necessary based on the new survey information, new results  
4 and any changes that are necessary to be consistent with  
5 what the BLM writes in their final document.

6 So, that's the date that I've been given at this  
7 point and I will continue to work on cutting off any time,  
8 if possible.

9 COMMISSIONER EGGERT: Okay, I don't have any  
10 further questions.

11 Commissioner, are you -- no?

12 HEARING OFFICER RENAUD: Okay, thank you. Well,  
13 thank you for those updates. Yes?

14 MS. HOLMES: Would you like to hear about water?

15 HEARING OFFICER RENAUD: Oh, you didn't do water  
16 yet, did you? Okay, go ahead.

17 MS. HOLMES: Obviously, there's a lot of concern  
18 about water and staff shares some of that concern. We  
19 received a fair amount of information from the Applicant in  
20 the supplemental filing. We're trying to compare that  
21 information with other publicly available information, other  
22 information from the public.

23 We're concerned about, as is always the case with  
24 projects that proposed to use groundwater, we're concerned  
25 about impacts to other users of the water, be they human

1 users and their wells, or whether it's groundwater-dependent  
2 vegetation or sensitive species that rely on groundwater-  
3 dependent vegetation.

4           And we don't have the information, yet, to do  
5 that, but we are committed to preparing an analysis that  
6 addresses that by June 27<sup>th</sup>.

7           HEARING OFFICER RENAUD:   We've heard some  
8 indication that the -- either the -- well, I guess the  
9 conditional use permit for that well may have had some sort  
10 of environmental review.

11           Does anybody on staff know about that or whether  
12 that exists?

13           MS. HOLMES:   This was the first time that we had  
14 heard that there was a conditional use permit.   All we  
15 had -- all that was in the filing was that they had  
16 registered their well with the state, which is a standard  
17 requirement.   And then it has a -- it is a well that feeds  
18 from a sole-source aquifer, which in our understanding may  
19 implicate some kinds of federal requirements.   But this is a  
20 new area for me and I'm not very familiar with it and we're  
21 looking at it.   We're not certain whether there are  
22 additional federal requirements associated with use of water  
23 from the well or not.

24           MR. MEYER:   Yeah, and one of the complications is  
25 we received comments during the staff workshop from both the

1 public and from Intervenors, that brought up a lot of  
2 questions on the use of the sole-source aquifer and other  
3 impacts related to this water source, and staff is working  
4 to make sure that all of those comments are addressed in  
5 their revised analysis.

6 MS. HOLMES: One of the things that we noted is  
7 that the well is apparently, currently in use and if the  
8 project is going to use up to the full amount of water, in  
9 fact their supplement indicates that they're going to use  
10 more than the permitted amount, which I assume will be  
11 adjusted by virtue of the construction schedule that they  
12 identified, we are looking at where the -- where the current  
13 users of that water are going to obtain water from.

14 HEARING OFFICER RENAUD: Thank you.

15 COMMISSIONER BYRON: Ms. Holmes, any other open  
16 topics from the staff's perspective?

17 MS. HOLMES: Well, going off of the list that's on  
18 the back of the agenda, that Hearing Officer Renaud provide,  
19 in addition to the contested topics, I would note that a  
20 number of the uncontested topics are potentially affected by  
21 the supplement, as well.

22 Traffic and transportation because of potential  
23 increased traffic to transport the water to the site.  
24 Hazardous materials management, with respect to fire  
25 protection because of the hydrogen. Transmission line

1 safety and nuisance and transmission line engineering due to  
2 the realignment. Facility design, executive summary and  
3 project description because of the changes to the project  
4 description.

5 I don't know that any of those are going to  
6 require any substantial effort, but the staff in those areas  
7 are still reviewing the supplement because the supplement  
8 touches on those particular technical areas. So, I'd like  
9 to leave open the possibility, without having to petition to  
10 reopen the record, of filing supplemental testimony on those  
11 topics related to the supplement, or to public, or to agency  
12 comment that we receive.

13 COMMISSIONER BYRON: Understood. I was hoping the  
14 answer would be yes. But I think there are other  
15 intervenors here that would also indicate that there are  
16 still some issues that are contested, that are not on that  
17 list of four, as well.

18 Where I was going to go with my question had to do  
19 with the fact that -- well, I guess I want to make sure  
20 everybody understands that we have a very full plate at the  
21 Energy Commission right now, there are approximately 11 of  
22 these large solar/thermal projects before the Commission, as  
23 well as still a number of conventional power plant siting  
24 cases before us. The workload is substantially higher than  
25 it normally is.

1           And I guess I'd like to just turn to the  
2 Applicant, briefly, and ask with regard to the supplemental  
3 AFC, that was provided on May 6<sup>th</sup> -- and the reason I believe  
4 that up about the staff is, obviously, is trying to schedule  
5 all of their work with a limited number of resources is very  
6 challenging for them and we can appreciate that, this  
7 Committee can appreciate that.

8           But can you tell me, Counselor, when was that  
9 supplemental AFC committed to be provided to the Commission?

10           MR. THOMPSON: I think we committed to provide it  
11 on the 3<sup>rd</sup> and we actually provided it on the 6<sup>th</sup>.

12           COMMISSIONER BYRON: It's my understanding that it  
13 may have been as much as 30 days late. Can anybody help me  
14 in that regard?

15           HEARING OFFICER RENAUD: I can.

16           MS. HOLMES: Lots of volunteers.

17           HEARING OFFICER RENAUD: There was an oral  
18 statement made at the pre-hearing conference that a  
19 supplement of some sort will be forthcoming on around April  
20 5<sup>th</sup> and that, obviously, didn't happen. But I think that's  
21 what Commissioner Byron is referring to and maybe you'd wish  
22 to address that?

23           MR. THOMPSON: I think that's right.

24           COMMISSIONER BYRON: So, here's where I'm going  
25 with this, Counselor, you'd indicated that you were praying

1 to this Committee to, you know, do something with regard to  
2 expediting the schedule. And as you can see, based upon  
3 what you heard from staff, they're waiting on a great deal  
4 of information that has to come from other sources. And, in  
5 fact, I think that it's pretty clear that we don't have all  
6 the information necessary from the Applicant at this point.  
7 Is that correct?

8 MS. HOLMES: That's correct. I'd like to point  
9 out that with respect to water resources, in a typical  
10 proceeding we would be asking data requests. And in this  
11 case, because the Committee has evinced such a strong  
12 interest in moving forward, we are trying to collect the  
13 information, ourselves, and using consultants to do the  
14 same.

15 But there is information that we do not have, that  
16 we need to complete the analysis.

17 COMMISSIONER BYRON: So, I don't know if this is a  
18 question or not, Mr. Thompson, I suppose it's -- you have  
19 other committees and sources to be praying towards, than  
20 just this Committee.

21 MR. THOMPSON: Yeah, if I could make a couple  
22 comments?

23 COMMISSIONER BYRON: Please do.

24 MR. THOMPSON: I appreciate where you are. And I  
25 appreciate where the staff is, as well.

1           Let me briefly address kind of the four, what I  
2 see as real long-term items here, and give a couple comments  
3 for your consideration.

4           Number one is the Seeley water source. There is a  
5 separate environmental impact analysis that is being  
6 conducted by that agency. I suspect this agency would be  
7 very reluctant to overrule or get in the way of that  
8 agency's determination under its legal obligations to  
9 prepare and evaluate the environmental impacts.

10           I'm not sure it does us any good to have two  
11 evaluations on the same subject, going on at the same time,  
12 and I would ask that this Commission defer Seeley and the  
13 mitigation measures that they would put in place for any  
14 environmental impacts that they may find.

15           The second is the LEDPA and I think it's safe to  
16 say that we view the LEDPA as further mitigation, that  
17 working with the federal agencies. And if those agencies  
18 determine, for example, that some of the structures should  
19 be moved out of the washes, we would like the Committee and  
20 the Commission to assume that those are positive changes and  
21 that these mitigation measures in the LEDPA will not result  
22 in a more environmentally damaging project, if you will.

23           The third is the PA. This afternoon we'll present  
24 a witness that will suggest a way to incorporate the PA into  
25 this process and we would hope that that would happen.

1           Finally, the Dan Boyer water, it's a temporary  
2 measure, it's a permitted well. From a legal stand point, I  
3 would be very reluctant to go behind that permit and  
4 determine that there's information that could put that  
5 permit in jeopardy, that's not something that I would want  
6 my client to do.

7           We would hope that the analysis for the Dan Boyer  
8 well would encompass whether or not it's permitted, whether  
9 it's living within its permit, whether or not we have a  
10 contract for that water. And I would anticipate that the  
11 Commission would put some limit on the amount of time that  
12 we could use that water, with the proviso that we come back,  
13 if need be.

14           HEARING OFFICER RENAUD: Well, on the water, and  
15 maybe I'll sort of play referee a little bit here. My  
16 understanding, and you seem to be saying basically you don't  
17 have to do an impact analysis because they have a right to  
18 sell the water.

19           MR. THOMPSON: That's right.

20           HEARING OFFICER RENAUD: Very simplified. And if  
21 I were to ask Ms. Holmes about that, I think she would beg  
22 to differ.

23           MS. HOLMES: I would beg to differ. In the first  
24 place, we haven't seen an environmental analysis that is  
25 associated with the use of the water from that well.

1           And, in addition, I think that we always have had  
2 an obligation. The fact -- we've always had an obligation  
3 to look at the environmental impacts associated with use of  
4 the water, notwithstanding a right to use the water.

5           For example, when people come into the Commission  
6 process with an allocation of State water project water for  
7 use in a power plant, or if they've got a groundwater right  
8 in an adjudicated base, and the staff nonetheless evaluates  
9 the environmental impacts associated with the water use.

10           We look at what the basin balance is. We look at  
11 what the impacts are on other users of the water. We look  
12 at the impacts on biological resources.

13           The fact that somebody has an entitlement to use  
14 the water, in the staff's mind does not mean that the  
15 Commission is absolved of its responsibility for evaluating  
16 the environmental impacts associated with that use.

17           MR. SILVER: And if I may, on behalf of the  
18 Intervenor Budlong, and I'm sorry I don't have the citation,  
19 but there has been a recent case from, I think the 2<sup>nd</sup>  
20 District Court of Appeals, but in any event a case which is  
21 right on point to what counsel has said. And that was in an  
22 air quality context, but it did say that the fact that there  
23 is a claim of valid existing right does not obviate the need  
24 for an analysis.

25           Even if the agency can't specifically regulate

1 that, the agency, still, in the context of CEQA, needs to  
2 determine the environmental impacts.

3 And so I think it would be appropriate here to  
4 determine what really is going on in this groundwater basin,  
5 where the data is singularly lacking. And there's no proof  
6 in the record, for that matter, that I can see, that there's  
7 even a valid permit.

8 MR. THOMPSON: I would tend to agree if this was a  
9 30-year supply. I do not agree with a temporary, six-  
10 months, one-year supply.

11 MS. HOLMES: And, actually, staff will be looking  
12 at whether or not there is a possibility for moving forwards  
13 based on whether some small amount of water use can be  
14 demonstrated to not have an environmental impact. But we  
15 need the information in order to determine whether there is  
16 some such level, that's what we're looking for.

17 HEARING OFFICER RENAUD: Ms. Miles, please?

18 MS. MILES: I just wanted to interject. I  
19 believe, I can't cite it to you right now, but I believe it  
20 was in Mr. VanPatten's testimony that said that we want to  
21 use the water under we have the Seeley Wastewater Treatment  
22 facility permitted.

23 And the question is, well, we can't pre-determine  
24 the outcome because that's a CEQA process. So we don't know  
25 if -- there's a lot of concerns about biological impacts

1 and, you know, federally endangered species, and the fact  
2 that if you diver the water to this plant, you may be  
3 removing all of the out-fall from that Seeley Wastewater  
4 Treatment facility into a two-acre wetland along the new  
5 river. And so there are impacts beyond just upgrading the  
6 plant that are concerning the area around the plant.

7 And so, it's just not a given, we cannot assume  
8 that that plant is going to be permitted.

9 MR. MEYER: Moreover, there is a statement in the  
10 record that in order to use the Seeley water, a permit would  
11 have to be obtained or authorization would have to be  
12 obtained from the State Water Resources Control Board with  
13 regard to an application to transfer the place of use. And  
14 so that is a separate and distinct proceeding.

15 And to my knowledge, the water could not be used  
16 for construction purposes or any purposes until the State  
17 Board acts. And so, we're talking about a supply here that  
18 may be relied on for much more than a temporary, short  
19 period of time during the course of construction. We're  
20 talking about a supply that's likely to be needed during the  
21 course of operation, possibly for a fairly long period of  
22 time.

23 HEARING OFFICER RENAUD: One thing I can say to  
24 the Applicant is if there is -- if there has been prior  
25 environmental analysis on that well, that you can get and

1 share with the parties, I think that might be helpful.

2 MS. FOLEY GANNON: So, it's basically been in use  
3 since pre-CEQA, I mean, so there wasn't. When it was -- it  
4 was issued a permit when the county enacted its permitting  
5 ordinance. However, it was grandfathered in because it was  
6 in existing use.

7 So, there was no environment -- there was no  
8 discretionary authority. They actually, basically -- you  
9 know, they had raised objection to you about the county's  
10 authority to regulate them and had a strong legal basis for  
11 saying that because it was in existing use.

12 And so, I mean, I guess the way we have been  
13 looking at this is they have agreed to abide by this permit,  
14 which limits it to 40 acre feet a year. It has been pumping  
15 40 acre feet a year, it has been selling 40 acre feet a  
16 year. It will continue to sell 40 acre feet a year whether  
17 we buy it or not. I mean, and they've been going for  
18 construction uses, and we have some records of that.

19 So, that was just the point, but we don't -- so  
20 there is no environmental review of this particular well.

21 MS. HOLMES: We would obviously be interested in  
22 knowing where the 40 acre feet of water that's currently  
23 being pumped is going to come from in the future.

24 HEARING OFFICER RENAUD: I understand. Right.  
25 Well, we're clearly talking about a legal question of

1 whether or not --

2 MS. FOLEY GANNON: Right.

3 MS. HOLMES: Correct.

4 HEARING OFFICER RENAUD: -- analysis is required.

5 I don't know. Whether or -- let's assume it is required, it

6 doesn't sound to me like that is the most difficult or time

7 consuming of the various analyses that we're looking at.

8 Maybe I'm wrong about that.

9 If it is, it might be worthwhile for the parties

10 to brief this and the determination could be made about the

11 need for analysis. Okay.

12 (Music coming from the telephone.)

13 MR. THOMPSON: Apparently, they didn't listen to

14 Commissioner Byron earlier.

15 HEARING OFFICER RENAUD: Parties, who has their

16 phone on hold?

17 (Laughter.)

18 HEARING OFFICER RENAUD: I'm going to just have

19 to turn it down.

20 (Technical discussion.)

21 MR. BELTRAN: Somebody's after your job, maybe the

22 coordinator.

23 HEARING OFFICER RENAUD: Okay. Well, I guess

24 what's on the table is the issue of whether or not to brief

25 the question about CEQA analysis.

1 MS. HOLMES: I don't hear much dispute about --

2 HEARING OFFICER RENAUD: Yeah.

3 MS. HOLMES: I don't hear much dispute and the  
4 staff is proceeding to conduct an analysis.

5 HEARING OFFICER RENAUD: All right, fine.

6 MS. HOLMES: I think the question is --

7 MS. FOLEY GANNON: We are disputing it.

8 HEARING OFFICER RENAUD: Yeah, I think the  
9 dispute from the Applicant is maybe you don't need to.

10 MS. FOLEY GANNON: Yes, we believe it's a baseline  
11 condition.

12 HEARING OFFICER RENAUD: I'm not sure there would  
13 be anything the Committee could say that would stop you,  
14 let's put it that way.

15 MS. HOLMES: That's correct, staff is proceeding  
16 to -- staff is proceeding to conduct its analysis. And we  
17 have, in the past, briefed issues of baseline conditions and  
18 I'd be happy to prepare another, if it's necessary, if  
19 there's a dispute after the staff analysis is complete. I  
20 think that the issue will be how complete a record we are  
21 able to create between now and the 27<sup>th</sup> of June on potential  
22 impacts.

23 HEARING OFFICER RENAUD: Well, I guess I'm not  
24 inclined to burden, particularly, staff with another brief.  
25 But if the Committee is interested in that, we could ask the

1 parties to brief the question of whether or not a CEQA  
2 analysis is necessary when drawing water from a permitted  
3 well.

4 MS. HOLMES: I think that there would be  
5 additional factual questions that we would need to have in  
6 the record before you could determine what the appropriate  
7 subject for briefing is.

8 HEARING OFFICER RENAUD: Yeah.

9 MS. HOLMES: One of them being what's going to  
10 happen to the use that is currently ongoing associated with  
11 the well? That's a factual determination that we would need  
12 in order to know whether baseline was changing or not.

13 HEARING OFFICER RENAUD: Yeah.

14 MR. SILVER: And an Intervenor, in that respect,  
15 would suggest that based on past experience of Mr. Budlong's  
16 witness, Edie Harmon, there has been real difficulty in  
17 getting data from the county, especially with regard to the  
18 pumping rate from the UGS wells.

19 And so we would request, that is Intervenor  
20 Budlong would request, in terms of expediting this, that the  
21 Commission exercise its power of subpoena to obtain  
22 information that the county has with regard to the US --  
23 with regard to USG wells. The data is not available  
24 publicly, for the last five or six years. And that also  
25 production information with regard to the Boyer well be

1 obtained, as well as the county records with regard to, if  
2 they exists, registration, as well as permit, the  
3 conditional use permit, which is not in the record.

4 HEARING OFFICER RENAUD: Well, I appreciate your  
5 oral request for that. And I think what the Committee would  
6 need, though, is a written statement of what it is you're  
7 seeking and the reasons, and the relevance. But staff is  
8 performing an independent analysis and it could be that old  
9 data isn't going to be helpful or pertinent.

10 MR. SILVER: And that would be a request made  
11 directly to the Committee, rather than to staff.

12 HEARING OFFICER RENAUD: If you're seeking a  
13 subpoena, the issuance of a subpoena, yes.

14 MR. SILVER: All right, thank you.

15 COMMISSIONER BYRON: If I may. You don't need to  
16 identify yourself on the phone, but we just had one caller  
17 rejoin us, that may have been the caller who put us on hold.  
18 Please don't do that again. Thank you.

19 HEARING OFFICER RENAUD: Sometimes we hear music.

20 Okay. Let's step back, then, from the discussion  
21 we've been having and determine who has witnesses here  
22 today, who they would like to call to testify and, in  
23 addition to that, is there any of them who has an urgent  
24 need to go first? I'll start with the Applicant?

25 MR. THOMPSON: I would propose Mike Hatch, he is

1 one of four people waiting -- three people are in a car,  
2 waiting for him. And if I can do it -- no, he's quickly.  
3 He's had to listen to me for the last couple hours, so I  
4 feel sorry for him.

5 So, if I can -- maybe we can take a five-minute  
6 break to --

7 MS. HOLMES: Yeah, can we take a break?

8 MR. THOMPSON: Yeah, take a five-minute break  
9 while he sets up, let me suggest it.

10 HEARING OFFICER RENAUD: Very good. What topic  
11 will this be?

12 MR. THOMPSON: This is on noise, noise and  
13 vibration.

14 HEARING OFFICER RENAUD: Thank you. Very good,  
15 thank you. Five minutes, four o'clock, sharp.

16 MR. THOMPSON: I said Hatch, I meant Storm, sorry.

17 (Off the record.)

18 HEARING OFFICER RENAUD: All right.

19 Commissioner, thank you.

20 All right. Mr. Thompson, proceed, please.

21 MR. THOMPSON: Thank you very much.

22 Mr. Storm, have you been sworn?

23 MR. STORM: No, I haven't.

24 Whereupon,

25 MARK STORM

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

3 THE REPORTER: Thank you. Would you please state  
4 your full name for the record and spell it for me, please?

5 MR. STORM: It's Mark Storm, M-a-r-k S-t-o-r-m.

6 THE REPORTER: Thank you.

7 MR. THOMPSON: Mr. Storm, you're the same  
8 individual that filed prepared testimony in this proceeding  
9 that has now been marked Exhibit 105; is that correct?

10 MR. STORM: That is correct.

11 MR. THOMPSON: And previously, I don't know if you  
12 were here, we have talked about certain conditions of  
13 certification that are very important to the Applicant and I  
14 believe two of those fall into your area. Would you comment  
15 on Noise 4 and Noise 6, that is the suggested changes to  
16 those conditions?

17 MR. STORM: Sure. In summary, Noise 4 provides an  
18 alternative method for evaluating project-only noise and  
19 it's consistent with the method that the Applicant has seen  
20 on other staff assessments.

