

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:) Docket No. 97-AFC-2
)
Application for Certification)
for the Sutter Power Plant Project)
)
_____)

EVIDENTIARY HEARINGS

Veterans Memorial Community Building
1425 Circle Drive
Yuba City, California 95993

Monday, November 16, 1998
9:00 a.m. to 5:30 p.m.

Reported and Transcribed by: Cecilia E. Rodriguez

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

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A P P E A R A N C E S

Commissioners Present:

MICHAEL C. MOORE
WILLIAM J. KEESE

Staff Present:

GARY FAY, Chief Hearing Officer
SHAWN PITTARD, Aide to Commissioner Moore

For the Staff of the Commission:

DICK RATLIFF, Senior Staff Counsel
PAUL C. RICHINS, JR., Siting Project Manager
JAMES HOFFSIS, Senior Electricity Specialist
LOREEN R. McMAHON, Western Area Power Administration
GEORGE CARPENTER, Community Services Department
THOMAS LAST

For the Applicant:

CHRISTPHER ELLISON, Law Offices of Ellison & Schneider
DOUGLAS M. DAVY, Ph.D., Foster Wheeler Environmental Corporation, Project Manager
CURT HILDEBRAND, Calpine, Project Director
THOMAS PRIESTLEY, Ph.D, Foster Wheeler Environmental Corporation, Senior Social Scientist
CAROLYN BAKER, Law Offices of Edson & Modisette
CHARLENE WARDLOW, Environmental Manager

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P R O C E E D I N G S

MONDAY, NOVEMBER 16, 1998 YUBA CITY, CALIFORNIA 9:05 A.M.

COMMISSIONER MOORE: I'm Michael Moore. I'm Commissioner for the Energy Commission and we're here to continue our Evidentiary Hearings on the proposed Sutter Power Plant. And I'm joined on the dais by my colleague, Mr. Bill Keese, to the right of our Hearing Officer Gary Fay, who is immediately on my right, Shawn Pittard, my aide, who is just a week ago on the project. Lauren McMahon from Western Power Administration and that completes the table. We have Calpine representatives at our left. Our staff and County staff at the table to our right.

Today in the hearing we're going to primarily talk about land use and visual resources. It is clear to everyone who's followed this that I issued an order on Friday requiring some more information to be submitted to make the record more complete. We're going to pick that up and discuss it right after lunch which will give everyone a chance to have adjusted to it and respond. We also have a petition by the Farm Bureau. We'll discuss that after lunch, and I think we'll take the County report to the Planning Commission after lunch as well. So we'll take all three of those at the same time.

And in the meantime, we'll continue the process that we have here that we have begun, which is to talk

1 about visual resources which were the next set in line.
2 Gary reminded me that we're here to witness -- to take
3 testimony and Mr. Hoffsis is here to do that.

4 Mr. Fay, I'll turn it over to you.

5 HEARING OFFICER FAY: Thank you. Good morning,
6 everybody. What I'd like to do for the sake of the court
7 reporter is to have everybody just at the front tables
8 introduce themselves, and we'll begin with George
9 Carpenter on my far right.

10 MR. CARPENTER: George Carpenter, Community
11 Services Department.

12 MR. RICHENS: Paul Richens, California Energy
13 Commission.

14 MR. HOFFSIS: Jim Hoffsis, CEC staff.

15 MR. RATLIFF: Dick Ratliff, Counsel Staff.

16 HEARING OFFICER FAY: Commissioner Keese is to
17 my right. Commissioner Moore to my left. Shawn Pittard
18 next in line and then Lauren McMahon.

19 MR. DAVY: Doug Davy. I'm with Foster Wheeler
20 Environmental Corporation, consultant to Calpine.

21 MR. ELLISON: Chris Ellison, Ellison &
22 Schneider, attorneys for Calpine.

23 MS. WARDLOW: Charlene Wardlow, Environmental
24 Manager for Calpine.

25 MR. HILDEBRAND: Curt Hildebrand, Project
26 Director with Calpine.

1 MS. BAKER: Carolyn Baker with Edison &
2 Modisette, consultant to Calpine.

3 HEARING OFFICER FAY: And we'd ask members of
4 the audience and witnesses, of course, to identify
5 themselves before they begin speaking for the sake of the
6 record.