21 MR. THOMPSON: And Noise 6?

22 MR. STORM: Oh, thank you. Noise 6, the Applicant  
23 is suggesting language that basically says the project owner  
24 desires a variance from their restrictions on construction  
25 times, that Noise 6 detailed. That the project would make

1 the request that CPM 24 hours in advance, if that request  
2 was needed.

3           Again, the gist of it is, you know, if needed to  
4 allow construction to take place outside of the, I believe  
5 it's 7:00 a.m. to 7:00 p.m. on weekdays and then on  
6 Saturdays, 9:00 a.m. to 5:00 p.m.

7           MR. THOMPSON: And this would be a variance that  
8 would be issued by what entity?

9           MR. STORM: My understanding it would be from the  
10 county.

11           MR. THOMPSON: Okay. Thank you very much. Mr.  
12 Storm is tendered for cross-examination.

13           HEARING OFFICER RENAUD: All right. Cross by  
14 staff?

15           MS. HOLMES: No staff cross-examination.

16           HEARING OFFICER RENAUD: CURE?

17           MS. MILES: No.

18           HEARING OFFICER RENAUD: Mr. Budlong?

19           MR. BUDLONG: No.

20           HEARING OFFICER RENAUD: Mr. Beltran?

21           MR. BELTRAN: No.

22           HEARING OFFICER RENAUD: Mr. Alimamaghani?

23           MR. ALIMAMAGHANI: Yes, sir. This noise we're  
24 talking about is about --

25           COMMISSIONER BYRON: Use a microphone, please?

1 MR. ALIMAMAGHANI: Sure.

2 COMMISSIONER BYRON: Nice and loud.

3 MR. ALIMAMAGHANI: Sure. Thank you. Let's say  
4 this noise is just for traffic or that this SunCatchers?  
5 It's for traffic during the construction?

6 MR. STORM: Could you be more specific, sir?

7 MR. ALIMAMAGHANI: During construction you have  
8 a --

9 MR. STORM: Construction, okay.

10 MR. ALIMAMAGHANI: You have traffic with your  
11 trucks coming and going, let's assume this project approved  
12 and you start working. When we're talking about this noise,  
13 is it for that period or the period which this SunCatchers  
14 are in operation?

15 MR. STORM: Noise 6 is related to construction  
16 noise.

17 MR. ALIMAMAGHANI: Just construction?

18 MR. STORM: That is correct.

19 MR. ALIMAMAGHANI: Okay. I saw in your  
20 application you requested 24 hours working permit for your  
21 construction project. Can you tell me what kind of affect  
22 have into a person which have a house there, and live there?

23 MR. THOMPSON: You may have misstated, if I may,  
24 sir?

25 MR. ALIMAMAGHANI: Sure. Is it the Applicant's

1 position, now, that we want the Commission to approve 24-  
2 hour construction?

3 MR. STORM: My understanding is that if the need,  
4 if there arose the need, that the project would make the  
5 request to the county for a variance. And if construction  
6 was felt necessary beyond the currently understood limits of  
7 construction noise, or on construction activity.

8 MR. ALIMAMAGHANI: What kind of effect that noise  
9 and that activity have to that resident?

10 MR. STORM: That can depend on many factors.  
11 Distance, the types of noise being generated. That's why I  
12 asked for specificity, I couldn't --

13 MR. ALIMAMAGHANI: It's bearable, in your opinion?

14 MR. STORM: Again, it depends on many factors and,  
15 you know, bearable is a subjective term.

16 MR. ALIMAMAGHANI: Okay, so this noise is not for  
17 the SunCatchers, this is just for traffic and the  
18 construction; correct?

19 MR. STORM: Well, again, with respect to the  
20 conditions of Noise 4, Noise 4 -- the condition of  
21 certification for Noise 4 is -- again, I'm summarizing, it  
22 describes the technique for measuring project-generated  
23 noise and that would be from operating SunCatchers,  
24 primarily.

25 MR. ALIMAMAGHANI: Okay.

1 MR. STORM: But the Applicant has suggested  
2 additional language that would allow a closer measurement to  
3 the facility. Because in some cases it's not possible to  
4 measure project noise at a receiver, due to a variety of  
5 factors.

6 MR. ALIMAMAGHANI: Let's assume about a 100 feet  
7 from your project, it's bearable to live in a residence?

8 HEARING OFFICER RENAUD: At what period of time,  
9 sir, during construction or operation?

10 MR. ALIMAMAGHANI: During operation.

11 HEARING OFFICER RENAUD: Do you have a residence  
12 within a hundred feet, sir?

13 MR. ALIMAMAGHANI: We are assuming there is a  
14 residence there.

15 HEARING OFFICER RENAUD: Why should we assume  
16 that?

17 MR. ALIMAMAGHANI: Maybe I want to put my  
18 residence on my land.

19 HEARING OFFICER RENAUD: All right.

20 MR. ALIMAMAGHANI: Is bearable to live?

21 MR. STORM: Again, it would depend on the  
22 magnitude of noise being generated and the distance between  
23 this receiver and the noise generators.

24 Depending on where the magnitudes were and the  
25 value of that distance, with that information then I could

1 determine, okay -- well, I could make a -- I can make a  
2 statement based on, you know, past industry guidelines and  
3 evaluations. But, again, bearable is a subjective term.

4 MR. ALIMAMAGHANI: That guidelines, do you have  
5 any practically data from one operation which give you this  
6 information, like Maricopa?

7 MR. STORM: Well, yes, we actually -- if I can  
8 speak about Maricopa, yes. We did recently do a survey at  
9 Maricopa Solar. In fact, I think I -- if that hasn't  
10 already been introduced, that's Exhibit 47, where I did do  
11 measurements at various locations around that facility, both  
12 amidst the operating SunCatchers and within the boundaries  
13 of the facility. And the purpose of that survey was to, in  
14 summary, help validate the miling that was done for the  
15 Applicant's AFC.

16 MR. ALIMAMAGHANI: Okay, that's the one ten-acre,  
17 with a 60 SunCatcher. Now, let's compare it with a 6,000  
18 acre and 30,000 SunCatcher. Do you think anybody's able to  
19 live in this area?

20 MR. STORM: I would -- if I may, I would answer  
21 that as -- because it sounds like you're making a comparison  
22 between a smaller site, the Maricopa facility, and this  
23 larger, proposed facility for Imperial Valley Solar.

24 MR. ALIMAMAGHANI: Correct.

25 MR. STORM: The density of the noise generators,

1 the SunCatchers, is the same or will be the same for both  
2 sites. And so, for example, I measured and this is in the  
3 Exhibit 47 that I mentioned, I measured a value of 74 dba  
4 amidst operating SunCatchers. And that's what we have also  
5 modeled for the Applicant's project, Imperial Valley Solar.  
6 So, just because there's more, you know, more SunCatchers  
7 over a larger area does not mean it's going to be louder.  
8 Again, it depends on distance and many other factors.

9 MR. ALIMAMAGHANI: So, in your opinion, the noise  
10 of these machines, when it is 60 is equal to 30,000?

11 MR. STORM: No, I'm not saying that.

12 MR. ALIMAMAGHANI: So, what is the difference?

13 MR. STORM: What I was saying, making reference to  
14 Maricopa Solar, we made measurements and did a model of  
15 Maricopa Solar. We used the same model input parameter, per  
16 individual SunCatcher, as we did for the Applicant's  
17 project, Imperial Valley Solar.

18 And because our measurements at Maricopa Solar  
19 were within one to three db of the predicted results, that  
20 gave us the validation, or the confidence, if you will, to  
21 show that the model input we used for the AFC, for this  
22 Imperial Valley Solar project, is reliable input  
23 information, so that we can make our prediction.

24 Because our AFC is predicting impacts at a variety  
25 of receivers around the site perimeter.

1 MR. ALIMAMAGHANI: Have you ever try another  
2 project, with a larger capacity, to see what is the effect  
3 of the noise on those project, even if they are not  
4 SunCatchers, they are just flat, what is it, solar panels?

5 MR. STORM: I've done compliance measurements for  
6 other energy projects, yes.

7 MR. ALIMAMAGHANI: So, the result is the same?

8 MR. STORM: It's not going to be the same. Again,  
9 it depends on the magnitude of the sound sources or the  
10 sound generators and the distances. In that way, you know,  
11 sound or noise is unique.

12 MR. ALIMAMAGHANI: Again, I repeat myself, is  
13 bearable to live around that?

14 MR. THOMPSON: This question's been asked and  
15 answered about four times.

16 HEARING OFFICER RENAUD: Mr. Alimamaghani, we're  
17 talking about scientific measurements here and bearable is  
18 not a scientific measurement. As the witness said, it's  
19 subjective. The witness's testimony is in terms of decibels  
20 and precise numbers.

21 MR. ALIMAMAGHANI: Correct.

22 HEARING OFFICER RENAUD: And if you wish to  
23 cross-examine about the testimony he's provided, please do  
24 so.

25 MR. ALIMAMAGHANI: With due respect to your

1 position, sir, I am not scientific. I am an individual  
2 trying to stand where I stand, in my position. Thank you.

3 HEARING OFFICER RENAUD: All right. Any  
4 redirect?

5 MR. THOMPSON: No.

6 HEARING OFFICER RENAUD: Any other cross-  
7 examination?

8 MR. THOMPSON: Oh, wait, wait. Is there a house  
9 within -- is there a residence within a hundred feet of any  
10 of the borders of the Imperial Valley Solar?

11 MR. STORM: Not that I'm aware of.

12 MR. THOMPSON: Okay, thank you.

13 HEARING OFFICER RENAUD: Go ahead.

14 COMMISSIONER BYRON: I don't know if you'll be  
15 able to answer my question, either.

16 MR. STORM: Okay.

17 COMMISSIONER BYRON: But it's somewhere between a  
18 subjective and an objective question. If I were to stand  
19 mid-distance between Highway 8 and this project, what would  
20 I hear at night, the freeway or the project?

21 MR. STORM: You may want to try daytime.

22 COMMISSIONER BYRON: Yeah, that's where I was  
23 thinking, I'm sorry. Absolutely.

24 (Laughter.)

25 MR. STORM: It's a good question, you almost got

1 me.

2 COMMISSIONER BYRON: I was thinking the freeway  
3 would be quieter at night. But you're absolutely right.

4 So, when the SunCatchers are operating, which  
5 would be -- which would I hear?

6 MR. STORM: Well, again, at the risk of repeating  
7 myself, it depends on the distance from you and --

8 COMMISSIONER BYRON: Mid-distance between the  
9 source that we have information about and the other source I  
10 think you're saying we have information about. I know you  
11 can't do the calculation in your head, so it's somewhere  
12 between a subjective and an objective question because --

13 MR. STORM: Well, maybe I should answer, it is --  
14 I think it's possible that you would be hearing both or that  
15 you would be hearing, you know, one dominate over the other.  
16 If the highway's very busy, has a large volume of traffic,  
17 the right mix of vehicles and speeds, it could be, you know,  
18 what the layman would consider a considerable distance away  
19 from that highway and still hear it. And hear it not only  
20 compete, but dominate other sources in the environment.

21 COMMISSIONER EGGERT: Maybe if I could, and I  
22 don't know if this gets more at your question, Commissioner,  
23 but --

24 COMMISSIONER BYRON: Well, I'm trying to help out  
25 Mr. Alimamaghani.

1                   COMMISSIONER EGGERT:  So, I think, so I did notice  
2  that they do have a table here of Imperial County property  
3  line sound level limits.

4                   COMMISSIONER BYRON:  Right.

5                   COMMISSIONER EGGERT:  Have you, maybe just to give  
6  us a sense of relative noise do you have, for example, 30  
7  feet from a relatively busy highway or 150 feet from a  
8  relatively busy highway, in other words, something that  
9  we're somewhat familiar with, at least more so than  
10 SunCatchers.  Do you have any of those values, kind of rough  
11 approximations?

12                  MR. STORM:  I could try to go off the top of my  
13 head.  If you'll give me a moment, I can -- I think the AFC  
14 has a table of sample noise level.

15                  MS. HOLMES:  There is a noise appendix that has  
16 some of those types of comparisons.

17                  MR. STORM:  Yes, I think that's available, as  
18 well.

19                  COMMISSIONER EGGERT:  Oh, wait, here maybe.

20                  HEARING OFFICER RENAUD:  And for the record,  
21 we're referring to Exhibit 105 here.

22                  MR. STORM:  Okay, I guess it's 105.  I'm looking  
23 at the original AFC, this would be Table 5.12-1, "Sound  
24 Levels of Typical Noise Sources and Noise Environments."

25                  So, a passenger car, 65 miles per hour, 25 feet,

1 70 dba, and that table, to give you a frame of reference, if  
2 you will, think of it as a thermometer for noise.

3 Does that help answer the question, Commissioner  
4 Eggert?

5 MR. MEYER: Commissioner, if I might be able to  
6 help, page 1,171 of our staff's analysis --

7 COMMISSIONER EGGERT: I have it in front of me.

8 MS. HOLMES: Gives you your freeway at a hundred  
9 feet.

10 MR. STORM: So, what's the number, I don't have  
11 that in the --

12 MS. HOLMES: It's a dba number and it's 70  
13 decibels.

14 MR. STORM: 70 decibels, okay. And you're saying  
15 that --

16 MS. HOLMES: So that's A weighted.

17 MR. STORM: At what distance?

18 MR. MEYER: One hundred feet.

19 MS. HOLMES: One hundred feet.

20 MR. STORM: Okay.

21 MS. HOLMES: I'd also like to point out, not to  
22 interrupt cross-examination, although it seems we're doing a  
23 lot of that today, that staff obviously just received the  
24 Maricopa study, I believe it was filed May 17<sup>th</sup>, and so  
25 that's another area where the staff analysis is going to

1 have be re-examined, in light of the information that we  
2 received in that file.

3 COMMISSIONER EGGERT: Okay, no further questions.

4 HEARING OFFICER RENAUD: Let me ask one, if I  
5 may. In the AFC chapter on noise, in which you're the  
6 author, you're sponsoring that?

7 MR. STORM: Yes, sir.

8 HEARING OFFICER RENAUD: You included a table  
9 regarding the noise ordinance and the allowable sound  
10 measurements in connection with various types of zoning,  
11 residential, industrial and so on. I think it's 5.12-9.

12 And my question is simply did you consider  
13 what -- or did you look into what the zoning was on parcels  
14 within the proposed project?

15 MR. STORM: As I recall, we did look at zoning or  
16 I -- I probably consulted with the land use resource person,  
17 probably prior to the first ambient noise surveys we  
18 conducted in 2008.

19 HEARING OFFICER RENAUD: Right. Were any of the  
20 parcels residential zoned?

21 MR. STORM: I could be mistaken, but I think  
22 Imperial Lakes, where we identified one of our closest  
23 receivers, I believe that's the case.

24 HEARING OFFICER RENAUD: Okay. But with respect  
25 to any parcels within the proposed site, were any of them

1 zoned residential, if you recall?

2 MR. STORM: I don't recall.

3 HEARING OFFICER RENAUD: You don't recall, all  
4 right. All right, thank you. Anybody else?

5 I take it you'd like to move the Exhibit 105?

6 MR. THOMPSON: I would, thank you very much.

7 HEARING OFFICER RENAUD: Any objection?

8 MS. HOLMES: No objection.

9 HEARING OFFICER RENAUD: Thank you, it will be  
10 admitted.

11 Okay, another witness?

12 MR. THOMPSON: Yeah, Ms. Foley Gannon is going to  
13 take over from now. I'm going to go in the back and take a  
14 nap.

15 HEARING OFFICER RENAUD: All right, good.

16 MS. FOLEY GANNON: We'll keep you awake somehow,  
17 I'm sure.

18 We have several witnesses for water, but I would  
19 ask if we could start off by doing the testimony about  
20 erosion and sedimentation?

21 We have Dr. Chang here, who also did the study,  
22 which was introduced by one of our experts, Mike Fitzgerald.  
23 But Dr. Chang is here and there had been several questions  
24 that had been raised by some of the Intervenors and we  
25 thought that it might be helpful to have him available to

1 testify as well, if that's an interest of the parties. He  
2 is here and so we'd like to be able to excuse him, after  
3 he's been here all afternoon.

4 So, can we also swear in Dr. Chang?

5 HEARING OFFICER RENAUD: Of course.

6 MS. GANNON: And we can have him speak to his  
7 credentials.

8 HEARING OFFICER RENAUD: Please proceed.

9 MS. GANNON: So, Dr. Chang and Mike Fitzgerald.

10 THE REPORTER: Please your right hand. Thank you.

11 Whereupon,

12 HOWARD H. CHANG

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

15 THE REPORTER: Thank you very much. And would you  
16 please state your name and spell it for the record, please?

17 DR. CHANG: The name is Howard H. Chang. Chang is  
18 spelled C-h-a-n-g.

19 THE REPORTER: Thank you very much.

20 Whereupon,

21 MIKE FITZGERALD

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

24 THE REPORTER: Thank you. Would you state your  
25 name for the record and spell it, please?

1 MR. FITZGERALD: My name is Mike Fitzgerald, it's  
2 M-i-k-e F-i-t-z-g-e-r-a-l-d.

3 THE REPORTER: Thank you.

4 MS. GANNON: So, we can start out presenting some  
5 information about Dr. Chang's background and then if anyone  
6 has any objections to his testimony, we can deal with that,  
7 or we can just start, go right into the testimony.

8 HEARING OFFICER RENAUD: Maybe you can summarize,  
9 briefly, what the nature of this testimony is going to be.

10 MS. GANNON: Dr. Chang was hired to -- first off  
11 by BLM to do an analysis of the potential sediments and  
12 erosion impacts of the proposed project. And so he did an  
13 initial analysis for the BLM.

14 Since then, we had him do a subsequent analysis,  
15 after we had responded to some of his suggested changes, as  
16 well as made some other project revisions. So, he has done  
17 that analysis and we would like to have him here to support  
18 that.

19 HEARING OFFICER RENAUD: Fine. Okay, go ahead,  
20 please, with the qualifications then.

21 MS. GANNON: Okay. Dr. Chang, can you describe  
22 your background?

23 DR. CHANG: I have a PhD in engineering. I was on  
24 the engineering faculty at San Diego State University for 40  
25 years. I retired two years ago. I've been doing teaching,

1 research and consulting the last 40 years.

2 MS. GANNON: And have you had other experience of  
3 studying sediment erosion issues on projects?

4 DR. CHANG: I did -- I reviewed hydrology study  
5 for the project site. I also addressed hydrological  
6 impacts. I did hydraulic modeling of surface flow, I also  
7 did the sediment modeling to determine the sediment  
8 transports through potential stream channel changes and how  
9 they're impacted by the proposed project.

10 MS. GANNON: Thank you. So, we would like to have  
11 him testify as an expert.

12 HEARING OFFICER RENAUD: Is there any voir dire  
13 questioning by any of the parties with respect to Dr.  
14 Chang's qualifications as an expert.

15 MS. HOLMES: Staff will stipulate to his  
16 credentials.

17 HEARING OFFICER RENAUD: Stipulate. Anybody?

18 COMMISSIONER BYRON: It would seem there's a new  
19 standard, you have to have 40 or 60 years of experience.  
20 Mr. Fitzgerald, good luck.

21 HEARING OFFICER RENAUD: All right, he'll be  
22 admitted as an expert.

23 MS. FOLEY GANNON: All right, thank you.

24 Dr. Chang, you just introduced, briefly, the  
25 analysis that you have done. Could you describe, further,

1 the study of -- the hydraulic study that you have done of  
2 the site and the project?

3 DR. CHANG: Well, first of all we are dealing with  
4 a very shallow and wide stream channels in the desert wash.  
5 the storm flow, of course, has a flash flood. The discharge  
6 arises and it drops very rapidly. The durations are usually  
7 very short.

8 I do modeling of surface water flow. I found the  
9 water depth channel to be very shallow, the maximum depth is  
10 1.1 foot. And the velocity to be moderate or fairly slow  
11 going through those washes, I'd say the highest velocity is  
12 about three feet for second. So, there's no active sediment  
13 transport.

14 On the basis of that, we did sediment transport  
15 modeling on the potential stream channel changes. I found  
16 the general scout, that is the changes due to the sediment  
17 transport is generally less than a foot.

18 And I reviewed a previous design in there for the  
19 sediment basins and, you know, crossings, both crossings of  
20 those washes.

21 I recommended that seven basins be removed because  
22 we don't want to cause any sediment impact on the downstream  
23 property, with the understanding those washes that you drain  
24 is the west trunk canal of the American Irrigation System.

25 We want to cause no impact, we don't want to

1 change the sediment flow and the sediment delivery toward  
2 the downstream trunk canal. So, we are going to do away  
3 with sediment basins. The road crossings of the washes  
4 would actually be at grade, so as not to interfere with the  
5 surface flow, not interfere with the sediment movement.

6 MS. FOLEY GANNON: And, Mr. Fitzgerald, are you  
7 the same person who offered testimony on May 10<sup>th</sup>, which is  
8 now Exhibit 115, and May 17<sup>th</sup>, which is Exhibit 116?

9 MR. FITZGERALD: Yes, I am.

10 MS. FOLEY GANNON: And are you aware, has the  
11 project responded to the recommended changes that were  
12 provided by Dr. Chang?

13 MR. FITZGERALD: Yes, the project has removed all  
14 of the sediment basins, all of the road crossings are at  
15 grade now.

16 There was one measure recommended by Dr. Chang  
17 that was to remove culverts associated with what was called  
18 Life Line Road G, which was an emergency access road, as an  
19 emergency access road in and out of the facility, we weren't  
20 able to accommodate that recommendation as it couldn't be at  
21 grade in the event that there was a flood event.

22 So, in order to achieve the purpose of his  
23 required mitigation or his recommended mitigation, the  
24 Applicant has changed that crossing to an arched concrete,  
25 what is it? Yeah, it's like a bridge.

1           So, there's no culverts and no piers in the  
2 channel.

3           DR. CHANG: If I made add something, I understand  
4 there's going to be proposed a border fence around the  
5 entire property. I made specific recommendations of design  
6 for border fence, making sure border fence does not  
7 interfere with the flow of sediment transport.

8           MS. FOLEY GANNON: And, Mr. Chang, assuming your  
9 recommendations are incorporated in to the project, that is  
10 the at-grade crossings are incorporated, sedimentation  
11 basins are removed and the fencing is installed as you have  
12 specified, are you able to make conclusions about the  
13 potential downstream effects of the project?

14          DR. CHANG: Well, we have done mathematical  
15 modeling of sediment flow through channel changes. I found  
16 out, with such changes, even with the project, which would  
17 have insignificant impact on the sedimentation.

18          MS. FOLEY GANNON: So, you would not anticipate  
19 that there would be any impact on sedimentation downstream,  
20 in the Salton Sea, or on the new river from this project?

21          DR. CHANG: No, there should be no impact. Very  
22 insignificant, I should say. You know, insignificant here,  
23 is a significant word.

24                 (Laughter.)

25          MS. FOLEY GANNON: Right, an insignificant impact.

1           And have you looked at the potential scour impacts  
2 on site to the drainages, and potential changes in  
3 hydrology?

4           DR. CHANG: Oh, yes. There was one issue brought  
5 up and we understood that issue. That is there's going to  
6 be local scour induced by the SunCatchers, because the  
7 pedestals supporting the SunCatchers would cause disturbance  
8 to flow, thereby including local scour.

9           We are doing calculations to determine the local  
10 scour, as well as the areas affected by the local scour.  
11 There's going to be local scour hole.

12           We found out, now, the amount of local scour and  
13 the areas affected by the scour is less than one percent of  
14 the surface area of the wash. I consider that to be very,  
15 very small.

16           By the way, the scour, of course, during the peak  
17 flow of the storm, we used a hundred-year storm as the  
18 basis, after the storm, now, the scour holes would  
19 dissipate, become much smaller. So, their impacts are  
20 really insignificant.

21           MS. FOLEY GANNON: So, you anticipate that there  
22 would be less than one percent of impacts on the washes?

23           DR. CHANG: Quite a bit less than one percent even  
24 during the peak flow, peak discharge of hundred-year storm.  
25 After the flood, the affected area is much less than one

1 percent.

2 MS. FOLEY GANNON: And would you consider that to  
3 be an insignificant impact or a less than significant  
4 impact?

5 DR. CHANG: I'd say it's insignificant.

6 MS. FOLEY GANNON: Very good. Did you have  
7 something to add, Mr. Fitzgerald, on the testimony you have  
8 regarding the indirect impacts on the site?

9 MR. FITZGERALD: Yeah, and that's what he's  
10 looking at with the local scour and the reason why we asked  
11 Dr. Chang to look at it. It was, I believe, Phillip Lowe's  
12 staff made, in his own words, a preliminary estimate in a  
13 staff report, where he calculated what the indirect effect  
14 would be.

15 So, I asked Dr. Chang to take a look at the  
16 methodology that he used and we need that number for our  
17 LEDPA conversations with the Army Corps. So, we were just  
18 quality controlling what staff, preliminarily, had done.

19 MS. FOLEY GANNON: And, Dr. Chang, the final  
20 issue, if you could address, there have been concerns raised  
21 about potential impacts on the SunCatchers, themselves, in  
22 the drainages, that they may be at risk in high flood  
23 events. Have you looked at that issue and can you offer any  
24 opinion?

25 DR. CHANG: We have looked at it, we've also

1 addressed in the report. There's going to be general scour,  
2 local scour, which are very small in magnitude. The  
3 SunCatchers have long embedded length into the ground, 17  
4 feet. The structure is very solid, the foundation will not  
5 be in danger by any changes in the stream channel during the  
6 flood period.

7 MS. FOLEY GANNON: I would offer to have, to  
8 submit Dr. Chang for cross-examination and then we can allow  
9 him to leave, and then we can continue with Mr. Fitzgerald  
10 regarding the LEDPA discussion, if that works.

11 HEARING OFFICER RENAUD: All right. Thank you,  
12 yes. Applicant? I'm sorry, staff, cross?

13 MS. HOLMES: No questions of Dr. Chang.

14 HEARING OFFICER RENAUD: CURE, Dr. Chang?

15 MS. MILES: Yeah, as we indicated in our revisions  
16 to the witness and exhibit list, we were not anticipating  
17 doing any cross-examination.

18 (Microphone moved.)

19 MS. MILES: As we indicated in our witness and  
20 exhibit list, that we shared with the Committee and all  
21 parties, we are not anticipating doing any cross-examination  
22 today of the Applicant's experts in the four major areas,  
23 and we were not aware that, Mr. Chang, you were going to  
24 even be here today.

25 We didn't see any testimony in the record from Mr.

1 Chang, other than a letter of response to our expert  
2 testimony, but it wasn't in the form of testimony. And so,  
3 I'm kind of surprised that you're here, it's good that  
4 you're here.

5 But I just wanted to let you know that I'm not  
6 prepared to cross-examine you on this topic.

7 And once the staff has done their analysis on soil  
8 and water resources, then that is when we'd actually like to  
9 take that opportunity, once we're further along in the  
10 analysis.

11 MS. FOLEY GANNON: You know, we would suggest that  
12 we had been instructed in the May 3<sup>rd</sup> order to be prepared to  
13 present all of our opening testimony and to be able to  
14 present our case.

15 It is true, Dr. Chang was not originally listed,  
16 but he did -- his report has been available for quite some  
17 time. He did provide a response, which was sponsored by Mr.  
18 Fitzgerald.

19 And in fact, I believe it was one of your experts  
20 who raised the issue about whether they thought Mr.  
21 Fitzgerald was actually competent to present Dr. Chang's  
22 report.

23 Therefore, we used this opportunity, because Dr.  
24 Chang was available, to have him here and to be able to  
25 answer questions. So, we would have assumed that you were

1 ready to ask Mr. Fitzgerald these questions and now we  
2 thought it was a benefit to everybody to have Dr. Chang  
3 here. And we were not presenting -- prepared to have our  
4 opening testimony being recrossed later.

5 MS. MILES: Well, perhaps you should have spoken  
6 to your co-counsel, because I did specifically send an e-  
7 mail to Mr. Thompson, indicating that we were not going to  
8 be cross-examining your soil and water witness. And we also  
9 indicated that in our witness and exhibit list.

10 HEARING OFFICER RENAUD: All right, I think we  
11 can stop the colloquy here. Counsel, if you have any  
12 questions that you could ask Dr. Chang now, that would be  
13 fine. If you don't and the topic comes up later, and I'm  
14 sure it will, we aren't going to stop you then.

15 But he's here, if you have questions, good time to  
16 do it.

17 MS. MILES: I'm sorry, I was not prepared and I  
18 indicated that to the other parties.

19 HEARING OFFICER RENAUD: All right, thank you.

20 Mr. Budlong? No.

21 Mr. Beltran?

22 MR. BELTRAN: Yes, I've got some questions.

23 HEARING OFFICER RENAUD: Go ahead.

24 MR. BELTRAN: I read your report. I'm not a  
25 hydrologist, but it was well written enough for someone,

1 like myself, to pretty clearly understand it.

2 I understood removing the detention basins,  
3 lowering the crossings to grade level. And your comment is  
4 that it does transport sediment?

5 DR. CHANG: There is sediment transport, although  
6 the quantity of transport is very limited.

7 MR. BELTRAN: Okay. Did your analysis take into  
8 account additional loads that would come from wind erosion  
9 in the surrounding area? I understood that it was only with  
10 respect to the effects of the water in the washes.

11 DR. CHANG: That's a very good question. To  
12 answer your question, sometimes we have major wind storms in  
13 the desert, occasionally.

14 MR. BELTRAN: Uh-hum.

15 DR. CHANG: That would actually cause sediment  
16 transport by wind.

17 MR. BELTRAN: Yes.

18 DR. CHANG: Now, wind transport of sediment is  
19 limited to the fine particles, such as silt and the clay.  
20 But water transport can move coarse sediment, that actually  
21 constitutes the stream bed morphology. So, as far as wind  
22 transport is concerned, it does not affect the stream  
23 morphology because if you walk an alluvial stream of the  
24 desert washes, you'll find that predominantly particles are  
25 coarser than the particles that can be transported by wind.

1           MR. BELTRAN: Are you familiar with the term creep  
2 saltation?

3           DR. CHANG: Well, Einstein used that word,  
4 creeping saltation, rolling, sliding, that's how he refers  
5 to bed load transport.

6           MR. BELTRAN: But isn't -- doesn't saltation,  
7 isn't that the effect on large particles and the suspension  
8 is for the small particles?

9           DR. CHANG: That's very true. You know, Einstein,  
10 he did sediment as his career, as Berkeley, and he  
11 classified sediment load, suspended load, and bed load, you  
12 are exactly right on that distinction.

13          MR. BELTRAN: It appears that there's going to be  
14 a lot of disturbance of the soils on this property site.  
15 Are you familiar with the methodology, the in situ  
16 methodology that the Salton Sea Restoration Project used to  
17 measure the effects on the playa soils?

18          DR. CHANG: I'm slightly familiar with that. You  
19 know, there's one thing about wind transport sediment, wind  
20 transport sediment does exist with or without a project.  
21 So, I would say --

22          MR. BELTRAN: That's the baseline.

23          DR. CHANG: Yes, yes. So, that does affect Salton  
24 Sea. You know, we know that because we do have strong wind  
25 storms sometimes, sand storms in the desert. But sand storm

1 is basically unaffected by the project. So, it does exist  
2 with the project, it still will exist with the project.

3 MR. BELTRAN: How do you know that it won't be  
4 affected by this project?

5 DR. CHANG: The project does not really change the  
6 wind. You can't slow down the wind speed somewhat because,  
7 again, you look at the density of the SunCatchers, they are  
8 sparsely located, their impact on the wind is very local.

9 If you look at a big picture of that project area,  
10 their impact is fairly limited. Again, I want to use the  
11 word almost insignificant.

12 MR. BELTRAN: Well, are you aware if there are  
13 cryptobiotic crusts that are not on this project site? Are  
14 you familiar with -- did you do any analysis of the  
15 cryptobiotic crusts, if any, on this project site?

16 DR. CHANG: No, sir.

17 MR. BELTRAN: Are you aware that anybody did?

18 DR. CHANG: No, sir, no.

19 MR. BELTRAN: Are you aware that in the Salton Sea  
20 project that they did on-site testing to determine, to test  
21 the soils with crusts and without, and that the wind erosion  
22 after disturbance of the soils was seven times higher than  
23 before the crust was damaged?

24 DR. CHANG: Oh, I'm sure any disturbance would  
25 increase wind transport sediment, I'm sure of that.

1 MR. BELTRAN: Are you aware that one of the  
2 functions of cryptobiotic crust is to stabilize the soil and  
3 prevent wind erosion?

4 DR. CHANG: I know that's the purpose, the purpose  
5 is to stabilize the soil.

6 MR. BELTRAN: And how are cryptobiotic crusts  
7 damaged?

8 DR. CHANG: Well, that damage usually occurs  
9 during the construction era, the construction period where  
10 the soil is disturbed. But after the construction, it tends  
11 to go back to its natural state.

12 MR. BELTRAN: How quickly?

13 DR. CHANG: I have no time on the -- no idea on  
14 the time scale for that.

15 MR. BELTRAN: Okay. Doesn't -- won't maintenance  
16 operations damage the cryptobiotic crust and isn't  
17 maintenance something that occurs throughout the life of  
18 this project?

19 DR. CHANG: Well, for example, if a truck drives  
20 on the road it does, you know, pick up some dusts, but those  
21 particles are very fine particles, what we call the wash  
22 load. Yes, you are right, you are right that does increase  
23 the wash load, the traffic.

24 MR. BELTRAN: Are you familiar with the effects of  
25 that dust on cryptobiotic crusts?

1 DR. CHANG: I haven't done any study on that.

2 MR. BELTRAN: Are you aware that anybody has on  
3 this project?

4 DR. CHANG: You know, I -- not on this project.  
5 But I came across some literature along the same line you're  
6 talking.

7 MR. BELTRAN: Well, what I'm digging at is that I  
8 had asked Mr. VanPatten. He had said that they had  
9 requested, that the Applicant had requested an increase in  
10 maximum travel speed from 15 to 25 miles per hour. He  
11 explained that it was more, because of the size of the  
12 project, that it was advantageous because it required less  
13 travel time.

14 My question to him was if someone had done any  
15 analysis on what kind of effect that would have on erosion  
16 and he said that it was taken into account. I took that as  
17 an affirmative.

18 If you're not the person who did that analysis,  
19 who did?

20 DR. CHANG: I did not do the study, nor do I know  
21 who did it.

22 MR. BELTRAN: Okay, thank you.

23 MS. FOLEY GANNON: For one point of clarification,  
24 Dr. Chang, again, was brought in as a BLM consultant, who  
25 was originally doing a study for BLM. We got to review that

1 and to take it into consideration of our project. He was  
2 not part of the environmental review team that was hired by  
3 the Applicant, though we did have him look at our project  
4 designs.

5 And we will have other witnesses who will be  
6 testifying about soils and so you can get --

7 MR. BELTRAN: That's an important point. I'm  
8 sorry. Okay.

9 MS. FOLEY GANNON: Yeah, absolutely. So, Dr.  
10 Chang's testimony was really limited to -- his analysis was  
11 really limited to looking at the erosion impacts associated  
12 or sedimentation and hydromorphic changes that could result  
13 from the project, and so that was what --

14 MR. BELTRAN: Well, that's what I originally  
15 thought.

16 MS. FOLEY GANNON: He knows a lot more but --

17 MR. BELTRAN: That's what I originally thought.  
18 But then, as we got into the conversation, it sounded like  
19 he was --

20 MS. FOLEY GANNON: He's just really smart.

21 MR. BELTRAN: Yeah, okay.

22 MS. FOLEY GANNON: And so we were happy to have  
23 his -- I was interested in hearing what you had to say, but  
24 he didn't -- unfortunately, he was not hired by us to do  
25 that analysis.

1 MR. BELTRAN: That's all, I don't have any other  
2 questions.

3 HEARING OFFICER RENAUD: Thank you, Mr. Beltran.  
4 It sounds like there may be a witness coming up, who will be  
5 able to address your question about the travel speed.

6 Any further questioning, redirect, cross?

7 MS. FOLEY GANNON: I have no redirect.

8 HEARING OFFICER RENAUD: Commissioner?

9 COMMISSIONER BYRON: I think it's just one quick  
10 question for Dr. Chang. You mentioned that these  
11 SunCatchers would be, the depth of the support would be  
12 approximately 17 feet. Do you know how they're being sunk,  
13 will they be driven by pile, or drilled, or vibrated in, do  
14 you know?

15 DR. CHANG: Maybe --

16 MR. FITZGERALD: Hydraulically driven.

17 DR. CHANG: Well, he said hydraulically driven,  
18 that's his words.

19 COMMISSIONER BYRON: Is there residual soil that's  
20 at the surface as a result of this process?

21 DR. CHANG: Well, I don't know.

22 MR. FITZGERALD: No.

23 COMMISSIONER BYRON: Okay, thank you.

24 Dr. Chang, thanks for being here.

25 DR. CHANG: Thank you.

1 MS. FOLEY GANNON: Thank you, Dr. Chang.

2 HEARING OFFICER RENAUD: And do you have  
3 questioning for Mr. Fitzgerald?

4 MS. FOLEY GANNON: Yes, I would.

5 DR. CHANG: Thank you.

6 HEARING OFFICER RENAUD: Thank you.

7 And as far as I can tell, Dr. Chang's report is  
8 Exhibit 30, have I got that right?

9 MS. FOLEY GANNON: That does sound right. That's  
10 correct, it's Exhibit 30.

11 HEARING OFFICER RENAUD: And I take it you'd like  
12 to move that into evidence?

13 MS. FOLEY GANNON: I would like to move that into  
14 evidence?

15 HEARING OFFICER RENAUD: Any objection?

16 MS. HOLMES: No objection.

17 HEARING OFFICER RENAUD: It will be admitted.  
18 Thank you.

19 MS. FOLEY GANNON: And there also will be -- we  
20 will be admitting, asking for admitting of a number of  
21 exhibits that are also referenced by Mr. Fitzgerald, and one  
22 of them is also Dr. Chang's response, rebuttal response to  
23 some questions raised by some of the Intervenor's testimony.

24 HEARING OFFICER RENAUD: Great, so you can  
25 proceed.

1 MS. FOLEY GANNON: So, when we move, yeah, Mr.  
2 Fitzgerald's exhibits in, we will also move that in.

3 MS. FOLEY GANNON: Turning, now, Mr. Fitzgerald,  
4 to the core permitting issues and impacts to aquatic  
5 resources. Can you give us a summary of what has been done  
6 to date to try to avoid or minimize impacts to aquatic  
7 resources?

8 MR. FITZGERALD: Well, there's been a number of  
9 things done since the original AFC was submitted. First of  
10 all, the roads were modified, reduced in diameter anywhere  
11 from two feet to four feet, depending on the type of road it  
12 was on the facility. And that was the maximum extent that  
13 roads could be reduced and still meet safety logistical  
14 standards for the type of road and use that those roads  
15 would be used for.

16 All culverts were removed. I don't have the exact  
17 number of how many culverts that was, but there's quite a  
18 number of wash crossings.

19 There was maintenance roads were originally  
20 proposed to be hard-surfaced. In an effort to reduce  
21 impacts to hydrology and sediment transfer, all the  
22 maintenance roads now would just be at grade, not harden  
23 surface roads.

24 The perimeter fence design was evaluated to not  
25 just reflect the perimeter of the facility as the project

1 was proposed, but it was designed to minimize impacts to  
2 water resources by way of cutting off unnecessary portions  
3 of perimeter fence that did nothing but increase the impact  
4 to waters of the US by having more fenced-in waters of the  
5 US.

6 MS. FOLEY GANNON: Were there areas where the  
7 SunCatchers were moved or rearranged in an attempt to lessen  
8 impacts to aquatic resources?

9 MR. FITZGERALD: Yeah, the SunCatchers, it's been  
10 quite a dance with the engineers to meet the Corps and EPA's  
11 requirements for impact minimization and avoidance to  
12 waters. And so we've continually gone back to the Applicant  
13 and to the engineers to ask them to see how they can tweak  
14 spacing or road width, or a facility's layouts, et cetera,  
15 as the EPA and the Corps do. You put a map in front of them  
16 and they see an impact, and they say why.

17 And that's what we've done across the site. It's  
18 an ongoing process, as you described, with the Corps and the  
19 EPA, that we're hoping is close to conclusion.

20 I can tell you this, from where we began, with  
21 nearly 165 acres of impacts to waters of the US, we're  
22 currently down to 38 acres, which is on a par with the  
23 Corps's avoidance alternative 1 and 2, almost the same as  
24 Corps alternative avoidance 1, and close to Corps  
25 alternative avoidance 2.

1 MS. FOLEY GANNON: And in evaluating the level of  
2 avoidance that was obtainable by the project, can you  
3 describe how practicability has been evaluated?

4 MR. FITZGERALD: Well, practicability's always  
5 evaluated by cost logistics and technology. In this case,  
6 because --

7 MS. FOLEY GANNON: Are you aware of those --  
8 what's the source of those criteria?

9 MR. FITZGERALD: The EPA's regulations, the  
10 4040(b)1) regulations, which is what the whole LEDPA  
11 analysis is about. It's the Applicant has the burden of  
12 demonstrating that they've minimized or avoided impacts to  
13 aquatic resources to the extent practicable by definition,  
14 where if they had to avoid any more, would they even build  
15 the project.

16 So there's a number of costs and engineering  
17 technical criteria, such as the efficiency of the hydrogen  
18 system, keeping the 60-unit SunCatcher groups in 360  
19 collection systems, generator groups, I suppose.  
20 Modification to, you know, breaking up the way the design  
21 has -- the engineering portion of the design changes things  
22 like compression needed, miles of pipe needed, et cetera, et  
23 cetera. So, there's all -- do you want me to just keep  
24 going?