7 Mr. Moore has reviewed our schedule today before
8 we get started. I would like to reiterate what was in the
9 original hearing order and that is that today is
10 officially a day for taking hearings under NEPA.

11 Ms. McMahon has a few remarks about that and
12 we'll take comments after all testimony is given today
13 after mutual resources.

14 Ms. McMahon.

15 MS. McMAHON: Good morning, just a reminder that
16 the meeting of the Western Power Administration was
17 notified in the Federal Register on October 30, 1998 to
18 fulfill the public meeting requirements of a National
19 Environmental Policy Act for the Sutter Power Plant draft
20 and impact statement.

21 On behalf of Western, I would like to, again,
22 encourage all interested parties to participate in this
23 public process for this project. Western believes in the
24 benefits of public involvement and requests all interested
25 parties to provide input. All comments that have been or
26 will be provided during the NEPA public comment period

7

1 which close on December 14 and will become part of the
2 public record. These comments will then be addressed in
3 the final Environmental Impact Statement.

4 The registration still contains handouts and
5 describes the NEPA process, how to be involved and
6 identifies the various contexts.

7 If you need more information in order to make
8 comments, you may call or write either of our agencies.
9 Thank you.

10 HEARING OFFICER FAY: Thank you, Ms. McMahon.

11 What I would like to do now is a bit of
12 housekeeping. Commissioner Moore had asked the staff to
13 return with their witness on need conformance and now move
14 to staff and have them make the staff witness available.

15 Mr. Hoffsis' testimony was submitted by
16 affidavit. If we could have brought it back. He has not
17 been sworn. Will you swear the witness.

18 JAMES HOFFSIS,
19 called as a witness, being first duly sworn by the
20 Certified Shorthand Reporter testified as is hereinafter
21 set forth.

22 EXAMINATION BY HEARING OFFICER FAY

23 Q Mr. Hoffsis, did you prepare the staff testimony
24 on NEPA?

25 A Yes, I did.

26 Q Do you have any changes to make at this time?

1 A No.

2 Q Is it true and correct to the best of your
3 knowledge?

4 A Yes, it is.

5 Q Mr. Hoffsis is available for questions. Why
6 don't we ask him to summarize.

7 Can you summarize your testimony?

8 A Under California state law no power plants over
9 15 megawatts can be permitted or certified unless it is
10 determined to be in conformance with the integrated
11 assessment need. The integrated assessment is a process
12 undergoing every two years through the processes of the
13 electricity report in which a variety of attributes of
14 adding new power plants to the California system are
15 evaluated and turning it into need conformance criteria
16 whether or not conformance with the integrated assessment
17 of need will be determined for individual power plants in
18 their individual siting cases.

19 The electric report that is currently in force
20 is the 1996 electric report or '96, the need conformance
21 criteria that governed the Sutter Power Plant has
22 specified in the year '96 essentially are this, that all
23 power plants will be found to be in conformance with
24 integrated assessment needs so long as they are
25 cumulatively less than 6,737 megawatts. The Sutter Power
26 Plant is the first to get to this stage. It is clearly

1 under 6,737 megawatts and according to ER 96, it can
2 therefore then be found in conformance with the integrated
3 assessment of need.

4 Q Does that complete your summary?

5 A Yes.

6 HEARING OFFICER FAY: I believe the committee
7 had some questions concerning your testimony. Can you
8 describe, Commissioner Moore, the relationship of the
9 need.

10 EXAMINATION BY COMMISSIONER MOORE

11 Q To the results as they're being implemented of
12 ABA 19, which creates a market for new resources rather
13 than something where we can direct or calculate where
14 those new resources would be needed. Can you describe the
15 relationship there?

16 A I think the relationship is best characterized
17 as being a further development in a long term evolution of
18 need tests over their history since this act was enacted.
19 Need tests through history have progressed from being a
20 rudimentary look at physical need, meaning sort of a
21 systematic count of how many megawatts we have versus how
22 many we need. And if we're short a plant that has needed
23 another and others it's not, progressing on through an
24 evaluation of the economics of the projects, progressing
25 to an evaluation of the benefits of fuel diversity or
26 system diversity to California electric system.