25 MS. FOLEY GANNON: No, I think we got the sense of

1 the efforts that have been undergone.

2 Can you give us, also, an update on where we are  
3 in our discussions with the Corps and the EPA?

4 MR. FITZGERALD: Sure. We've had several meetings  
5 with the Corps, in the field, including we've been to  
6 various mitigation sites to consider for the project.

7 We've had discussions with the Corps about the  
8 nature and the extent of mitigation. We've met with the  
9 EPA.

10 I did want to correct some kind of misinformation  
11 out there, nothing has been -- there's been no formal  
12 submittals of anything to the EPA in terms of the LEDPA  
13 Practicability Analysis.

14 We've done what the EPA has asked us, which is  
15 they will consider pieces of information along the way, so  
16 that they can give us guidance, so that we can complete our  
17 analysis as efficiently as possible. There's a lot of  
18 pressure on me --

19 (Laughter.)

20 MR. FITZGERALD: -- to get the 404(b)(1) analysis  
21 done. So, if the agencies want to see pieces of information  
22 to stimulate conversation, that's what we've done.

23 MS. FOLEY GANNON: So, it's fair to characterize  
24 it as an ongoing conversation with the agencies?

25 MR. FITZGERALD: Absolutely. You know, for the

1 reasons I stated earlier, they'll provide us some guidance,  
2 we go back -- I might have to go back to the Applicant and  
3 the engineers and determine the practicability of an  
4 engineering redesign, for example, or how a change might  
5 affect project cost. And I'm not even -- I'm not talking  
6 about project cost in in terms of the Applicant's  
7 profitability, more in terms of getting the project even  
8 financed, or the cost of power that could be generated as  
9 costs are driven up.

10 MS. FOLEY GANNON: And I think you may have been  
11 in the room earlier when Ms. Holmes, the CEC staff attorney,  
12 was talking about the need to have the LEDPA identified to  
13 be able to establish the mitigation ratios that would be  
14 likely required.

15 Is it your opinion that there is going to be a  
16 significant change in the mitigation ratios, or has there  
17 been discussions with the Corps about the likely mitigation  
18 ratios?

19 MR. FITZGERALD: There's been two mitigation  
20 ratios talked about. One has been kind of a replacement  
21 acreage at a one-to-one ratio for temporary impacts. And  
22 what we've been expecting and I think the Corps has been --

23 MS. FOLEY GANNON: For temporary impacts.

24 MR. FITZGERALD: For temporary impacts was a one-  
25 to-one ratio, expecting they would get that through Flat-

1 tailed horned lizard properties that were acquired.  
2 Presumably, the properties would have washes on them, since  
3 that's an important habitat feature for the Flat-tailed.

4 For the permanent impacts, they are looking at a  
5 two-to-one, subject to change, there's been no commitment to  
6 a two-to-one.

7 But we've been -- we've met with the State Parks  
8 to look at specific locations, called Creezo Creek and  
9 Marsh, and the actual, the final mitigation ratio, while we  
10 don't expect it to be radically different than a two-to-one  
11 replacement, enhancement or creation ratio, that's  
12 ultimately going to be decided by the Corps. And they're  
13 using the CRAM analysis and SCWRP that --

14 MS. FOLEY GANNON: Can you say what CRAM and SCWRP  
15 are, for people in the room who are not aware of these  
16 terms?

17 MR. FITZGERALD: CRAM is the California Rapid  
18 Assessment Model that's used by agencies, state and federal,  
19 local agencies more and more to analyze functional value of  
20 wetland and aquatic systems across the state. So, there's  
21 an ongoing effort by state and federal agencies in  
22 California to get kind of qualitative assessments or even  
23 quantitative assessments that independent consultants  
24 generated, calibrated to a CRAM score of functional value.

25 So, the Corps, for this project, recommended that

1 we talk to SCWRP, which is Southern California Water  
2 Research Project, or very close to that. These are guys  
3 that, and women, that are refining -- that have been  
4 involved with the development of CRAM and have been a  
5 stakeholder in the furthering of kind of this calibration  
6 effort statewide.

7           So, the Applicant hired SCWRP to go out and study  
8 the washes in the project area. I think they did something  
9 like 80 cross-sections on all of the washes, cumulatively,  
10 they looked at all of the washes affected by the project.

11           Preliminary results have been submitted, two  
12 ecosphere and two the Corps, until I've talked to the Corps  
13 about the interpretation of the results. I probably  
14 shouldn't say anything more about what they show right now.

15           MS. FOLEY GANNON: So, based on the information  
16 that is available to date regarding the likely impacts  
17 associated with the project, and the potential mitigation  
18 requirements, and the ability to fulfill those mitigation  
19 requirements, can you offer any opinion on whether you  
20 believe this project is going to be able to mitigate its  
21 impact to aquatic resources to an adequate level to reduce  
22 it to less than significant?

23           MR. FITZGERALD: My expectation would be that the  
24 mitigation that the Corps, and the Applicant and the EPA  
25 agree to will have a higher functional ecological value than

1 the waters that are being impacted on the site.

2 MS. FOLEY GANNON: And the final question would  
3 be, I know you're here testifying as an expert due to your  
4 biological credentials, and not for our fortune telling, but  
5 what would be your anticipation of when we would get a clear  
6 read from the Corps and the EPA as to what they are  
7 considering the LEDPA?

8 MR. FITZGERALD: Yeah, thank you. That was a  
9 heavy sigh by the Commissioner.

10 COMMISSIONER BYRON: As my staff knows, I dislike  
11 the use of acronyms. I abhor the use of acronyms turned  
12 into words. There were three in that particular sentence.

13 MS. FOLEY GANNON: The Corps, the --

14 COMMISSIONER BYRON: The Environmental Protection  
15 Agency --

16 MS. FOLEY GANNON: Okay.

17 COMMISSIONER BYRON: -- the Army Corps of  
18 Engineers and the LEDPA. Can we get this one straight?

19 MS. FOLEY GANNON: Sure. Sorry.

20 Based on your discussions with the representatives  
21 of the Environmental Protection Agency, the U.S. Army Corps  
22 of Engineers, when would you anticipate that the agency  
23 representatives would be able to identify what they believe  
24 to be the least environmentally damaging practicable  
25 alternative?

1 COMMISSIONER BYRON: Thank you.

2 MR. FITZGERALD: The U.S. Army Corps of Engineers  
3 predicted that they would be -- they gave an estimated time  
4 and I think it was the first week of June.

5 The Environmental Protection Agency indicated that  
6 they thought that was optimistic. The final 404(b)(1),  
7 which includes consideration of the least environmentally  
8 damaging practicable alternative should be submitted by the  
9 end of this month, so I have no reason to think that the EPA  
10 and the Corps wouldn't be able to make a decision in June.

11 MS. FOLEY GANNON: Thank you, Mr. Fitzgerald. I  
12 would submit him for cross.

13 HEARING OFFICER RENAUD: Thank you. Let's start  
14 with staff, cross-examination.

15 MS. HOLMES: No cross-examination.

16 HEARING OFFICER RENAUD: CURE?

17 MS. MILES: As we stated before, we did not  
18 anticipate doing cross-examination today. So, yeah, we have  
19 no further questions today, but we would like the  
20 opportunity once staff completes their analysis.

21 MS. FOLEY GANNON: But, again, that may not be our  
22 witness. I mean, that would be -- we would anticipate that  
23 would be crossing on staff's testimony, but our witness may  
24 not be -- may or may not be present.

25 MS. MILES: Right. But as I heard the Hearing

1 Officer say earlier today, we may have to reopen the record  
2 for cross-examination.

3 MS. HOLMES: Actually, if I could, Hearing Officer  
4 Renaud?

5 HEARING OFFICER RENAUD: Yes.

6 MS. HOLMES: Since this is one of the least  
7 environmentally damaging practical alternative as one of the  
8 issues that we have identified as interfering with timely  
9 completion of the staff analysis, I think it's only  
10 reasonable to not require staff to have to affirmatively  
11 reopen the record to cross-examine on this topic.

12 HEARING OFFICER RENAUD: Oh, of course not, no.

13 MS. HOLMES: Thank you.

14 HEARING OFFICER RENAUD: I'm sure you didn't  
15 quite mean we were going to close the record.

16 MS. MILES: I did not mean that.

17 HEARING OFFICER RENAUD: But, again, Mr.  
18 Fitzgerald's testimony has been available for quite a long  
19 time and we would appreciate it if you would do your cross-  
20 examination at this time.

21 Now, if there's new information forthcoming, that  
22 you'll certainly have another opportunity, but this is not a  
23 surprise.

24 COMMISSIONER BYRON: Also, I'm not as sanguine as  
25 Mr. Fitzgerald, unless he has some additional information as

1 to how you could expect the Environmental Protections Agency  
2 and the Army Corps of Engineers to complete their analysis  
3 by, I believe you said, early June?

4 MR. FITZGERALD: Well, it's actually an analysis  
5 that the Applicant submits. So, the analysis is essentially  
6 done, we still have probably a week to -- we had a recent  
7 meeting, last week with the EPA, and they provided some  
8 further clarification on some points. So, we're doing our  
9 due diligence to give them the best answers and find the  
10 answers to the issues that they've left out there as  
11 outstanding.

12 COMMISSIONER BYRON: Well, let me put it in the  
13 form of a positive question. Do you -- have they told you,  
14 have these agencies indicated or told you that they will be  
15 completing that analysis in June, as you indicated?

16 MR. FITZGERALD: The U.S. Army Corps of Engineers  
17 said they expected to have a LEDPA June 7<sup>th</sup>, is what I said.  
18 The EPA, the Environmental Protection Agency, has not been  
19 committal, although they understand the project time line.

20 COMMISSIONER BYRON: Thank you.

21 MS. HOLMES: Mr. Hearing Officer Renaud?

22 HEARING OFFICER RENAUD: Yes, Counsel?

23 MS. HOLMES: I'd just like to note that one of the  
24 reasons that we are withholding our cross-examination at  
25 this time is that we don't know what the staff position on

1 this is going to be until we have the LEDPA, as it's been  
2 referred to. And I think it's actually maybe more efficient  
3 to not ask cross-examination now, that may turn out to be  
4 unnecessary depending upon what the final resolution of this  
5 issue is.

6 So, to the extent that staff hasn't been able to  
7 complete its analysis, I think it doesn't make sense to  
8 expect us to go forward with cross-examination. We don't  
9 have a staff position, yet, on this topic, and that's one of  
10 the reasons that we didn't file final testimony and one of  
11 the reasons why we're not conducting cross-examination.  
12 It's more efficient to do it once we know what the staff  
13 position is.

14 HEARING OFFICER RENAUD: We understand that. But  
15 at the same time, the Committee is interested in getting  
16 everything we can into the record today and tomorrow.

17 So, if you have questions about what was submitted  
18 in the testimony, now would be a good time to do it.

19 MS. HOLMES: Thank you.

20 HEARING OFFICER RENAUD: Commissioner?

21 COMMISSIONER EGGERT: Yes, this is actually, I  
22 guess, a question for staff. With respect to the LEDPA, as  
23 you described it, it also includes specific mitigation  
24 recommendations; is that right?

25 MR. FITZGERALD: Well, essentially what the Army

1 Corps and the Environmental Protection Agency are asking us  
2 to do is to further mitigate impacts to waters of the U.S.,  
3 by way of avoidance or impact minimization.

4 COMMISSIONER EGGERT: So, then I guess the  
5 question to staff is how do we interpret those? If it's  
6 something that is reviewed and I guess agreed to by the Army  
7 Corps and the EPA, how does that factor into our assessment  
8 of mitigation options?

9 MS. HOLMES: Well, there's several parts in my  
10 answer to your question. The first is that the staff always  
11 like to be able to inform the Committee on how we believe  
12 the Applicant's proposal will be able to comply with federal  
13 requirements.

14 Second, to the extent that there are project  
15 design or project configuration changes due to what the  
16 LEDPA is, those are things that we also like to be able to  
17 incorporate in the staff analysis.

18 And I'm going to add a third part and that is the  
19 fact that there is overlap, as Mr. Fitzgerald indicated,  
20 with biological resources assessment and staff is doing an  
21 analysis under CEQA to determine what the impacts are to  
22 Flat-tailed horn lizard, and there can be overlap in terms  
23 of the mitigation requirements for Flat-tailed horn lizard  
24 and impacts to the state or waters of the U.S.

25 Does that answer your question?

1 COMMISSIONER EGGERT: Yes, it does, thank you.

2 MS. HOLMES: Thank you.

3 HEARING OFFICER RENAUD: Okay, Ms. Miles, did you  
4 have any questioning or shall we move to another?

5 MS. MILES: No.

6 HEARING OFFICER RENAUD: All right, thank you.  
7 Mr. Budlong?

8 MR. BUDLONG: No.

9 HEARING OFFICER RENAUD: Beltran?

10 MR. BELTRAN: No.

11 HEARING OFFICER RENAUD: All right.  
12 Alimamaghani?

13 MR. ALIMAMAGHANI: No.

14 HEARING OFFICER RENAUD: All right. Redirect?

15 MS. FOLEY GANNON: No redirect.

16 HEARING OFFICER RENAUD: All right, thank you.  
17 Now, let's, before he leaves, I don't -- in the  
18 printed exhibit list I don't see a number for his direct  
19 testimony.

20 MS. FOLEY GANNON: He's not. He was May 10<sup>th</sup>, in  
21 Exhibit 115, which we admitted this morning.

22 HEARING OFFICER RENAUD: All right, fine.

23 MS. FOLEY GANNON: And then he has a rebuttal  
24 testimony in Exhibit 116, which was the May 17<sup>th</sup> compilation.

25 HEARING OFFICER RENAUD: All right, very good.

1 MS. FOLEY GANNON: And then in that, he refers to  
2 several exhibits, which we would submit with his testimony.

3 HEARING OFFICER RENAUD: Thank you. All right.  
4 Okay, good. You may go.

5 MR. FITZGERALD: Thank you.

6 HEARING OFFICER RENAUD: Do you have another  
7 witness? We're a little past -- we're quite a bit past five  
8 o'clock and we are -- we did tell the public we would open  
9 for public comment at 5:30, so we're kind of looking for a  
10 good stopping point.

11 MS. FOLEY GANNON: Yeah, I mean, this may be the  
12 right -- our next, we were going to continue on water, which  
13 is water supply, which is an issue I anticipate will  
14 probably take some time for a discussion.

15 HEARING OFFICER RENAUD: Take some time.

16 MS. FOLEY GANNON: So, this may be a good time. I  
17 can't think of any short witness or quick witness to call  
18 up.

19 HEARING OFFICER RENAUD: Quick witness.

20 MS. HOLMES: Can we get the issue resolved  
21 associated with the map that Mr. Alimamaghani was using and  
22 get that marked and distributed?

23 HEARING OFFICER RENAUD: I thought we marked it  
24 at 704.

25 MS. HOLMES: I thought the Applicant was going to

1 provide copies of that this afternoon. Am I --

2 MS. FOLEY GANNON: That one was already over there  
3 on the table. The thing we were talking about possibly  
4 providing was the diagram, tomorrow morning, of the  
5 hydrogen.

6 HEARING OFFICER RENAUD: The map that Mr.  
7 Alimamaghani referred to in his questioning has been marked  
8 as 704, and that's the one that was here, available, for  
9 people to pick up as they came in.

10 MS. HOLMES: And I thought that we were going to  
11 determine whether or not that -- that was from Exhibit 32,  
12 but I thought we were going to get the exact title of it,  
13 but maybe I'm mistaken.

14 MS. FOLEY GANNON: I think we just --

15 MS. HOLMES: So that we can simply refer to  
16 exhibit --

17 UNKNOWN SPEAKER: Didn't we just enter it as a new  
18 exhibit?

19 HEARING OFFICER RENAUD: 704.

20 UNKNOWN SPEAKER: 704, right.

21 MS. HOLMES: And what's it's title?

22 HEARING OFFICER RENAUD: Project Overview Map  
23 Imperial Valley Solar, dated April 6, 2010.

24 MS. HOLMES: Thank you.

25 HEARING OFFICER RENAUD: All right. Good. All

1 right. Well, thank you. At this point we'll take a brief  
2 break and get ready for public comment at 5:30. We do, at  
3 all of our hearings, set aside a period of time when members  
4 of the public can come in and address the Committee and  
5 provide their thoughts and comments about the proposed  
6 project.

7 This is not testimony, but it is comment, and the  
8 Committee is very interested in hearing from members of the  
9 public.

10 MR. MEYER: What time will we resume tomorrow?

11 HEARING OFFICER RENAUD: Five-thirty. Oh,  
12 tomorrow morning, nine o'clock.

13 Ms. Miles?

14 MS. MILES: That was my question was what can we  
15 expect for tomorrow?

16 HEARING OFFICER RENAUD: We had -- we were  
17 talking at lunchtime about whether we might continue the  
18 proceedings after public comment, but I'm thinking people  
19 are probably pretty worn out and public comment usually does  
20 take up a fair amount of time.

21 So, I think we just better count on nine o'clock  
22 tomorrow morning, the same place. We'll go until done.  
23 All right.

24 COMMISSIONER BYRON: Okay, off the record.

25 (Off the record.)

1 HEARING OFFICER RENAUD: Okay, we're, as I said,  
2 now going to start our public comment period. We've invited  
3 members of the public to come before the Committee starting  
4 at 5:30, and that time has come.

5 We've asked that those of you who are present, who  
6 wish to comment, fill out one of these blue cards so that we  
7 know who you are and we can attempt to call your name,  
8 without butchering the pronunciation too much.

9 And, in addition, we have at least one commenter  
10 on the telephone.

11 So, if we're -- all right, Commissioner Byron, our  
12 Presiding Member, is going to address you, too.

13 COMMISSIONER BYRON: Good evening, everyone, and  
14 welcome. I'm Jeff Byron, I'm a California Energy  
15 Commissioner and the Presiding Member of this Committee,  
16 which is the Imperial Valley Solar Project.

17 And with me is my Associate Member, fellow  
18 Commissioner, Anthony Eggert.

19 And if I could, just by a show of hands, you're  
20 part of the reason we're here is we want to make sure that  
21 we give the public an opportunity to provide us comment, by  
22 a show of hands, how many of you are new here this evening  
23 and have not been here all day long?

24 All right, good. Well, you're why we're here.  
25 And if I could, I'll just take a few minutes to repeat some

1 earlier remarks, because I think this might be of interest  
2 to you. Oh, and I should also say our Hearing Officer is  
3 Mr. Renaud, and we count on him to conduct these hearings  
4 because he's well versed in all these legal matters.

5 And with me is my Advisory, Kristy Chew.

6 I think it's important to understand what we're  
7 doing here. You may well know that the State of California  
8 has set some very aggressive goals with regards to moving  
9 off of fossil based fuels towards renewables.

10 And, of course, as Commissioner Eggert pointed out  
11 this morning, as well, it doesn't even start there, it  
12 starts with energy efficiency and that that's the number  
13 one -- I mean, we call it the loading order. But, if you  
14 will, that's our number one priority, followed then by  
15 renewables, and if we can't meet all of our needs that way,  
16 then we go to more conventional generation, which is  
17 typically natural gas-fired power plants.

18 We have a goal at our Commission and, in fact, the  
19 Governor's issued an Executive Order, and as we speak  
20 there's an effort in the Legislature to try and complete a  
21 33-percent renewable energy goal for this State by 2020.  
22 This is a very aggressive goal, no other state has it. But  
23 that's okay, California has been a leader on environmental  
24 issues for decades and we're not going to stop now.

25 And so, what this project represents is a private

1 company that has come forward with exactly the kind of  
2 project that we're looking for in the State of California.  
3 It's not the only one, I think there's about a dozen of  
4 them. In fact, the Commission right now has upwards of 25  
5 cases on our docket, which is a substantial workload in  
6 excess of what we -- certainly, about four or five times  
7 more than we normally have.

8           So, this is one of many projects. I want to  
9 assure you that no decision has been reached at this point.  
10 We're here today and tomorrow, and it looks as though, it's  
11 very clear, that we will need additional day -- I'll say  
12 time, additional time for evidentiary hearings.

13           But we're here to collect evidence so that we can  
14 make a recommendation to our full Commission, of five  
15 Commissioners, on this project.

16           And, of course, it's not just a thumbs up or a  
17 thumbs down, there will be many conditions that would apply  
18 to the approval of this and any project that we do.

19           So, as I indicated, we're here to take evidence,  
20 but we stopped that process at 5:30. And I apologize for  
21 the timing, we're trying to meet and understand your needs  
22 in the community, but we will take whatever time it takes  
23 this evening.

24           Commissioner, are you going anywhere tonight? No.  
25 To hear what your concerns are and your comments.

1           Mr. Renaud may try and limit your comments. We're  
2 mostly interested in things we haven't heard, yet. We've  
3 been going over a lot of topics and we will go over a great  
4 deal of topics in detail. We have members, we have some of  
5 the Applicants here, and I think we should take a little  
6 time to do the introductions, as well.

7           There are some actual Intervenors. When I say  
8 that, these are folks that have registered with us to  
9 participate in this process.

10           And then, of course, there's my staff, represented  
11 by these two individuals here.

12           There's a number of other folks that I guess we've  
13 released many of them.

14           But we will do our best to answer your questions,  
15 any questions or comments that you might have today.

16           I think you know the State's financial situation  
17 is not good. We look very carefully at making trips like  
18 this and bringing staff down here. You're entitled to due  
19 process, but we have a very limited budget and resources.  
20 We try and notice these meetings, we try and make sure you  
21 all know about the workshops that have been taking place.

22           But we're now getting, you know, in terms of  
23 baseball sense, we're now getting into the seventh or eighth  
24 inning here and we're trying to get the information that we  
25 need to make a determination.

1           That's why we're here is to get that evidence and  
2 also to hear your comment.

3           Commissioner Eggert, did you want to add anything  
4 before I turn this over to our Hearing Officer?

5           COMMISSIONER EGGERT: No, I think you've pretty  
6 much said everything quite eloquently. I would just say  
7 that, something that I'd said earlier today, is that this  
8 process, I believe, does work because it is a participatory  
9 process, it does allow for the participation of intervenors,  
10 who are people who formally apply to be part of the case,  
11 parties to the case.

12           And it works, I think, because we hear from the  
13 local community as well, and that's many of you that will be  
14 speaking tonight. And so I look forward to your comments  
15 and we'll definitely be interested in considering them as we  
16 evaluate this case for a decision.

17           HEARING OFFICER RENAUD: Great. Thank you,  
18 Commissioners.

19           One more thing before we start, just so you know  
20 who all these people are and what we're doing here. You  
21 know that this table represents the Committee, appointed by  
22 the Energy Commission to hear this case.

23           At the table to your left, my right, we have  
24 representatives of the Applicant, if you would just  
25 introduce yourselves?

1 Well, I'll just do it, it's just easier. Allan  
2 Thompson and Sean Gallagher, representing the Applicant.

3 Tom Budlong and his counsel are Intervenors.  
4 Raise your hand.

5 Tom Beltran, representing California Native Plant  
6 Society, also an Intervenor.

7 The other table, Loulena Miles, counsel for  
8 California Unions for Reliable Energy, also known as CURE,  
9 an Intervenor.

10 And beyond them we have Chris Meyer and staff  
11 counsel, Caryn Holmes, from the Energy Commission staff.

12 All right. So, what we're going to ask you to do  
13 for your comment is to come forward and use the mike here at  
14 this table. You can sit or stand, whichever makes you more  
15 comfortable.

16 We also have people on the phone and we'll call on  
17 them at some point.

18 I have, at this point, eight blue cards. I've  
19 been in rooms where we had a hundred and -- are there any  
20 more?

21 I'm sorry. Thank you. Another introduction,  
22 Jennifer Jennings, our Public Advisor, who's here to assist  
23 public commenters and the Intervenors. And you can get from  
24 her a blue card to fill out and then she'll get it up here,  
25 and we'll add you to the list.

1           So, as I was starting to say, we sometimes -- I've  
2 been in hearings where we had a hundred of these cards and  
3 we had to limit people to, say, two minutes in order to get  
4 it done in three hours.

5           I don't have anywhere near that number. But just  
6 in the interest of still getting you out of here, you know,  
7 at a reasonable hour, let's ask you to try to limit your  
8 time to about five minutes.

9           COMMISSIONER BYRON: Thank you, Mr. Renaud. Just  
10 a couple other thoughts that might be helpful, and that is  
11 this is being recorded and we're developing a transcript.  
12 So, that's why it's necessary for you to speak into the  
13 microphones. The tall ones are the ones to speak into. And  
14 if you'll be loud, it will be a lot easier for those that  
15 are the phone to be able to hear all of us.

16           HEARING OFFICER RENAUD: All right, so let's  
17 proceed. I'll call Donna Tisdale.

18           COMMISSIONER BYRON: We're going to try moving the  
19 phone here, but let's not let that interrupt what we're  
20 doing here. We'll just see if we can move it over closer to  
21 you, while you're speaking, so others can hear you more  
22 easily. If it doesn't reach, that's fine.

23           MS. TISDALE: First of all, my name is Donna  
24 Tisdale, I represent myself and a nonprofit group called  
25 Back Country Against Dumps.

1           About a dozen people called me and said they  
2 wanted to be here, but they couldn't make it from the San  
3 Diego area, after working all day.

4           But I wanted to thank you, personally, for doing  
5 this, holding this hearing down here where the impacted  
6 community can come and speak.

7           I was born and raised in Imperial Valley. I grew  
8 up enjoying and exploring our beautiful desert. My family  
9 farms here, I own farmland here.

10           But I currently live in Boulevard, in Eastern San  
11 Diego County.

12           I have driven through the project area countless  
13 times and I never tire of the wide open landscapes and the  
14 distant view that you can see. They are, actually, very  
15 soul soothing to me and irreplaceable.

16           Unfortunately, now, I spend more time defending  
17 the desert that I love, instead of getting to enjoy it.  
18 Right now I donate my time to about seven major projects  
19 within a 50-mile radius, it's overwhelming.

20           On this project, I support the no project/no plan  
21 amendment alternative. There are better and cheaper  
22 renewable energy alternatives that do not require new  
23 transmission lines or the use of precious desert  
24 groundwater.

25           And I would point to the Southern California

1 Edison's 500-megawatt rooftop solar project, approved last  
2 June by the Public Utilities Commission.

3           This project, in my opinion, is not needed. The  
4 technology is not yet proven. It's too expensive, it's too  
5 land intensive, using about twice the space of other solar  
6 projects. It is not the best use of our public lands.

7           In my opinion, it's a ripoff of the taxpayers and  
8 the ratepayers. It transforms open public lands and  
9 gorgeous desert landscapes into closed-off, fenced-off, for-  
10 profit private property.

11           And when you add in the cumulative impacts from  
12 the other projects that are planned in this area, it's  
13 devastating.

14           I also want to talk about the removal of desert  
15 pavement. I don't know if you've been to the site, but  
16 it's -- desert pavement has fascinated me since I was a kid.  
17 You remove the desert pavement for placement of the  
18 SunCatchers, or trenching for the hydrogen pipes and you are  
19 going to create dust storms. I didn't hear any of the  
20 experts discussing that today but, in my opinion, it's a big  
21 issue.

22           This project should not be fast-tracked,  
23 especially without a vetted or secured water source, and  
24 there are other outstanding unresolved issues. The  
25 project's being piecemealed and segmented, with project

1 information being presented in a serial fashion. This is  
2 unacceptable and I hope that the California Energy  
3 Commission and the BLM deny this project.

4           It cannot and should not receive the American  
5 Recovery and Reinvestment, or vice-versa, funds because it  
6 puts at risk the federally designated Ocotillo/Coyote Wells  
7 sole-source aquifer, and they're talking about using it for  
8 six months to three years. Another document talks about  
9 using it throughout the life of the project.

10           I actually helped the community get that  
11 designation back in the mid-'90s. It's only the second  
12 sole-source aquifer designation in Southern California, and  
13 I was responsible for getting the first designation in my  
14 community.

15           The U.S. Gypsum Wallboard Plant, next door,  
16 already pipes in precious groundwater from Ocotillo, eight  
17 miles to the west. U.S. Gypsum was supposed to stop using  
18 that groundwater when they got approved for 1,000 acre feet  
19 of canal water from Imperial Irrigation District, but they  
20 need a new pipeline to do that.

21           That pipeline needs a biological opinion from Fish  
22 and Wildlife, but due to the administration's pressure to  
23 fast-track renewable energy projects, like this one, that  
24 biological opinion has been placed on hold.

25           And that was confirmed to me by Fish and Wildlife

1 staff on May 17<sup>th</sup>.

2 As a result, U.S. Gypsum continues to pump  
3 hundreds of acre feet of irreplaceable desert groundwater  
4 from a residential area that has no alternate source of  
5 water.

6 Now, this project wants to take another 40 acre  
7 feet from them which, in my opinion, is unlawful and  
8 unethical.

9 U.S. Gypsum and Imperial Valley Solar are alarming  
10 examples of environmental justice issues, where big  
11 corporate interests use and abuse small, rural, low-income  
12 communities and their resources for their own gain, at the  
13 expense of the defenseless community.

14 Both projects will export their products out of  
15 the area.

16 This project is also relying on SDG&E's Sunrise  
17 Power Link, that's subject to federal, state and legal  
18 challenges. I'm a plaintiff in that federal case and I know  
19 it has merit.

20 Congressman Filner calls the Sunrise Power Link  
21 the "desert death link." I have a copy of his April 13<sup>th</sup>  
22 letter to Secretary of Interior Salazar, asking for more  
23 thorough NEPA review of this late selected southern route,  
24 that was not adequately studied, and will cost his  
25 constituents nearly \$2 billion.

1           He states that "SEMPRA has a history of exploiting  
2 its regional generation and transmission for inappropriate  
3 gain. They were fined \$70 million, in 2006, for violating  
4 the terms of a ten-year power supply contract with  
5 California."

6           The Congressman also raises concerns with  
7 Assistant Secretary of the Interior David Hayes, in his  
8 recent role as lobbyist for SEMPRA and SDG&E. Hayes lobbied  
9 Department of Energy for the National Interest Electric  
10 Corridor designation for SDG&E's Sunrise Power Link.

11           Hayes should be precluded from any involvement  
12 directly or indirectly in every Department of Interior and  
13 Bureau of Land Management decision or matter relating to  
14 SEMPRA, SDG&E, Southern California Gas, and the Sunrise  
15 Power Link that this project relies on.

16           Department of Interior and BLM should make every  
17 effort to ensure the federal government conducts its  
18 decision making analysis thoroughly, independently, and is  
19 free from any appearance of conflict of interest as  
20 possible.

21           Outright denial of this project and plan amendment  
22 is the only moral, ethical and legally defensible choice for  
23 the Energy Commission and the Bureau of Land Management to  
24 make, and I ask you to make that choice.

25           I'm providing a copy of Congressman Filner's

1 letter for the record. And I thank you for your time.

2 HEARING OFFICER RENAUD: Thank you for your  
3 comment.

4 (Applause.)

5 HEARING OFFICER RENAUD: And you can give the  
6 letter to the Public Adviser. Thank you.

7 I'm now going to turn to the phone. Kevin  
8 Emmerich, are you there?

9 MR. EMMERICH: Yes, thank you.

10 HEARING OFFICER RENAUD: Okay, go ahead.

11 MR. EMMERICH: I actually didn't hear all the call  
12 today because I had some technical difficulties. But I got  
13 enough so I can make a comment.

14 I'm actually with the group, Basin and Range  
15 Watch, and you guys know it. We're on -- intervenors on  
16 four of your projects, including the Calico Project, which  
17 is a Tessera project.

18 These are hard to follow. We'd like to be  
19 intervened on the Imperial Project, but we just can't, and  
20 that's due to the fast-tracking process that's going on  
21 here.

22 And this has created some really big problems.  
23 The agency people seem to be pulling their hair out. The  
24 CED seems to be under a lot of pressure. The applicants  
25 don't seem to like it. And, most importantly, the public is

1 actually not trusting the agencies anymore because of this  
2 policy.

3           And the projects are very complicated, they're  
4 very technical, and this one is no exception. You know,  
5 aside from the issues with the Flat-tailed horned lizard, I  
6 mean I understand that one of the proposals is to move  
7 thousands of these. You know, relocating reptiles is very  
8 costly. I used to do field biology, it's very theoretical  
9 and you might lose a lot of those animals.

10           It's home to federally endangered Peninsular  
11 bighorn sheep, at least they use the site.

12           Visually, this would be an apocalypse. I mean,  
13 there's just no way to mitigate it. I feel kind of bad for  
14 the private property owner that spoke a little bit earlier,  
15 his land appears like it's going to be SunCatcher locked. I  
16 don't think he's going to have a very good quality of life  
17 with that property or an ability to sell it. And I wasn't  
18 satisfied with the answers he was getting today.

19           I think it would important to set up key  
20 observation points from his property to evaluate the visual  
21 resources. I'm not sure if that was done already from the  
22 certificate of application but, if not, that would be a  
23 suggestion.

24           Another good round of key observation points would  
25 be for night lighting.

1           And recently, on the Ridgecrest Solar Power  
2 Project, Solar Millennium did some very good simulations.  
3 I'd like to see that, too.

4           The cultural resources are another issue. The one  
5 I'd like to comment here on is Anza Trail. Now, you're  
6 proposing to move, at least one of the proposals is to move  
7 an historic pathway. Now, this is not an object that can be  
8 moved, this is an actual historical resource that actually  
9 honors an event in time. And unless you've got a time  
10 machine, you cannot mitigate that.

11           As a public land owner, I find that highly  
12 inappropriate.

13           You know, I'm going to conclude this here because  
14 I wanted to make this more general. But I just want to say,  
15 with all of these issues, it's very ironic that in the staff  
16 assessment, draft environmental impact statement, the staff  
17 actually says that they cannot determine whether the  
18 predicted power plant availability factor of 99 percent, as  
19 supplied by the applicant, is even achievable. So, you're  
20 going to risk all of these resources and you're going to  
21 permanently remove them for all time, very rich cultural  
22 resources, very diverse biological resources. Hydrology  
23 issues are not resolved. I mean, it goes on and on and you  
24 guys don't even know if this is going to work.

25           So, I support the no action alternative and I

1 would also like to request that this project be removed from  
2 fast-tracking, it's just creating a big mess.

3 But thank you for your time.

4 HEARING OFFICER RENAUD: Thank you for your  
5 comment, Mr. Emmerich.

6 All right, let me call --

7 COMMISSIONER BYRON: If I could?

8 HEARING OFFICER RENAUD: Sure, go ahead.

9 COMMISSIONER BYRON: Mr. Emmerich, I realize  
10 there's no question really there, but I -- this is  
11 Commissioner Byron, I'd like to address one aspect, and that  
12 is this Commission does not have or enjoy the pleasure of  
13 determining which projects we're going to evaluate and which  
14 ones we don't.

15 They are brought before this Commission and under  
16 law we must conduct this evaluation. So, I just wanted to  
17 clarify that particular issue.

18 And, in fact, if it's not clear, it's under  
19 Executive Order of the Governor that we are giving priority  
20 to the renewable projects because they represent a very  
21 sizeable influx of American Recovery and Reinvestment Act  
22 funds to this State, and that's the incentive under which  
23 the fast-tracking is taking place.

24 HEARING OFFICER RENAUD: All right, next  
25 commenter would be Carmen Lewis -- Lucas.

1 MS. LUCAS: Good evening and thank you for  
2 allowing me the opportunity to talk to you. My name is  
3 Carmen Lucas, I'm a Kwaaymii Indian from Laguna Mountain.  
4 My address is Post Office Box 44, Julian, California.

5 I was born and raised in San Diego County. You've  
6 just heard me say that I'm an Indian of San Diego County and  
7 that's my interest here.

8 I understand you folks have a very complex,  
9 difficult job, you're all probably smarter and better  
10 educated than I am, but I do get out and I do walk the  
11 ground, and I do see my history there.

12 It concerns me that we collectively are ignoring  
13 the basic writs of who we are and where we come from. For  
14 me, as an Indian, and as a citizen, and as a veteran of this  
15 country, I think our history is terribly important and I'd  
16 like to see more value placed on the Native American  
17 history.

18 That history lays in the ground. You folks write  
19 your history, you're able to pick up a book and read it.

20 I've commented to the archeologists that it's  
21 incorrect to call that Anza's Trail. If you read Anza's  
22 diary or the other early people who came across this desert,  
23 they all say they came across with the help of us Indians.

24 Some would say that was our mistake. But,  
25 nonetheless, it is part of what goes on here.

1           So, it's kind of interesting to watch how things  
2 change over time and we forget the basic value of who we  
3 are, and where we're at, and I would like to kind of ask  
4 that we pay attention to that.

5           I don't know if you gentlemen, ladies have ever  
6 had an opportunity to walk on this desert floor and to walk  
7 on it with an Indian, where you can still see these pre-  
8 history trails, where you can still see the pottery, where  
9 you still see fragments of cremation, human remains, where  
10 you have an essence of place and the spirituality of our  
11 environment.

12           And we want to cover that with ugliness. Not just  
13 here, in Imperial Valley, but up and down the State of  
14 California.

15           I work as a Native American monitor, I see what  
16 goes on in the southern area here, and I've very, very  
17 concerned with the overall picture, both here, as well as  
18 these power lines, and windmills, and geothermals travel up  
19 the mountains and through the grades, I wonder what we're  
20 offering to the future generations.

21           I think we need these sanctuaries. And I can only  
22 come to you as a human being and ask that you consider what  
23 I've said to you today.

24           If you have any questions, I'm happy to answer  
25 them. If any of you would ever like to walk this ground

1 with me, I'd be delighted to walk it with you. So, thank  
2 you for your time.

3 COMMISSIONER BYRON: Thank you.

4 HEARING OFFICER RENAUD: Thank you. All right,  
5 let me ask, now, if we have any -- another commenter who's  
6 waiting on the phone? Anybody there, speak up, please?

7 I'll take that as a no.

8 The next card I have is for Bridget Nash, who is a  
9 person I note CURE has listed as a witness and I'm wondering  
10 what -- can you enlighten us, Ms. Miles, are you going to  
11 call her as a witness?

12 MS. MILES: Well, we indicated that -- well, we  
13 did put testimony from Ms. Nash into the record. But Ms.  
14 Nash is speaking, today, on the basis of her tribe and  
15 she's --

16 HEARING OFFICER RENAUD: On her own behalf, all  
17 right.

18 MS. MILES: Yes.

19 HEARING OFFICER RENAUD: Or her tribe. All  
20 right, very good. Thank you. Call Bridget Nash.

21 MS. NASH-CHRABASCZ: Good evening. My name is  
22 Bridget Nash-Chrabascz, it's N-a-s-h, hyphen, C-h-r-a-b-a-s-  
23 c-z.

24 I am the Historic Preservation Officer for the  
25 Quechan Tribe. The Quechan Tribe is located in Winterhaven,

1 California, on the border of Mexico, Arizona and California.

2 The Tribe's traditional land area extends up the  
3 river corridor, the Colorado River, into Nevada, down into  
4 Mexico, over towards Ocotillo, and then towards Gila Bend in  
5 Arizona.

6 What is concerning about this particular project  
7 is that the cultural landscape doesn't seem to be really  
8 taking -- doesn't appear to have been taken into much  
9 consideration. Within, you know, from Gila Bend to  
10 Ocotillo, Blythe, up the river towards Azecume, up in  
11 Nevada, down into Mexico there's -- the cultural landscape  
12 consists of a myriad of cultural and natural resources. So,  
13 not only Ms. Lucas spoke, you know, very passionately about  
14 what you do see on the ground but there are also, you know,  
15 the natural resources as well that are part of this  
16 landscape, the mountains, the rivers, things like this, that  
17 also need to be taken in consideration.

18 The Flat-tailed horn lizard also play a part into  
19 that. For the Tribe, for the Quechan, the Flat-tailed  
20 horned lizard ties to the creation story, as it has a part  
21 in that. And I won't go into great detail because there  
22 is -- you know, we have put it onto paper onto that, and I'm  
23 going to try to limit this.

24 The cultural resources also play a part. And what  
25 is concerning about the cultural resources in here is that

1 within the draft EIS it's noted that previously located  
2 within the project area were 432 sites. Of those, only two  
3 were located within this late survey that they've recently  
4 done. You know, 337 total, two of which were located from  
5 the 432, 328 that are going to be impacted.

6 And it's really concerning because still, to date,  
7 even though we received a notification letter in 2008 about  
8 this project, to date there's no cultural information. We  
9 don't have a cultural report.

10 And then, earlier today, I heard that there was a  
11 re-route for the project and that another survey's having to  
12 be done, and that's -- again, that's concerning, given the  
13 tight timeframe that you're working within. We haven't seen  
14 the original cultural report, let alone a supplemental  
15 report to that. So, that is of great concern.

16 Visual impacts are another concern, as there are  
17 sites -- unfortunately, within the draft EIS it was stated  
18 that -- erroneously, that sites outside of the project area  
19 would have no -- there's no connection to those within,  
20 specifically within the Yuha Desert to those within the  
21 project area, and that is incorrect.

22 And had consultation occurred per CEQA or Section  
23 106 of the National Historic Preservation Act, had this  
24 occurred, this would have come to light.