10

1 And in it's most recent incarnation,
2 specifically responding to the restructuring of the
3 electric industry and the passage of ABA 1890, beginning
4 in 1994 electric report and more fully developed in the
5 ER 1996 electric report are a recognition that many of the
6 original justifications or tenets of this process, need
7 performance conformance have become more or less obsolete
8 with the dawn of competition. The integrated assessment
9 of need has become more reflective of the statewide policy
10 of encouraging commission to the maximum amount if
11 possible.

12 And in short, the relatively rudimentary need
13 conformance criteria that now exists in ER 96 are the
14 direct reflection and directly responsive to the passage
15 of AB 1890 and the competitive industry that is now
16 developing.

17 Q Can you give me an example of something that's
18 become obsolete?

19 A Yes. To understand the need conformance and
20 what it meant and how it came about, I think you have to
21 go back to the era of the mid '70s and recall what
22 conditions were like at the time. In the mid '70s we were
23 just coming out of a gas crisis. The generation of
24 electricity was centralized complete and monopoly
25 regulated, monopoly control electric utilities. Nobody
26 was producing electricity but monopoly electric utilities.

1 Every power plant that was going to be built was
2 likely to be built more expensive than the last one. Fuel
3 prices were rapidly escalating. Inflation was rapidly
4 escalating. Power plants were ever more expensive. And
5 in that sort of era, it was thought that the consequences
6 to ratepayers and society in general in these power plants
7 were for a serious to potentially onerous to be left to
8 utility decisions alone.

9 Because of the regulatory compact or the
10 regulatory scheme, at the time it was highly likely that
11 the cost of new power plants would be passed through to
12 captive ratepayers, and recall also at the time that
13 ratepayers, electric customers had no choice of where to
14 go to get electric power except their utility. In that
15 sort of era, because the consequences, both economic and
16 environmental, of building a new power plant were so
17 potentially onerous, that the need for new power plants
18 and their economic consequences were very rigorously
19 scrutinized by government entities like the CEC.

20 If you now fast forward to today where power
21 plants are characterized by cheaper, generally smaller,
22 more quickly built, more efficient, no longer built by
23 monopoly regulated utilities, built in response to
24 investors who are shouldering the entire risk of the
25 economic viability of that plant and that system where
26 direct access is rapidly increasing where ratepayers

1 really are not bound to continue to take power from their
2 electric utility. We now have a situation where power
3 plant developer is shouldering all of the financial risk.
4 Ratepayers are not going to be harmed if the plant
5 developer misjudged and suffer adverse financial
6 consequence. They will be his alone.

7 So it's kind a long way around to getting to the
8 point where I believe, and the electricity report further
9 elaborates on this, that the ratepayer protection function
10 of need determination is no longer required.

11 Q Is there anything in the needs test that
12 differentiates between geographic areas?

13 A No.

14 Q When you sum it up, although the requirement is
15 for us to consider the needs test and it enters into our
16 certain process in the sense that it is commitment to that
17 test, what do we do? What's the role that committee --
18 what use is this tool meeting the needs test to this
19 committee? What's the relevance?

20 A The relevance is that you still are having a
21 statute that requires you to find a plant or to be sited.
22 In order to be sited, a plant has to be in conformance
23 with the needs.

24 Q Let me ask the question in a different frame.
25 Suppose that this committee were part of a hearing for the
26 7001th megawatt. In other words, we busted the need cap,

1 that's inherent in ER 96. What's the significance of an
2 additional megawatt beyond the need cap in a market
3 economy?

4 A Well, the whole topic of the need cap is coming
5 up for discussion very quickly. As I'm sure you're aware,
6 there are commission or the siting committee issued an
7 order recently asking staff to reexamine and reevaluate it
8 and put out a report in a few days regarding options for
9 dealing with that very question.

10 I can't presage or predict how that discussion
11 will go, but it's entirely possible that we will get to
12 the point where the 7001th megawatt will be treated
13 exactly the same as the 6501th will.