25 The de Anza Trail, there was a visual study that

1 was done for there. Maybe, possibly, you know, through  
2 ethnographic studies, maybe some of the tribes would feel  
3 comfortable discussing this, maybe not. But the visual does  
4 play a really big part of this. Because when you are at  
5 some of those sites, you do need to be able to see not just  
6 there, but you need to be able to see across to other key  
7 points within that particular landscape, and those can be  
8 blocked by these SunCatchers because of their height.

9           Consultation was another issue. Here we are, it's  
10 almost June, I know the deadlines, I heard a lot about  
11 deadlines today, ah, I can't believe I'm going to have this  
12 at the end of June, or of the beginning of July and, you  
13 know, the record of decision for BLM has to be signed by  
14 September, and yet there's still no cultural report.

15           There's no sit-down with the Tribe, there's been  
16 no meaningful -- you know, the Tribe does not have all the  
17 information before it to be able to fully sit down and say,  
18 okay, these are the impacts that are going to happen to  
19 these sites, to these resources, to the areas outside. It's  
20 very much like a puzzle, you really need to have all those  
21 pieces to that puzzle to be able to figure out what is going  
22 to happen.

23           And I know within, for the Quechan, it's kind  
24 of -- it's typical that some of the elders will not sit  
25 there and talk about impacts that are not addressed, because

1 they don't know what's going to happen to it, and why bring  
2 something to light that may not be impacted, just to have it  
3 out there for the public to know where it's at.

4           So, it's really important that, you know, we start  
5 consulting on this and that we get all this information.

6           Another concern, there are seven projects either  
7 immediately adjacent to the proposed project area or nearby,  
8 either on BLM land or on private lands. There are four of  
9 them that are abandoned ag lands. So, there really is no  
10 reason for this particular project to move forward with the  
11 abundance of other projects within this area, four of them  
12 being on abandoned farmlands.

13           The glint and glare, we feel it's inadequate  
14 because it doesn't deal with that cumulative, it just deals  
15 with that particular project. How having on the north side,  
16 from El Centro to Ocotillo, having these seven projects laid  
17 out, both on the north and south side of the freeway, how is  
18 that going to impact driving from El Centro to Ocotillo,  
19 either during the day or in the evening. All of this needs  
20 to be considered and it has not.

21           And finally, I guess, you know, I've stood up here  
22 so many times and said this, but don't rush the  
23 environmental for an arbitrary deadline, it's very  
24 important. Especially for this one because this particular  
25 project area is so closely tied into the cultural landscape

1 that you cannot rush through this, you really need to sit  
2 down and discuss it. Especially given the fact that this  
3 particular area, in the 1980 CDCA, the California Desert  
4 Conservation Act, and the alternative NEIS, this particular  
5 area was designated -- was one of the alternatives the  
6 Placer City ACEC based solely on its cultural significance.  
7 It was not adopted, but at that particular time in 1980 it  
8 was recognized that this was a highly significant,  
9 culturally significant area and we appear to have forgotten  
10 that today.

11           The Tribe does support the no action alternative  
12 and has requested that this area be removed for further  
13 projects. And we would just ask to keep getting updates  
14 because it seems that the project keeps changing on a weekly  
15 basis, so it is very difficult.

16           I know I don't have time, because there are so  
17 many fast-track projects going on and we are dealing with  
18 those along I-10, as well, up there by Blythe, to go and  
19 check the website every day. So, I don't know if there's a  
20 way for the information to get to us, so we don't have to  
21 keep checking the website to see if there's anything  
22 changing, but I'd appreciate it.

23           And that's all I have, thank you.

24           COMMISSIONER BYRON: Ms. Nash?

25           MS. NASH-CHRABASCZ: Yes?

1           COMMISSIONER BYRON:  And forgive me, I won't try  
2 to pronounce the second one.  No, I won't.

3           I am in receipt of your letter from May of this  
4 year and, you know, I guess it's fair to say that there are  
5 a number of issues around cultural resources -- first, let  
6 me make this very clear.  We are not fast-tracking any  
7 project and sacrificing process or due process for the  
8 public's interest.

9           We will not short change process, we have to have  
10 staff's evaluation, we have to have information that goes  
11 out to intervenors, with sufficient time for review.  We  
12 need to collect the necessary evidence in order to make a  
13 determination.

14           And we will conduct that process.  We are trying  
15 very hard to keep these on schedule for what we think are  
16 very good reasons but, unfortunately, schedule will be what  
17 gives.  And I can assure you that that's the case.

18           Yes, there is a great deal of workload at our  
19 Commission and I apologize, that means there's a great deal  
20 of workload everywhere else.

21           But be that as it may, I don't think we really  
22 have any other choice in that regard.

23           But I am a little bit concerned, as I read your  
24 letter and the letter from your counsel, that we also  
25 received, that we -- I don't fully understand all the issues

1 that are holding up the cultural resources information that  
2 we need to make this evaluation. And part of that is the ex  
3 parte relationship that we have with our staff.

4 Anybody that's an interested party in this, we  
5 cannot have contact with except in a public meeting. And  
6 that's just the nature of the decision, the process that we  
7 go about in making a recommendation and decision as  
8 Commissioners.

9 So, I suspect I'm not giving you much solace,  
10 except I want to make sure that everyone here understands  
11 that we will not short change this process for the purposes  
12 of expediency.

13 MS. NASH-CHLABASCZ: Okay, I'll hold you to it.  
14 Thank you.

15 HEARING OFFICER RENAUD: Thank you. All right,  
16 the next comment would be from Fred Cagle.

17 MR. CAGLE: My name is Fred Cagle, from Imperial  
18 Visions Foundation. I'm from San Diego, but I spent years  
19 out here in the desert, working on the Governor's Advisory  
20 Board for the Salton Sea, and which we're still dealing with  
21 on a semi-daily basis, I think.

22 Anyway, what I wanted to say is that multiple  
23 studies have shown that preservation and availability of  
24 open spaces are important to the human psyche.

25 The desert, and the Arizona -- and Anza-Borrego

1 State Parks, and BLM lands are a much utilized open space.  
2 For example, we've had many cases of children being brought  
3 from urban areas to this area to learn about living in  
4 nature, and to understand what nature is and what it's open  
5 spaces are to them.

6           It's very important, as we have more crowded urban  
7 spaces, to see an actual setting. Transmission towers,  
8 unless vitally required for electrical security, are a  
9 destroyer of such open spaces.

10           As our population increases, these spaces will be  
11 more and more important.

12           Based upon other testimony, the solar development  
13 appears to be utilized to support the Sunrise Power Link,  
14 with the underlying support for power transmission or power  
15 transfer from power plants in Mexico, which use wet cooling  
16 methods contrary to water use or abuse, versus dry cooling,  
17 which is used throughout Mexico. And they essentially were  
18 built without many of the standards that we employ in the  
19 U.S.

20           These plants use large amounts of water that are  
21 critical for population, human population and for  
22 agriculture.

23           As stated in the handouts, phase two cannot occur  
24 without Sunrise Power Link being built, which I think limits  
25 the viability of this project.

1           Unless we move from concepts of sustainability to  
2 those of reliance, an example of such is standing on a cliff  
3 edge is highly sustainable until the wind blows too hard.  
4 Resilience is standing back a few feet and finding an  
5 alternative path to the bottom of the hill.

6           Resilience is becoming much more of the ecological  
7 theory that people are using now to try to restore, not only  
8 sustain things, but to restore areas to a more natural  
9 habitat.

10           I understand that there are multiple approaches  
11 which will -- which will give us alternative packages. And  
12 do none of these alternatives, such as distributed  
13 photovoltaics, qualify for stimulus money, since I see a lot  
14 of this seems to ride on stimulus availability.

15           We need to evaluate the options from a combination  
16 of economy and ecology, versus the economics of large  
17 corporate approaches, alone.

18           This is a project on which public lands, with  
19 public money and does not appear as a viable project without  
20 this funding or a Sunrise Power Link transmission build up,  
21 as said in this project, too, the second phase of  
22 development.

23           As distributed photovoltaics are stated to be cost  
24 competitive economically, their ecological benefits are huge  
25 when compared to loss of habitat, loss of cultural history

1 or loss of open space.

2 The choice appears to be the support of large  
3 corporate profits, with few local jobs, versus many jobs in  
4 San Diego County which could employ people from I.V., as  
5 most people, many people drive that way, anyway, to install  
6 photovoltaics in the city and transmission lines or loss of  
7 critical habitat is the alternative. Thank you.

8 COMMISSIONER BYRON: Thank you, Mr. Cagle.

9 HEARING OFFICER RENAUD: Thank you.

10 Terry Weiner, please. Weiner, I see your guide  
11 here to pronunciation.

12 MS. WEINER: Thank you. My name is Terry Weiner,  
13 it's spelled W-e-i-n-e-r. I'm the Imperial Projects and  
14 Conservation Coordinator for the Desert Protective Council.

15 My address is 3606 Front Street, San Diego, 92103.

16 As I've been listening to each person testify  
17 tonight and hearing that you would like to hear new  
18 information, I've been revising my comments and throwing out  
19 most of them over the period of the last few speakers.

20 First, thank you so much for today. I really have  
21 grown in confidence of the process observing your attention,  
22 and your questions, and your staff's questions, I feel that  
23 I believe you when you say you're not going to rush the  
24 environmental assessment of this project. Thank you.

25 My group, we are in favor of the no project

1 alternative. We were hoping that the Applicant would choose  
2 a site that was already previously disturbed in Imperial  
3 County, where they do have an economic development zone in  
4 Imperial County and they're inviting industrial projects.  
5 And I know there's reasons why they didn't choose them, but  
6 I feel that my group believes that this -- referring to this  
7 project site as disturbed, that's a very subjective term.

8           And if you think about it, there's probably no  
9 inch of land in the California desert, or maybe anywhere  
10 else in California that isn't disturbed by our activities to  
11 one degree or another.

12           We've walked the site, right. On April 25<sup>th</sup> we  
13 spent five or six hours walking out there and seeing for  
14 ourselves what the site looked like.

15           I was rather surprised to find that despite the  
16 fact that there's an open area for OHV recreation across the  
17 street, that this site, although it has tracks, it doesn't  
18 look like it's heavily used. And my impression is that it  
19 could recover, if left alone.

20           The reason why we are opposed to this project on  
21 this site is because it will basically wipe out the entire  
22 habitat and all the values that are on there will be gone.  
23 There's no other way to describe it, but as virtual  
24 elimination of a habitat.

25           I'm not going to say much about the Flat-tailed

1 horn lizard, because there's going to be somebody who's  
2 going to have a lot more detailed, factual information.

3 But from what I understand of relocating any  
4 desert species, reptiles in particular, it's a notorious  
5 failure. And we've watched, my group, the Desert Protective  
6 Council was on the 1993 petition to list this Flat-tailed  
7 horn lizard and there have been three rounds of litigation  
8 to try to get it listed because its habitat has been  
9 virtually wiped out and most of its original range.

10 And it just will be a shame to take what little is  
11 left away from this. You know, it's -- you probably  
12 understand ecology to the degree that it's not just -- it's  
13 not one species that goes when a species goes down, but  
14 there's a connection, and intricate connection that starts  
15 from the highest to the lowest, and it's a bigger loss than  
16 it may look like to people who don't know the desert.

17 We support the renewable energy push, but we, our  
18 group tries to get out the message of putting solar energy  
19 projects in the cities, where the energy is needed. Most  
20 engineers I talk to will say that transmission lines is a  
21 very obsolete technology, as far as getting energy from one  
22 place to the other, it's extremely inefficient. And the  
23 further you string the line, the more loss you have.

24 We would like, we have been trying to get people  
25 to listen to the alternatives to big desert solar. While

1 you're all exploring what could be appropriate projects,  
2 we're hoping that we can get people in the Senate, the  
3 Natural Resources and Energy Committee, and the Department  
4 of Interior to start paying attention to the viable  
5 alternatives we have now.

6           And we have some very interesting papers that I  
7 hope will be submitted in the course of this testimony  
8 process, along those lines, for you, as well as for our  
9 Congress.

10           Thank you very much.

11           HEARING OFFICER RENAUD:   Thank you for your  
12 comment.

13           Let me check, once again, is there anyone on the  
14 phone who wishes to make public comment?

15           All right, Laura Cunningham, also with Basin and  
16 Range Watch.

17           MS. CUNNINGHAM:   Yeah, Laura Cunningham.   I'd  
18 first like to really thank the Commissioners for coming to  
19 El Centro, instead of in Sacramento.   I drove six hours from  
20 Southern Nevada to get here because I think it is, it's an  
21 important project.   And the area's important to me because I  
22 used to come down here in the 1990s and work for BLM,  
23 participating in Flat-tailed horn lizard surveys, up on West  
24 Mesa.

25           And so, back in the mid-1990s they were declining,

1 and so I am kind of worried about putting a big project that  
2 would cut off a lot of the connectivity between West Mesa to  
3 the north, and that Yuha Desert to the south.

4 I'd also like to point out that the Blunt-nosed  
5 leopard lizard, which is another sensitive species, had a 90  
6 percent mortality failure during translocation efforts in  
7 the 1990s, and these are studies by Steve Juarez, of  
8 California Fish and Game, and Dr. David Germano, of  
9 California State University, Bakersfield.

10 So, I'd like to recommend that we have a really  
11 foolproof plan for translocation, relocation of lizards that  
12 the public could review before we start doing this, because  
13 it often has not worked.

14 Just one last thing is I will be trying to write a  
15 lot of letters to the State Legislature to change the  
16 renewable portfolio standard to allow small residential  
17 rooftop, commercial rooftop installations to be counted  
18 towards renewable portfolio standards so we can get some  
19 more alternatives to distributed generation.

20 Thank you.

21 HEARING OFFICER RENAUD: Thank you.

22 Tom Beltran. Well, you're an Intervenor, do you  
23 have comment you wish to make?

24 MR. BELTRAN: I have some photographs.

25 COMMISSIONER BYRON: Apparently, we're not giving

1 you enough time during the evidentiary hearing, Mr. Beltran.  
2 Please, feel free to provide your comments.

3 MR. BELTRAN: Okay. Well, up here?

4 HEARING OFFICER RENAUD: You're putting off your  
5 public hat and taking off your Intervenor hat.

6 MR. BELTRAN: You know, I live in North County,  
7 Coastal San Diego, but I spend three to four nights a week  
8 out in Borrego Springs, when I can.

9 And when I was driving down here today and I was  
10 passing through the agricultural fields and I was taking a  
11 look at the types of things that they grow here and  
12 realizing that they consume a lot of water. The environment  
13 here has an evaporation rate of 140 inches a year. Up in  
14 Salton Sea I think it's about 69. And, yet, we grow pretty  
15 water intensive crops. I don't really consider that to be a  
16 good use of the water.

17 And, yet, you know, you bring a project along like  
18 this that requires water and it really comes down to good  
19 land use. I, personally, would prefer the no alternative.  
20 But if it has to be an alternative, I would prefer that it  
21 be on disturbed agricultural land or, better yet, to have  
22 rooftop solar at the point of use.

23 And the Salton Sea Project, you know, a lot of  
24 the -- there was some discussion today about water use and,  
25 you know, frankly, if it's got to be out here, one of the

1 alternatives that I had not heard, even though it may have  
2 been proposed, was to put this on existing agricultural  
3 land, and fallow that land, and use the water for the Salton  
4 Sea project. It seems that this project hinges on public  
5 subsidies. The Salton Sea Project, which is billed at \$8.9  
6 billion, over several years, has a funding source to buy  
7 water. I think that that would be something to be -- you  
8 know, it's a potential subsidy for a project like this. It  
9 would save very high quality water and avoid having the high  
10 salt content water that comes out of the drains from  
11 existing irrigation.

12 Earlier today, when we were talking about --  
13 frankly, I think that a big problem with this project is air  
14 pollution, wind erosion, and those types of things.

15 In Borrego Valley we have quite a bit of  
16 agriculture and we have issues with -- so, we have issues  
17 with disturbed soil.

18 And I've got some photographs here. The first one  
19 is a project -- or, excuse me, a wind storm on February 3<sup>rd</sup>,  
20 2008. These particles that are suspended in the atmosphere  
21 are visible from five miles away, probably more.

22 The data that I have shows that particles smaller  
23 than 40 microns are not visible, so you know that these are  
24 very large particles.

25 I have another photograph from May 9, 2010, 2.25

1 miles away. It's a smaller event, but I think they both do  
2 a really good job of illustrating the types of -- the types  
3 of dust that can be created from disturbed soils.

4           You know, the agricultural ag land was fallowed  
5 over 40 years ago and you've still got this kind of event,  
6 this kind of dust. And the other one was probably about  
7 eight years ago, they're empty home lots, they were graded  
8 for home sites.

9           That's all I've got.

10           HEARING OFFICER RENAUD: All right, thank you.  
11 If you'd like to bring the issues up here we can -- did you  
12 intend to leave them with the Committee?

13           MR. BELTRAN: Yes.

14           HEARING OFFICER RENAUD: All right, thank you  
15 very much.

16           COMMISSIONER BYRON: And I didn't give the -- I  
17 didn't want to give the impression, Mr. Beltran, that we  
18 were cutting you off during the evidentiary hearings. I  
19 think everyone should know that we make sure we give ample  
20 times for all the participants. Correct?

21           MR. BELTRAN: Thank you.

22           COMMISSIONER BYRON: Correct.

23           HEARING OFFICER RENAUD: All right, next is Edie  
24 Harmon. Again, I take it, you've been listed as a witness,  
25 but I take it you're speaking on behalf of yourself and/or

1 the Sierra Club?

2 MS. HARMON: I think I'm probably just going to  
3 speak for myself because, as I listened to what was being  
4 said, I realized some of the things I want to say are  
5 probably more appropriate for me, as an individual.

6 I'm a witness on groundwater issues, but I have a  
7 number of other things that I would like to say. I've been  
8 a resident of Imperial County for 33 years. I live  
9 southwest of the project, on an in-holding in the Yuha  
10 Desert ACEC. I'm probably less than five miles, as the crow  
11 flies, from the Coyote Mountains, and there have been many  
12 times when I cannot see the mountains because the amount of  
13 particulate matter that's whipped up in the air from the  
14 dust, from the winds and the dust just totally obliterates  
15 mountains that are otherwise, you know, easily recognizable.

16 And when I came in last week for the 106  
17 consultation meetings, when I went home, even just going  
18 home, the amount of particulates in the air was thousands of  
19 feet in the air higher than the mountains. Just the wind  
20 was blowing and the sand was up there moving.

21 Where I live the soil has built up somewhere  
22 between 12 and 15 inches in the past 30 years. So, there is  
23 a lot of, you know, movement. And that's not from activity  
24 on my property, but what's happening on other properties, so  
25 that when the wind comes, and I live on a dirt road, if it's

1 windy, I go home, there's no footprints, there's no tire  
2 tracks in my driveway. Most of the driveway is rock, so you  
3 don't see it. But down where it's sand, it doesn't take  
4 much to be moving a lot of material.

5           So, I was concerned today when I heard about the  
6 roads and connecting everything on the project site, but  
7 there's going to be hundreds of miles of dirt roads that  
8 vehicles are going to go over. And if they increase the  
9 speed -- I mean, I only go up my driveway at five miles an  
10 hour because I don't want to do anymore damage than is  
11 already done to the surface. But the faster a vehicle goes,  
12 the more it's going to break down material and the more  
13 that's going to be picked up when the winds blow.

14           The fact that there is a proposal to put wind  
15 turbines in the Ocotillo area, suggests that somebody thinks  
16 that there's a lot of wind in that area. And so I can't  
17 believe that it would not -- the project site would not be  
18 impacted.

19           And Imperial County has a really high incidence of  
20 asthma, in childhood asthma. The more particulate matter  
21 there is in the air on the west side of the county, the more  
22 it's going to blow in and affect children that are living in  
23 the urban areas, because there's not that much vegetation  
24 that's going to stop it.

25           When I took a course on agricultural ecology,

1 years ago, we learned that pesticide drift from agricultural  
2 spraying goes between eight and 13 miles. And so whatever's  
3 going on, a lot of the material that's, you know, small, you  
4 can see it when you go into the cities. There is blowing  
5 sand and dust that makes it into the urban areas.

6 One of the things, there was a mention about  
7 transmission lines and materials. I'm really a strong  
8 believer in conservation, insulation, reducing energy  
9 consumption. I live in a house that doesn't have air  
10 conditioning, it doesn't have heating, I don't have hot  
11 water. I don't need anything of those things. It reduces  
12 energy consumption.

13 San Diego's a very mild climate. I think with  
14 insulation and windows that open, there's no reason to be  
15 building large buildings or schools that have windows that  
16 can't open, be open during mild weather, so that you have to  
17 have forced air conditioning or moving airs. We've designed  
18 urban areas for maximum energy consumption, not looking at  
19 the way it was -- I grew up in Massachusetts, even when it  
20 was cold in the winter, the teachers opened the windows and  
21 you had to sit in the classes with your jackets so that, you  
22 know, the snow wouldn't get your clothing wet when it  
23 melted. But they wanted us to stay awake, so they kept the  
24 windows open in the winter and we stayed awake in class.