14 HEARING OFFICER FAY: Thank you. Commissioner
15 Keese, do you have any questions?

16 COMMISSIONER KEESE: No, I don't. I do think
17 that the need test today is a civil test and that is if
18 you're seeking commission to build a 67 limit, you've met
19 the need because the need is a statewide need and it's out
20 there.

21 On Wednesday we will be discussing as a
22 Commission amending that limit and it would be my
23 expectation that we will go and have a firm limit of 6700,
24 but we will have a floating cap that is substantially
25 higher than 6700.

26 COMMISSIONER MOORE: Mr. Fay.

1 HEARING OFFICER FAY: I'd just like to ask
2 Mr. Ellison if he has any questions of the witness before
3 we leave this hearing.

4 EXAMINATION BY MR. ELLISON

5 Q Mr. Hoffsis, you've already covered this, but
6 just to sort of sum up the situation, if you will let me
7 ask you just a couple of questions.

8 In the former regulatory scheme that you were
9 describing, if a monopoly utility were to build a power
10 plant which proved not to be needed in the marketplace, am
11 I correct that the economic consequences of that would be
12 borne by the public?

13 A At least a portion of them typically have been.
14 I quibble only because I often hear it said that utilities
15 have guarantee of their cost recovery from their captive
16 ratepayers. And certainly speaking, that's not completely
17 true. There have been times when under prudence review,
18 that portion of costs that were determined to be the
19 result of mistakes by utility management have been borne
20 by their shareholders. But as a general statement, yes, I
21 agree with you.

22 Q And now in today's marketplace and specifically
23 for this project, if a power plant were to be built that
24 proved to be unneeded in the marketplace, am I correct
25 that the economic consequence would be borne by the
26 project developer?

15

1 A Yes.

2 MR. ELLISON: Okay. That's all I have thank
3 you.

4 HEARING OFFICER FAY: I'd like to indicate a
5 little change in the way we'll proceed today. As stated
6 earlier, in the interest of presenting visual resources
7 continual flow, at least as much as possible, I would like
8 to take out the land use discussion this morning and what
9 that indication in the notice means is that not that
10 you're reopening the testimony on land use, although that
11 will happen again on December 3rd, to the extent that the
12 hearing order requested it.

13 Rather, what we'd like is to hear from Sutter
14 County's George Carpenter. He is here and we'd like to
15 swear him in as a witness and have him sponsor the recent
16 reported dated November 12 by the planning staff to the
17 Sutter County Planning Commission and briefly summarize
18 that report if he would. Is that acceptable,
19 Mr. Carpenter?

20 GEORGE CARPENTER,
21 called as a witness, being first duly sworn by the
22 Certified Shorthand Reporter testified as is hereinafter
23 set forth.

24 HEARING OFFICER FAY: And if you'd state your
25 name for the record, please, and your position.

26 MR. CARPENTER: I'm George Carpenter. I'm

1 Social Planner Community Services. And on Thursday
2 afternoon we made public our staff report to the Sutter
3 County Planning Commission in anticipation of the meeting
4 on Wednesday, November 18 which will be held here at 7:00
5 p.m.

6 And in our staff report we explained to the
7 Planning Commission what the project was. Before then it
8 was a general plan amendment and rezone and different
9 aspects of the project itself making clear that the plans,
10 transmission line route, was not specifically part of the
11 project application with rezoning, general planning
12 particular to the property. We described the
13 environmental review problems to the Planning Commission
14 in our report and then note some of the changes from the
15 FSA that had taken place since it had taken place.

16 Amendment and rezone application, their
17 consistency with the County General Planning that now
18 exists and we made a recommendation to the Planning
19 Commission that it recommended to the County Board of
20 Supervisors that they approve the rezone finding, that the
21 proposed use would be consistent with the existing use,
22 and that with the conditions that we recommended that
23 there would not be an expansion of the industrial use
24 beyond of the property that now exist.

25 HEARING OFFICER FAY: Thank you. And are copies
26 of this report available to the public?

1 MR. CARPENTER: Copies are available to the
2 public at 1160 Civic Center Boulevard which is the
3 Community Services Department. There is a \$3 charge for
4 the copy of the report.

5 HEARING OFFICER FAY: And will members of the
6 public be able to comment at that hearing as well?

7 MR. CARPENTER: Yes, they will. There will be
8 the format for the public hearing which will include an
9 opportunity for the public to make comments to the
10 Planning Commission on the project.

11 HEARING OFFICER FAY: Great. Mr. Ellison, do
12 you have any questions of this witness?

13 MR. ELLISON: No. Other than I would suggest
14 that it probably makes sense to have the staff report
15 entered as an exhibit and entered into evidence.

16 HEARING OFFICER FAY: Any objections to marking
17 this as an exhibit? Hearing none, so we will ask that
18 that be given the next exhibit number, which I believe is
19 Number 39 based on our exhibit list. Mr. Ratliff, do you
20 have any questions?

21 MR. RATLIFF: No.

22 HEARING OFFICER FAY: I believe that Mr. Moore
23 does.

24 EXAMINATION BY COMMISSIONER MOORE

25 Q You indicated that you were going to release
26 this report. The last comments that you made suggested

1 that you had disagreements with our staff about their
2 methodology or their conclusions. Could you tell the
3 committee what you had in mind when you made that
4 statement and what that statement means in the context of
5 the Community Services report that we have before us.

6 A That comment was specific to indications that
7 we found in the amendment to the final staff assessment,
8 and the indication in there was that the facility had not
9 been converted to industrial use when the Planning
10 Commission approved the original use permit of the
11 facility. And it is our conclusion that it was converted
12 to industrial use at that time as a result of that use
13 permit, although the zoning was not changed nor was the
14 general plan changed.

15 At that time the property was discontinued for
16 agriculture use with the primary use being a power plant
17 facility which we considered industrial. We indicated
18 that we did not agree with the Energy Commission statement
19 of on page 8 of our report, about the middle of the first
20 complete paragraph.

21 Q And that disagreement was?

22 A And that disagreement we thought that the
23 property was converted to industrial use in 1984 contrary
24 to indication of the Energy Commission staff.

25 Q And didn't you also have a disagreement as I
26 read it on the potential visual impact in -- I'm referring

1 to your page 5, bottom of the second paragraph where you
2 say "based on this level of visual," this is your
3 conclusion sentence, "staff does not believe the
4 substantial impact on visual resources exist."

5 A And that's also correct.

6 Q In disagreeing with our staff conclusion that
7 this substantial impact is indicated?

8 A That's correct. We did not believe that there
9 was a significant impact. We did not agree with the
10 conclusion, nor did we agree with did methodology for
11 reaching that conclusion as we indicated in our report
12 there.

13 Q Do you take into account the potential visual
14 impact of the power transmission connection?

15 A Yes, we did.

16 Q And that is within your conclusion as well?

17 A Yes, it is.

18 Q Mr. Carpenter, are there other areas where you
19 have any disagreements with our staff?

20 A To my knowledge, those are the only two areas.

21 Q And what procedure are you recommending to your
22 Planning Commission and from them to our Board of
23 Supervisors regarding the Board of Supervisors conundrum
24 who has to approve the document first for the project
25 proceed?

26 A At this time I'm not sure that I have a final

1 answer on that. We're -- and I'm reviewing that with our
2 legal counsel.

3 This report will be aired with the intention of
4 going through two separate meetings over your -- just one
5 at this time. You start on the 18th. We started on the
6 18th. We do have one scheduled for December 2nd, if
7 needed. That's going to be up to the Planning Commission
8 depending on the size of this project and the number of
9 subject matter. There may be areas there may be
10 sufficient testimony to warrant two meetings.

11 Q And so as of this writing to summarize, you
12 recommend the general plan amendment and the rezoned go
13 forward?

14 A That's correct.

15 COMMISSIONER MOORE: Thank you. Commissioner
16 Keese.

17 MR. KEESE: No questions.

18 COMMISSIONER MOORE: Mr. Fay.

19 HEARING OFFICER FAY: No. I have no further
20 questions. Anything further from either of the parties.

21 COMMISSIONER MOORE: I don't think this is a
22 matter for the public to discuss. The public is going to
23 have a chance to respond to this at the Planning
24 Commission meeting.