25 So, I think there's a lot of things we can do to

1 look at reducing California's energy demand. And if we  
2 improve the insulation in a lot of the mobile homes and  
3 trailers, we're going to reduce energy consumption.

4           If we go back to the days of Jimmy Carter and  
5 reduce the speed limit from 70, down to 50 or 55, we're  
6 going to reduce greenhouse gas emissions and we're going to  
7 make the highways a lot safer places for people to be, and  
8 people may actually be able to go slow enough to appreciate  
9 their public lands, be they BLM, national forest, state  
10 parks, or whatever, the open spaces. There's no reason to  
11 be in such a hurry to get everywhere.

12           And I think there are some real opportunities with  
13 the distributed PV, whether it's Imperial County or San  
14 Diego County that's going to -- and a lot of the insulation,  
15 it's going to be jobs for real people, in communities where  
16 they live and it's going to make the quality of life better  
17 for people that have homes that could use that.

18           I talked to the county assessor and found out  
19 there 7,700 mobile homes in Imperial County. Imperial  
20 County gets down near freezing in the winter and it gets to  
21 120 in the summer. Well, if you live in a mobile home and  
22 it's 120 around that little metal box, you don't have an  
23 option, other than to air condition or to do something.

24           But if we improved the housing stock by doing  
25 insulation, I think you would reduce people's energy demand

1 tremendously.

2           We were paying \$50 a month for electric, we lived  
3 in a home that's half underground. Our neighbors lived in a  
4 mobile home, they were paying \$595 a month, because they  
5 lived in a mobile home.

6           And to me, that was a very big difference. They  
7 were mortgaging their soul to the Imperial Irrigation  
8 District to pay electric bills. For the amount of money  
9 they spent on electricity, they could have had a much nicer  
10 place to live, without having to have that expenditure.

11           In the fall I went to a meeting in South Dakota,  
12 where probably more than half of the people, and there were  
13 about 160 of us, more than half of the people were  
14 indigenous people from all over the U.S. and Canada. And  
15 one thing that I heard over and over again, no matter where  
16 people were from, they were tired of having their lands,  
17 their way of life, their health be considered as sacrifice.  
18 That what was important to them and where they lived was not  
19 being considered at all, as everything was going towards  
20 making life easier and more convenient for urban people in  
21 some distant area.

22           The meeting was in Rapid City, South Dakota. When  
23 we got there, we were told the dust we were breathing was  
24 contaminated with uranium, the water was contaminated, the  
25 soil was contaminated, the animals were contaminated because

1 there were 700 abandoned uranium mines that had never been  
2 cleaned up. People from Minnesota and other places were  
3 talking about the environmental impacts to their community  
4 from mining to get iron and material for all of these  
5 different industrial, commercial/industrial, whether it was  
6 solar, wind or whatever, to be cited in remote places with  
7 transmission lines. And yet, the communities that were near  
8 the places where the resources were being extracted or where  
9 the transmission lines were going to go, or where citing was  
10 going to be done, just felt that nobody valued them and  
11 their culture.

12           And over and over I kept hearing people talk about  
13 what it feels like to be part of a community or an area that  
14 is considered sacrificial for urban areas.

15           And, you know, it hurt. You know, I listened and  
16 it made sense. When I went back home from the PA meeting  
17 last night, and Carrie Simmons knows, I called. I ended up  
18 in tears as I went past this area. I've been at the project  
19 site, I found a lot of prehistoric materials because I've  
20 learned to recognize what's out there in the desert.

21           And I've realized that you don't have to be Native  
22 American to be incredibly moved and overwhelmed by the  
23 beauty, and the peace and tranquility of the area.

24           When I got beyond irrigated agriculture and just  
25 got out into the open desert and was looking toward the

1 Coyote Mountains, the first word that came to mind was I  
2 feel safe being where there's no evidence of, you know, 20<sup>th</sup>  
3 Century lifestyle.

4           And maybe that's what comes from having lived in  
5 Africa for a while and, you know, spent time in the  
6 Kalahari. But I realized you can live a very simple life  
7 and reduce energy consumption, and reduce your material  
8 possessions and needs, and still have wonderful friendships  
9 and wonderful quality of life because there's not things  
10 getting in the way of your interactions with other people,  
11 and the environment, and the community that you live in.

12           And so, I would just -- I really feel that this  
13 project isn't necessary. I think there's other ways to meet  
14 the need to reduce energy from fossil fuels that San Diego  
15 has. I've looked at the studies from Bill Powers, and I've  
16 looked at the analysis of rooftop solar and I agree with the  
17 former speakers, if you could consider toward reducing the  
18 amount of electrical consumption and greenhouse gas by  
19 changes in lifestyle, by changes in speed limit, by  
20 distributed distribution, that should all count.

21           The goal is to reduce the total dependency on  
22 foreign oil and it means that we ought to be considering  
23 everything that's going along that contributes to that. If  
24 the need goes down, it's not that you have to keep  
25 increasing need and have a higher percentage of it be based

1 on industrial scale power in some remote location, it's if  
2 you can reduce the total, you know, level of consumption to  
3 some earlier level.

4 And for anyone that's spent time living in another  
5 culture, I can assure you, the best days of your life are  
6 where you have nothing except, you know, one change of  
7 clothes to wear, and one change to wash, and then the  
8 friendship of other people.

9 And I think we need to be willing to take a good  
10 close look at what really are the needs and how can we meet  
11 them. You mentioned efficiency and I think that, you know,  
12 let's take it very carefully.

13 And my own personal bias would be I don't see a  
14 need for this, but I would like to make sure that the land  
15 not be used for solar development, other solar projects.  
16 Because I've been out there on my own and with Native  
17 Americans and I can recognize the prehistoric materials. I  
18 was surprised at how much I was seeing and it meant a lot to  
19 me.

20 COMMISSIONER EGGERT: Thank you very much for  
21 those comments, Ms. Harmon.

22 And I guess I want to say thanks to everybody  
23 that's spoken so far, this has been very informative,  
24 impassioned comments that I think is sort of definitely  
25 helping me get a better sense of people's perspective on

1 this project.

2 I did want to take the opportunity, because you'd  
3 mentioned a couple of things that the Commission is involved  
4 in quite heavily. Because, as was mentioned earlier, we do  
5 think that energy efficiency is the number one resource of  
6 the State of California.

7 We've got a tremendous history in pursuing the  
8 most aggressive energy efficiency standards for buildings  
9 and appliances, and the benefits that have accrued to  
10 California because of that are really quite tremendous.

11 A recent estimate said that it saves us about \$56  
12 billion a year in energy saving. Or, it's saved us about  
13 \$56 billion over the period of the standards, which is about  
14 30 years, actually.

15 Retrofit activity, you'd mentioned for houses, the  
16 Commission is embarking upon a number of programs to focus  
17 on retrofit activity for commercial and residential  
18 buildings. We're putting a vast majority of the federal  
19 stimulus money that we're receiving, directly, specifically  
20 into retrofit. And we're just now launching a number of  
21 regional and statewide programs that will be available to  
22 probably everybody, eventually, that will allow for things  
23 like low-cost financing for residential upgrades, including  
24 insulation as being one of the most cost effective.

25 And I would encourage folks to check our website

1 to find out more information about those programs.

2           Also, you'd mentioned schools. We have a Council  
3 on High Performing Schools, I'm actually the Board member to  
4 that, for the Commission. And that's focused specifically  
5 on how to improve the performance of our public education  
6 system in our schools by incorporating energy efficiency and  
7 renewable energy technologies.

8           And then, with respect to distributed PV, we do  
9 have, I think, one of the most expansive programs in the  
10 country. We have upwards of \$2 billion in incentives, buy-  
11 down incentives for PV installations. That's through the  
12 California Solar Initiative.

13           And we're looking at all sorts of opportunity.  
14 That's just on the power generation side. I could go on, on  
15 the transportation side we're doing quite a bit to reduce  
16 the amount of oil that we use within the transportation  
17 system and move towards other lower carbon and renewable  
18 resources.

19           So, I think -- I mean, I would agree with  
20 everything that you've said and I think we, at the  
21 Commission, do take our charge quite seriously as it relates  
22 to meeting the policy goals, and looking at all of the  
23 various opportunities, starting with efficiency.

24           HEARING OFFICER RENAUD: All right, thank you.

25           And our next commenter is Lincoln Davis.

1 MR. DAVIS: Let's see, you need me to spell my  
2 name?

3 HEARING OFFICER RENAUD: We have the card, sir,  
4 so we're good.

5 MR. DAVIS: Okay.

6 HEARING OFFICER RENAUD: Thank you.

7 MR. DAVIS: Thanks for having me and I'll be  
8 brief. I'm here, representing myself. I work here in the  
9 Valley, at Imperial Valley College. But I hope you'll just  
10 see me as an example of just a guy on the street, who lives  
11 and works here part-time, and who's really on the periphery  
12 of the information loop on all this. And my impressions are  
13 just that, they're just impressions.

14 One impression I've had living here for more than  
15 eight years is the -- I'm happy to see as many people that  
16 have showed up, as have showed up, because my impression  
17 that the culture of the Valley here is not one that  
18 encourages speaking out from the public. For who knows  
19 exactly why, but our economy is based around prisons, and  
20 military and farming, and those are not industries that  
21 particularly encourage speaking out.

22 But I think people need to understand that doesn't  
23 mean the local population doesn't care about these things,  
24 it's a cultural thing, whatever.

25 Someone mentioned asthma. And asthma is a

1 terrible problem here. And there was a program called  
2 BASTA, where they were going to come and test all the kids,  
3 and find out, get to the bottom of the asthma program, and  
4 it just sort of disintegrated. And I'm sure lots of people,  
5 lots of parents wondered why, but not many people said much  
6 about it and they just sort of accepted it.

7           And so I think this is a caring community, but not  
8 one that speaks out. So, everyone that does, I hope you  
9 listen to them very closely.

10           I can't think of energy and environment together  
11 without being reminded of the horrible catastrophe in the  
12 Gulf. I don't know if that's come up at all during your  
13 hearings, but it makes me think of the whole oil paradigm  
14 and how great it is we're getting away from oil. But are we  
15 trying to use an oil paradigm to fit our clean energy into?

16           It makes me -- I was sitting there thinking I used  
17 to go down to TJ and buy these little jumping beans, and one  
18 day I decided I'd look inside the jumping bean, I cut it in  
19 half, and it turns out there was a little worm in there that  
20 was trying to get out. That's why it was jumping around so  
21 much because it was trying to get out.

22           And darned if that worm, once I cut the thing  
23 open, didn't climb back in the jumping bean and start -- he  
24 didn't even know how to be free.

25           And so, that sort of makes me think of this, well,

1 are we just climbing back into the jumping bean and trying  
2 to do this huge, mega-corporate thing with stuff that we can  
3 do in our -- you can't have an oil well in your backyard,  
4 but you can have a windmill or a solar panel on your roof.  
5 You know, it's kind of different.

6 So, just as a citizen, I wonder do we need to  
7 follow that same paradigm when it could really be different.

8 And just from what I hear, the local energy  
9 producing is more efficient, less -- it might even create  
10 more jobs, that's stuff that other experts can talk to you  
11 about.

12 I just wanted to share my impression. Appreciate  
13 it, thank you.

14 HEARING OFFICER RENAUD: Anita Nicklen?

15 MS. NICKLEN: Anita Nicklen, I'm a resident of  
16 Imperial Valley and I'm just a concerned citizen and a  
17 mother of two kids.

18 I agree with the gentleman here, he was telling us  
19 that here there is that kind of culture, people don't speak  
20 up, and I don't know why. Maybe because, you know, they  
21 don't feel free, their interest that sometimes, you know,  
22 don't allow them to speak up even when, you know, they're  
23 going to -- their lives, sometimes, are going to be ruined.  
24 In this case, you know, the environment.

25 I want to let you know that I am 100 percent for

1 solar energy and renewable energy, but done the smart way.

2 I don't think that Sunrise Power Link is a good idea. I

3 don't think that that's a good idea.

4 I just can't believe that more than 6,000 acres of  
5 federal land are going to be ruined by this type of project.

6 I don't know if you have experienced this, if you  
7 have kids probably you had a trampoline at home. But my  
8 daughter has a trampoline at home and guess what happens  
9 when we leave it in a place, in the same place for too long.  
10 You know, it's common sense, you know, the grass dies.

11 And to me, you know, again I don't have a science  
12 background, but it's easy to see what's going to happen with  
13 all this solar dish SunCatchers that you guys are planning  
14 to put in the desert.

15 It's kind of embarrassing and a disgrace to me  
16 that this is the kind of community that we're going to leave  
17 for our kids, when there is a huge need, you know, for an  
18 open space where they can actually have that contact with  
19 nature. I mean, it's -- just, you know, I feel embarrassed.  
20 Because, you know, as an adult I feel that I'm not doing  
21 enough, you know, to protect this environment.

22 Once it's ruined, you know, it's going to be very  
23 difficult to get it back. And that's why I'm here today  
24 because, you know, I don't want to leave this type of  
25 environment for my kids or my grandchildren.

1 I think that we can be creative with this. To me,  
2 you know, the kind of project that is being proposed is not  
3 going to solve our problems in terms of, you know,  
4 fulfilling the need for energy.

5 I agree with Ms. Harmon, what she was saying, the  
6 more we have, you know, the more we sometimes tend to just  
7 waste it.

8 There are countries, you know, they don't have any  
9 energy and they still, you know, are making it, they're  
10 surviving. And they don't -- you know, and they're not  
11 ruining the environment.

12 Most of the energy, most of the resources are  
13 being, you know, used by this country and we're taking from  
14 some other places to bring here to live the kind of life  
15 that we're living here. And we don't, you know, stop and  
16 reflect on this.

17 So, I really -- if you come to me as a family, as  
18 a mom, and you come with a simple proposal like, for  
19 example, you know, I'm going to give you a rebate if you,  
20 you know, decrease the amount of energy that you're using,  
21 believe me, I will take it because I want to have more money  
22 in my pocket. That's, you know, as a mom that's what I will  
23 do.

24 So, definitely, I don't approve, I don't like this  
25 type of project. I think that solar panels on our houses

1 will do it. And try to, you know, encourage the small  
2 businesses. Why do we have to go, you know, corporate all  
3 the time.

4 So, that's, you know, my comment. I'm fed up with  
5 all this type of, you know, using this time to fight these  
6 kind of projects.

7 HEARING OFFICER RENAUD: Thank you.

8 Susan Massey.

9 MS. MASSEY: Okay, my name is Susan Massey, and  
10 you have my card and that's good enough.

11 Okay, I am originally from the east, but I've been  
12 living out here for 33 years. I think when I was still  
13 living in the east, I thought of the desert as a place with  
14 nothing. But after I moved out here and I kind of took a  
15 couple of years of adjustment and then I started loving the  
16 desert, and going out and hiking in it during the cool  
17 months, and really enjoying it, and realizing it's a very  
18 fragile environment that really does support a lot of life.  
19 But life that, again, is there in kind of a fragile state  
20 and needs to be supported.

21 So, I oppose this kind of -- well, we're talking  
22 one particular project here. I oppose it for the  
23 destruction it's going to do to the desert.

24 I fully support rooftop solar, and for the reasons  
25 that have really been brought out, and I don't want to get

1 too repetitious. But just to sum up the most important  
2 things we've heard is that these transmission lines lose  
3 energy, when they're sent out, which having your own solar  
4 rooftop would not.

5           And I do appreciate the comments of what the  
6 State's doing to support and I'm aware of those subsidies.  
7 And I would really like to see more programs for those of us  
8 who don't have the money to put on solar, but a program  
9 worked out where we could either rent the panels or having  
10 it paid through -- instead of paying our electric bill, we  
11 would be paying for our solar panels over a period of years.  
12 I would be thrilled to be able to do that.

13           So, that is certainly what I would support in  
14 preference to this industrial type solar.

15           And in addition to the problem of losing energy,  
16 the problem of sending out transmission lines that interfere  
17 with views, of destroying large areas of the desert, and the  
18 wildlife, and the -- and wildlife and all the beautiful  
19 plants, the beautiful Ocotillo, and all these wonderful  
20 things.

21           But one more point. As a consumer, I'm very  
22 resentful of the way California was jerked around when  
23 suddenly there were rolling brown-outs. What did we call  
24 them, rolling black-outs, brown-outs, and we were told -- in  
25 fact, the environmentalists were blamed, you wouldn't let us

1 build power plants, there's no energy and we don't have  
2 enough energy to go around. And all of a sudden, you know,  
3 Grey Davis was forced to sign contracts for extravagant  
4 prices to make sure California had energy, and Silicon  
5 Valley isn't destroyed because of the lack of energy.

6 And suddenly, it was all gone, there was no  
7 problem. And later, of course, it was revealed that they'd  
8 purposely shut down power plants for repairs at the same  
9 time to create a panic. And first, it sounded by a  
10 conspiracy theory but I guess, by this point, it's people  
11 have been punished, it's been brought out that this is  
12 something that really happened.

13 So, as a consumer, I would like to get away from  
14 that model where companies can -- you know, are in total  
15 control, and whatever kind of plant they're producing,  
16 whether it's through a solar plant, like is proposed here,  
17 or other types of plants, they're still in the same kind of  
18 situation where we can, once again, be victimized.

19 So, I certainly applaud the State for promoting  
20 solar, rooftop solar, and I hope you'll continue along those  
21 lines.

22 And that is my main reasons for opposing this  
23 project.

24 HEARING OFFICER RENAUD: Thank you very much.

25 Denis Trafecanty.

1 MR. TRAFECANTY: I'm assuming it's okay to borrow  
2 this for a minute.

3 MR. THOMPSON: There's figure one, Counsel.

4 MS. HOLMES: Thank you.

5 MR. TRAFECANTY: My name is -- does this work?

6 HEARING OFFICER RENAUD: Yes, it's on.

7 MR. TRAFECANTY: My name is Denis Trafecanty. Do  
8 you need any other information?

9 HEARING OFFICER RENAUD: No.

10 MR. TRAFECANTY: Okay. The first thing, I don't  
11 like the way I feel right now because I feel like I'm  
12 sitting in a room that isn't really a level playing field.  
13 Behind you, gentlemen and lady is power lines, Sunrise Power  
14 Link, some kind of a map of the Sunrise Power Link. I think  
15 there could have been a better choice of locations.

16 It's kind of intimidating when you're a member of  
17 the public, you're working your tail off. I know one of you  
18 said and I appreciate that your workload is extremely high  
19 right now.

20 And I know the BLM, I don't know about the CEC,  
21 but the BLM, when they have an extremely high workload, they  
22 just hire more people.

23 Well, we people can't hire anybody. And I know  
24 that the financial condition is bad for everybody. By the  
25 way, it's bad for us public people, too.

1 I wanted -- I wanted to talk about the CEC for a  
2 minute, the California Energy Commission. And I know you  
3 talked about it, but the loading order that was issued in --  
4 I only copied two pages, page 1 of this 2003 plan, and also  
5 the statement that was made that first thing is energy. The  
6 loading order is first thing is energy conservation.

7 But the second item is not just renewables, it's  
8 also distributed generation. And in my -- I'm a CPA, CFO  
9 for many years of my life, all over California, so but my  
10 interpretation of distributed generation is that it's like  
11 renewables near the place that you need the renewables,  
12 where you need the energy. It's not out in some remote  
13 lands.

14 While I'm talking about that, I'm jumping around,  
15 some people -- I'm trying to change my presentation around a  
16 little bit because of I've heard other people speak already.

17 But if you want disturbed land, it's not 123 miles  
18 west of here. Because if you look at that line over there,  
19 it's going up and down and up and down to bypass tribal  
20 lands. It tries to bypass the State Park. It's trying to  
21 go through the Forest Service.

22 And by the way, I'm the President of the Protect  
23 Our Communities Foundation, too, and we are suing the BLM  
24 right now, along with Donna Tisdale.

25 But west of here, about 80 miles, if you drew a

1 straight line, is plenty of disturbed land. And look what  
2 Edison is doing, Southern Cal Edison, building 500 megawatts  
3 of energy on rooftops. Is it pro-logic, or pro-ligious  
4 [sic] or something, some wealthy developer, who's got land  
5 all over the place, if you drive on any interstate you'll  
6 see, you'll come across these buildings, flat buildings,  
7 those are trucking distribution centers, warehouses, and  
8 they're putting solar panels on all those.

9           So, that's putting solar panels on disturbed land,  
10 not on -- by the way, the reason for this map today is that  
11 this shows the site, phase one, phase two, I don't know if  
12 there's a phase three. But driving here today -- but, by  
13 the way, in this report I got the last meeting I went to,  
14 and I don't come that often because we're busy fighting,  
15 going crazy trying to stop the Sunrise Power Link, here's  
16 some bighorn sheep right on this land that you're proposing  
17 to develop.

18           Now, I don't know how the people that are  
19 presenting this to you are trying to -- oh, some OHV  
20 vehicles this way chased them over this way.