25 MR. CARPENTER: We would prefer that.

26 COMMISSIONER MOORE: So we would take it as

1 information at this moment and I trust the public is aware
2 that this is coming out, the nature of the report and the
3 nature of the recommendations and that will be avail
4 themselves of the opportunity to appear and testify before
5 the Planning Commission.

6 HEARING OFFICER FAY: And we will probably,
7 with Mr. Carpenter's help, be updated as the Planning
8 Commission makes its decision and then, of course, be
9 officially notified what the board of supervisors decided.

10 Thank you, Mr. Carpenter.

11 All right. Our next item of business is to hear
12 the testimony on visual resources, and we will begin with
13 the Applicant witness, Mr. Ellison.

14 MR. ELLISON: Thank you, Mr. Fay. Calpine
15 calls as its visual witness Dr. Thomas Priestley who has
16 been previously sworn.

17 THOMAS PRIESTLEY,
18 called as a witness having been previously sworn,
19 testified as is hereinafter set forth.

20 EXAMINATION BY MR. ELLISON

21 Q Dr. Priestley, do you have before you
22 Exhibit 26, Calpine's testimony and specifically the
23 visual resources portion of Exhibit 26 which begins at
24 page 49?

25 A Yes, I do.

26 Q Did you prepare that portion of Exhibit 26?

1 A Yes.

2 Q There is a declaration attached to that portion
3 of the exhibit. Do you see that?

4 A Yes.

5 Q Is that your signature on the declaration.

6 A Yes, it is.

7 Q Do you have any additions or corrections to your
8 testimony?

9 A Yeah. I have a number of minor changes that I'd
10 like to make to the text, and I'd like to do it right now,
11 if I could.

12 Q Please do so.

13 A Yeah. If you look on page 50, first paragraph,
14 right there at the top, next to the last line. Near the
15 end of the line it reads "the alternative route that."
16 And if you would please delete the "that."

17 Then on page 57, last paragraph, third line from
18 the bottom. As you read that line it says, "By the fact
19 that there are residences." And what I'd like to do is
20 change that to say that "there are four" as in the number
21 four "residences."

22 And then the last paragraph on page 57, third
23 line from the bottom. Insert the word "four" before
24 "residences."

25 Next one, page 58, the second paragraph from the
26 bottom. In the second line that paragraph it says, "to

1 produce and incorrect result." And if you would please
2 delete if "D" from the "and" to turn it to "an," "to
3 produce an incorrect result."

4 That's it for my changes.

5 Q As corrected, are the facts in the testimony
6 true direct to the best of your knowledge?

7 A Yes, they are.

8 Q And to the extent there are opinions in this
9 testimony, are those opinions your own?

10 A Yes, they are.

11 Q Dr. Priestley, could you describe briefly
12 describe your education and professional experience as it
13 relates to assessing on the Sutter project?

14 A Okay. Yeah, in terms of my education, I have
15 undergraduate degree in City Planning, master's degrees,
16 one from the Department of City Planning at U.C. Berkeley,
17 another from the Landscape Architecture Department. And I
18 also have a Environmental Planning Ph.D from Cal Berkeley,
19 Landscape Architecture Department.

20 And in working on my master's degrees, I did
21 course work in planning theory and planning analysis
22 methods which has been very helpful to me in thinking
23 about how go about conducting analyses of this type and
24 the how of it and the pluses and minuses of alternative
25 approaches to doing it.

26 And at the masters level, I also took quite a

1 bit of course work that focused very specifically on
2 environmental design issues and environmental appearance
3 issues and the methods that one uses for evaluating these
4 kinds of things.

5 And then after completing my masters level work,
6 I ended up working for five years for PG&E as a planner.
7 And among other things while I was there, I ended up
8 writing a number of kind of think pieces for submission to
9 the PUC related to land use esthetic issues associated
10 with the siting and of design electric transmission
11 facilities.

12 And, in fact, this experience really peaked my
13 interest in this whole field of how do you deal with these
14 esthetic and other kinds of quality issues associated with
15 electric facilities and other infrastructure facility.
16 And that led me to go back to school and work on the Ph.D.
17 And in the Ph.D program I focused specifically on how you
18 deal with these kinds of issues for big projects,
19 particularly electric facility projects.