21           Guess what, I got here about ten minutes late.  
22 About a half-hour before I got here, I saw five bighorn  
23 sheep right in this area. Now, I didn't stop to take  
24 pictures for two reasons. Number one, I didn't have a  
25 camera and, number two, I was late for the meeting.

1           But I'm telling you that if you're going to base  
2 an opinion on these five in here, then you're going to have  
3 to base them on the five that I saw. And, by the way, I'm  
4 the guy that runs all over the desert to stop the Sunrise  
5 Power Link to generate money. I've been all over this  
6 desert running, starting from Brawley all the way to Borrego  
7 Springs. And I see a lot of wildlife and I love it, and I  
8 want it to stay.

9           Let me get back on track a little bit. The last  
10 time I spoke, in May of last year, I brought up the point  
11 that there was seven Stirling dishes. I don't know if I  
12 told you, but I am a CFO. I'm not a registered CPA, but I  
13 was for many years.

14           But there was five of these working at Sandia  
15 labs, or there's seven of them that they were prototyping.  
16 Well, as a CFO, I evaluate things like this. And if someone  
17 was coming to me, to sell me some SunCatchers, I'd say,  
18 okay, well, tell me -- show me these SunCatchers, you're  
19 going to build me, what, 30,000 of them? Where are you at?  
20 Well, we're trying to get the six to work in Sandia Labs.

21           I don't know what's going on in Arizona, I  
22 understand there might be another project. But it doesn't  
23 make a whole hell of a lot of sense to start investing in  
24 something, or giving up our lands over something that's not  
25 proven technology.

1 I know you heard that before tonight, but I'm  
2 telling you, it doesn't make sense. What you do is you  
3 build six, then you go to maybe a hundred, and then you  
4 prove that works, but you don't have to give up 6,500 acres  
5 while you're proving that a hundred work without constant  
6 service every 40 hours.

7 The other thing, I don't think this project's  
8 fully financed. I don't know, I'm not an expert on it, I  
9 don't watch it. But I bet you it's not fully financed. And  
10 one thing that you have to do, that I haven't heard of  
11 today, and this is new information, and that is that I don't  
12 know, over my lifetime I've seen a lot of railroad tracks  
13 that aren't being used, and I've seen a lot of roads that  
14 aren't being used any longer, and I see some power lines  
15 that aren't being used, and I don't want to see 6,500 acres  
16 of what's partly my land, it's public land, being designated  
17 for something that's really permanent. Because when you  
18 destroy a desert, it's destroyed, we won't see it repaired  
19 in our lifetime.

20 But I don't want to see that given up unless  
21 someone posts a bond to take all that concrete out of the  
22 ground and take all those dishes and remove them. And their  
23 investors are going to run with that requirement, but you  
24 got an obligation to protect our public land. That's still  
25 that public land, if you're leasing it to them. Make them

1 clear it and we'll try our best to fix it.

2 I don't want -- by the way, I'm in opposition to  
3 this.

4 Stimulus money. Okay, Obama, he's a real smart  
5 guy, but he's not infallible. Now, this stimulus money, on  
6 a lot of these projects, the way it's going is it's ending  
7 up at Iberdola, which has a nice little office somewhere in  
8 San Diego, probably. But it's going to Spain for -- I bet  
9 you, most of this material is being acquired by people that  
10 are building it overseas, so that's where the Obama stimulus  
11 money is going.

12 And I know you've got a direct order, but Obama,  
13 himself, is trying to figure out ways to back off what he's  
14 doing. Even Kyocera's smart enough to build a PV plant  
15 right here in San Diego, back at Chula Vista, or someplace,  
16 to try to get some of that money, because he knows that  
17 Obama's going to change his mind about the way the stimulus  
18 money's going overseas.

19 Okay, Senator Feinstein, she kind of -- the reason  
20 I'm bringing it up is only because -- I don't know if you  
21 all know it, but she kind of has a little bit of foot-in-  
22 mouth disease that happened when she was talking about the  
23 Sunrise Power Link, which, by the way, is kind of joined at  
24 the hip with this project. She was saying how we needed the  
25 Sunrise Power Link.

1 Well, the gentleman that was speaking right after  
2 them, some Senator Alexander from Tennessee, he said  
3 something that was really smart. He says they were talking  
4 about building some kind of solar or some kind of a power  
5 line, but when I heard they were going to run the power line  
6 right over a wilderness area that we've been fighting 60  
7 years to protect, he says, we ain't going to do that.  
8 That's what the guy from Tennessee said.

9 Bill Powers' report, just to make sure you don't  
10 think that it's related to the way Edie lives, it's not  
11 based on what Edie said. This is a report assuming that we  
12 all have air conditioners, and we all have heating, and we  
13 all have running water and things like that, and you ought  
14 to read it. I'd be happy to send it to you, if you haven't  
15 seen it.

16 It's a plan, the ALJ for the Sunrise Power Link  
17 said in-basin generation's good enough, we don't need the  
18 power line.

19 And I really want to thank you for doing what  
20 you're doing and I hope you're listening to us real hard,  
21 and have a good evening.

22 HEARING OFFICER RENAUD: Thank you. And I do  
23 want to respond, on behalf of the Commission, to your  
24 comment about the venue, this room. I want to assure you  
25 that we usually use a government building, such as a county

1 supervisors chambers, city council chambers and, in fact, we  
2 had reserved the Imperial County Council chambers down the  
3 street from here.

4           Unfortunately, you folks had a substantial  
5 earthquake not too long ago, which knocked out a lot of  
6 buildings, and that meant that people who were displaced by  
7 that earthquake got dibs on the county building and kicked  
8 us out. But we had to find something --

9           MR. TRAFECANTY: But you can imagine, with the two  
10 people from Imperial Valley saying we're -- you know, people  
11 don't like to speak publicly. Well, it's kind of  
12 intimidating. I mean, if we had a meeting in Boulevard over  
13 something, recent, the garage door was open because we were  
14 in a fire station. That, to me, is more of a safe place for  
15 people that are opposing what all the developers want to do.

16           HEARING OFFICER RENAUD: We appreciate that  
17 concern and I appreciate your mentioning it. Thank you.

18           I have one more card, John McClain.

19           MR. MC CLAIN: I would like to begin by saying  
20 thank you for coming down to the Imperial Valley. I'm just  
21 a private citizen. I also teach at Imperial Valley College.  
22 And I think it might help, in your visit here, to hear some  
23 additional background information about the area and its  
24 energy concerns.

25           I'd like to just repeat the comments made about

1 how unrepresentative this group of people in the room  
2 tonight is, of the area. Our population is 80 percent  
3 Hispanic. That is primarily native Spanish speaking, also.  
4 Almost all of the information that people in the community  
5 have concerning energy, environmental, and other issues  
6 comes from Mexico.

7           This is a very impassioned minority, as I think  
8 you've already remarked. People are very concerned about a  
9 lot of what I consider to be the core values, and that a lot  
10 of the conflict here seems to address those core values of  
11 what is most important for us, as human beings, and as  
12 animals on this particular planet.

13           I think if you had an opportunity to go out to the  
14 Yuha geoglyph and to see what anyone standing near it can  
15 see, down through into, across the border, into Mexico, and  
16 on a clear night the site, itself, is on a slightly upper  
17 inclined area that looks almost like a jumping point off  
18 into the stars. It's very easy to imagine people walking up  
19 and down that line for thousands of years. And that is why  
20 I think we have such things as the Environmental Protection  
21 Act, that there is a sense of the sacred here that people  
22 value very, very deeply. And that would be threatened by  
23 the Power Link and any other of these large projects.

24           Now, I'm not deeply informed about the issues and  
25 I can see positive value to the project, in a lot of ways

1 that reach outside of Imperial County.

2           However, I would just like to comment, again, on  
3 energy issues in general, and wonder if you might reflect on  
4 your power and authority as a State body in regards to  
5 energy.

6           I lived in Japan for eight and a half years.  
7 Japan is now, and China, too, have bounded past the United  
8 States in terms of turbine production and technology, and I  
9 wonder why the United States is lagging so far behind in  
10 this area?

11           Secondly, I was teaching in San Francisco and had  
12 a foreign student from Chile, who was preaching the de-  
13 regulation that she was learning in her economics program.  
14 And at that time I had not drunk the Kool-aid and tried to  
15 help her understand that there are positive values to  
16 government regulation of private entities.

17           And within days Enron and other power companies  
18 had begun their ruthless exploitation of California. And  
19 what had been a \$1 billion surplus, which meant a lot to me  
20 as a teacher, because that meant that class sizes would be  
21 reduced, education would be improved, turned into a \$10  
22 billion deficit within three or four months.

23           And those kinds of ethics I think are all on our  
24 minds these days.

25           So, I would just like to ask you to consider your

1 role as a Commission. Some of the additional background I  
2 mentioned earlier is that the college where I teach passed a  
3 bond measure a few years ago, of 30 to 40 million dollars to  
4 build a new technology building. It's been completed, it's  
5 a beautiful building, we hope that it will be a resource for  
6 the valley, itself.

7           However, when planning was done concerning  
8 including photovoltaic rooftop panels, there were two  
9 reasons given for why they should not be included. The  
10 first, of course, was the dust and particulate matter that's  
11 been mentioned. And, secondly, that at that time, and I  
12 don't know if this is still true or not, the IID would not  
13 refund any energy that was returned to the grid through the  
14 use of the solar panels.

15           And so that opportunity to save energy was lost  
16 three to four years ago.

17           I think you could do more to either leverage the  
18 power companies to encourage that kind of conservation or to  
19 at least help publicize it in a more productive way.

20           So, thank you for listening to me and thank you  
21 very much for coming to Imperial Valley.

22           HEARING OFFICER RENAUD: All right, thank you.

23           Let me just ask, first, is there anyone else in  
24 the room who wishes to make a comment?

25           You've already spoken.

1 MS. HARMON: Can I add a few more words, briefly?

2 HEARING OFFICER RENAUD: Well, sure, if you'd  
3 keep it brief, please.

4 And let me also check, while Ms. Harmon is coming  
5 back, on the phone, anybody wish to comment?

6 All right, go ahead, Ms. Harmon.

7 MS. HARMON: Yeah, Edie Harmon. And a follow up  
8 on what was just said. Donna Tisdale and I, several years  
9 ago, went to the pre-application for the Solar Two Project,  
10 and at the end of the meeting, after we'd been told the  
11 great wonders and how good the project was, I asked why, if  
12 it's so good and you've got these stand-alone units that can  
13 produce grid-ready electricity, why not put the units on  
14 parking lots where there's hospitals, schools, Big Box  
15 stores, any place in Imperial County where there's high  
16 electricity use, especially for air conditioning?

17 And the room went quiet. And the answer finally  
18 was it would not be profitable. It's not profitable to do  
19 this unless you have to build Sunrise Power Link. It would  
20 never be profitable to do this kind of electricity  
21 generation for use in Imperial County.

22 And Imperial County probably has some of the  
23 highest air conditioning cost because of the high summer  
24 temperatures.

25 And I just wanted to add one other comment. I

1 find it troubling that these projects are being proposed on  
2 public lands. If they're not financially viable without  
3 taxpayer money, I think it's a real problem to be using  
4 taxpayer money to destroy public lands when, in this case,  
5 at least San Diego has alternative means, which are going to  
6 be far more cost-effective, efficient, and less destructive.

7 So, I mean, I think there's a real tie-in. We're  
8 talking about taxpayer money, taxpayer lands, and what are  
9 we leaving to future generations. Thank you.

10 HEARING OFFICER RENAUD: Now, we haven't really  
11 given the Applicant an opportunity to speak and I believe  
12 that's the end of the public comment.

13 Mr. Gallagher, did you want to respond to that  
14 last comment or any other comments you've heard? You're  
15 under no obligation.

16 MR. GALLAGHER: You know, the only thing that  
17 occurred to me, that I might want to respond to, is all of  
18 the comments on the energy crises. Which I, as you know,  
19 I've spent a big part of my life working on. But, no, we  
20 have no comments, we'll take it up tomorrow.

21 COMMISSIONER EGGERT: Yeah, again, I guess I just  
22 want to say thank you to everybody. And, again, we do have  
23 our Public Advisor here, who can provide you additional  
24 information about your ongoing role, if you want to continue  
25 to follow this case or others. You know, you can see her in

1 the back of the room, I think she has business cards.

2 And then, also, if you want to get information on  
3 our other programs, some of those that I'd mentioned  
4 earlier, Jennifer can direct you to those, as well.

5 So, again, I found this be, again, quite  
6 informative, very respectful, and appreciated all of the  
7 comments that we received tonight.

8 COMMISSIONER BYRON: Thank you, Commissioner.

9 I just wanted to add a few comments, as well, and  
10 then we'll turn it over to our Hearing Officer to close us  
11 this evening.

12 First of all, thanks for our Intervenors for  
13 staying. I don't think we require you to do that sort of  
14 thing but, obviously, they felt as though they would benefit  
15 from this discussion as well, and I wanted to thank them for  
16 being here.

17 I heard some very thoughtful and articulate  
18 comments today, from some very dedicated and gentle people,  
19 and I really appreciate your taking the time here tonight.

20 And I was also struck by some of the comments that  
21 this is not necessarily a representative population of those  
22 that are in this community. And, you know, that's also very  
23 disheartening, and I don't know how we can address that. We  
24 work on that at the Commission.

25 We give Ms. Jennings, our Public Advisor, a

1 whopping budget, I think, of zero dollars to try and figure  
2 out how to address that. But that is extremely important to  
3 us.

4 I'd like to thank you for your interest in this  
5 project because by joining in and being here today, and  
6 providing comment, and by being Intervenors you contribute  
7 to this process in a very significant way. And, you know,  
8 the representative government, this is how it works. This  
9 is as good as we can do, and that's why we're here.

10 You know, I heard many of you talk about the  
11 preference for rooftop solar. This is something that I  
12 think we'd all be very interested in seeing be the solution  
13 to this.

14 Let me ask, anybody here have PV on the roof of  
15 their house? Wonderful. Those are the experienced  
16 individuals, those are the ones you want to talk to about  
17 this process.

18 And there are some things we need to fix,  
19 certainly, and I'll mention those in a second. But just  
20 wishing that to be the solution to the amount of energy that  
21 we currently consume does not do it.

22 That's why, as Commissioner Eggert emphasized,  
23 it's energy efficiency, first. And I heard some very good  
24 comments tonight with that in mind.

25 I'm just going to guess that there's very few

1 people in this room that drive Hummers. But be that as it  
2 may, the -- I'm very interested in this issue of rooftop  
3 solar. We spend a lot of time looking at it, at the  
4 Commission, we hold workshops on this, we've got good  
5 analysis. And, in fact, I'll point you to work that's done  
6 by a stakeholder group that we've put together, of all the  
7 various interests from the development to the consumer side,  
8 that we call the Renewable Energy Transmission Initiative.  
9 And we asked them to go off and determine what we need to  
10 meet that 30 percent goal.

11           And this information is all publicly available. I  
12 have read Mr. Powers' material and he's testified before  
13 this Commission, as well.

14           But the numbers don't indicate that the roof of  
15 buildings are going to solve all the demand. For instance,  
16 I doubt that the AC is on in this building today. But I  
17 also seriously doubt if this building was covered by PV it  
18 would meet all the electrical demand that we've put on it  
19 right now.

20           So, we need to keep in mind that we use a great  
21 deal of energy. And I know I may have opened up a bit of a  
22 hornet's nest by stating this example. But the net short  
23 that this independent group, if you will, has calculated for  
24 us, in order to meet that 33 percent renewable, is a pretty  
25 substantial number.

1 Ms. Chew, do you remember?

2 Well, and I wish I could convert that easily, but  
3 it's on the order of 50,000 gigawatt hours that will be  
4 needed to be generated after we do the best that we can  
5 achieve economically and technically on rooftops.

6 There's a lot of dispute around that. But there  
7 are good things we can do to increase the value of rooftop  
8 photovoltaic.

9 And I'll just point you to a couple of things.  
10 Maybe some of you are aware of Community Choice Aggregation.  
11 I hope you're aware of Proposition 16, that's on the ballot.  
12 You know, this is an effort on the part of an investor-owned  
13 utility to shut down that option for consumers, among other  
14 things.

15 The issue that Ms. Cunningham brought up earlier,  
16 about counting that rooftop solar RPS, these are good  
17 things, and there are powerful forces at play that are  
18 trying to keep, essentially, those opportunities from you.

19 And so I encourage you to continue to be involved  
20 and learn about the opportunities available to you at the  
21 State.

22 And I apologize for -- I don't mean to be trying  
23 to educate you all tonight, you're all very smart people.  
24 But we do try and make a lot of this information available  
25 to you on the web.

1           Except when it comes to things like propositions,  
2 I think you may know, your State employees can't do anything  
3 for or against a proposition, including expressing an  
4 opinion about one, which I hope I didn't tonight, did I?

5           (Laughter.)

6           COMMISSIONER BYRON: So, Commissioner, our work's  
7 not done and we'll be back here tomorrow. And I'll tell you  
8 all, our work is not done tomorrow, either. We have  
9 additional evidentiary hearings that we will need to take.  
10 We have to carry this process through and we will.

11           The Applicant's very interested in seeing us do it  
12 in a timely manner. We're interested in doing that for  
13 other reasons, as well.

14           But I think what we heard today, we're a little  
15 bit concerned about that. You've expressed some of those  
16 same concerns with regard to making sure we do not short  
17 change process, and you have my commitment that we will not  
18 do that.

19           I'll turn it over to our Hearing Officer for any  
20 final comments.

21           HEARING OFFICER RENAUD: Thank you, Commissioner  
22 Byron.

23           That concludes the public comment period. But  
24 before I close the meeting, I want to ask all of the parties  
25 here to do something. First of all, pick up a pen or a

1 pencil, and you'll need a piece of paper. Yeah, a Number 2  
2 pencil. No, any. Any writing implement and paper. If you  
3 need paper, I'll give you a piece.

4 All right, is everybody ready? I want you to take  
5 down a string of numbers, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12,  
6 18, 19.

7 Do I need to repeat?

8 MR. THOMPSON: Nope.

9 HEARING OFFICER RENAUD: Good. All right, those  
10 are numbers from the topic and witness list of various  
11 topics. Those are the topics in which -- excuse me -- we  
12 have testimony, by declaration, from the Applicant and the  
13 staff, and no indication that anybody else has a witness,  
14 and no indication that anybody else intends to cross-examine  
15 on those topics.

16 And I think I would like to start off tomorrow by  
17 seeing if we can go through those topics and make sure that  
18 we enter into the record the -- by stipulation, the  
19 testimony that's been provided so far, and then we'll be  
20 able to leave those topics alone until we have the further  
21 staff analysis, at which time we can make a determination as  
22 to whether any of them need to be revisited.

23 MR. THOMPSON: So, that's the homework.

24 HEARING OFFICER RENAUD: So, that's kind of the  
25 homework and I'm just letting you know that's what I think

1 we'll look at first thing before we move into witness  
2 testimony.

3 Mr. Thompson?

4 MR. THOMPSON: Number 8 is HAZMAT, and given some  
5 of the testimony and statements made today about the  
6 hydrogen, we were going to have a panel ready by phone, at  
7 the start of tomorrow, for any questions on the hazardous  
8 nature, spill, OCA for hydrogen, if that's acceptable?

9 HEARING OFFICER RENAUD: All right, fine. We'd  
10 appreciate that. As I say, we do want to get everything in  
11 that we can, while we're here, so you can all cross 8 off  
12 your lists. We might re-add it once we're done with that  
13 but --

14 MR. THOMPSON: Okay.

15 HEARING OFFICER RENAUD: I see a question in the  
16 audience.

17 AUDIENCE MEMBER: Just a quick comment, RETI  
18 isn't -- does not represent the desert or the  
19 environmentalists. That's the National Sierra Club and  
20 Joanna Wald is some group up in Northern California. And  
21 you're not really -- environmentalists aren't even a part of  
22 the RETI. We've gone to those meetings and we get shut  
23 down.

24 And anybody here that spoke today will confirm  
25 that.

1 HEARING OFFICER RENAUD: All right.

2 MS. HOLMES: It looks as though Ms. Jennings has  
3 been trying to say something for quite some time.

4 MS. JENNINGS: I just wanted to remind people that  
5 if you want to be on the list-serve for the project, which  
6 means you'll get an e-mail when anything's filed, please  
7 sign this form right here.

8 And if you have another project that you want to  
9 be informed of, we can just change the name and I'll put you  
10 on those lists.

11 HEARING OFFICER RENAUD: Thank you, that's a  
12 great comment. And that's a great resource for you, if you  
13 really want to follow this, but you are going to get a lot  
14 of stuff if you sign it.

15 All right, we'll be adjourned, then, until nine  
16 o'clock tomorrow morning. Thank you.

17 (Thereupon, the hearing was adjourned  
18 at 7:28 p.m.)

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