20 And during the time I was working on the Ph.D, I
21 was quite fortunate to have the opportunity to work with
22 Burt Litton, a landscape architect member of the faculty
23 at Berkeley and also a researcher for the Forest Service
24 who had been quite central in the development of the
25 Forest Service's approach to analysis of visual resources
26 issues. And based on some of the work I did with him, I

25

1 did a review of the literature in the field of visual
2 resource management, and that ended up as an article
3 published in a peer review academic journal.

4 And I did a lot of evaluation of alternative
5 methods for evaluating the visual effects of transmission
6 facilities. I also designed and carried out a very large
7 study in Vallejo of the perceptions of people living
8 around in existing transmission line, in fact, one that
9 had been done recently altered. And, again, this study
10 ended up being published in the peer review journal, the
11 Journal of Environmental Psychology.

12 So in addition to being a student, I've also
13 taught while I was working on the Ph.D. I ended up
14 spending a year in Paris where I taught at the National
15 School of Bridges and Highways. And there I was teaching
16 a course on environmental design issues and alternative
17 and analysis methods.

18 And I might add that being in France for a year
19 gave me a chance to spend some time with the planners and
20 analysts at Electricity of France to get an idea of the
21 kinds of esthetic and other environmental issues that they
22 face there, the approaches that they use for analyzing
23 these things and the research that they were conducting on
24 a public response to these kinds of facilities.

25 And I've also taught a year at Cal Poly Pomona
26 in the City Planning Department where I taught courses in

1 land use planning, environmental planning and design
2 research issues and methods.

3 Then in terms of my professional work, it has
4 ended up to be, and I've been doing this kind of stuff for
5 about 18 years or so, it's been a mix of both research and
6 applied project analysis. So the research has involved
7 analysis of transmission line effects on land use,
8 research on the effects of transmission lines on property
9 values. I've devoted a lot of time to analysis of public
10 perceptions of electric transmission lines.

11 And for a number of years I had some very nice
12 contracts for Hydro Quebec which gave me the opportunity
13 to help them do a kind of an inventory and assessment of
14 kind of state of the art practices among North American
15 utilities and design of transmission lines and
16 substations, ways in which these kind of things can be
17 sited in design to be optimally integrated into their
18 surroundings.

19 So this is given me a very good sense of the
20 kind of things that are possible in terms of good siting
21 and mitigation.

22 And then in terms of project assessment, over
23 the years working as a subconsultant and at one point as
24 an employee of Envirosphere, the predecessor to Foster &
25 Wheeler Environmental, where I worked as a consultant to
26 the Energy Commission staff. And so I've had the

1 opportunity to be involved in the analysis of three
2 thermal plants, three hydro electric projects, one wind
3 power project which involves something like 200 wind
4 turbines and six transmission line projects. And then in
5 addition, I've also worked on various kinds of
6 transportation facilities, reservoirs and urban and
7 suburban development projects.

8 MR. ELLISON: I'm going to hand out to everybody
9 a package of photographs. Let me just pass these down the
10 table. I would like this package to be marked as the next
11 exhibit in order.

12 HEARING OFFICER FAY: Is this what you described
13 on your draft exhibit list, Visual Aide, Thomas Priestley
14 on Land Use?

15 MR. ELLISON: No. These would be visual aids on
16 visual resources.

17 HEARING OFFICER FAY: So that would be
18 Exhibit 40.

19 MR. ELLISON: For the audience we have
20 overheads of these which Ms. Baker can show.

21 Q Dr. Priestley, do you have Exhibit 40 in front
22 of you?

23 A With the Figure 13?

24 Q That's the first figure of Exhibit 40, yes.

25 A Yes.

26 Q Turning to Vis. 13, do you recognize this

1 photograph?

2 A Yes, I do.

3 Q Would you please identify this photograph for
4 the record.

5 A Yeah. This is a portion of an air photo that
6 was taken on April 7, 1996 by the WAC Corporation. And
7 this is a commercial air photo company based up in
8 Portland, Oregon.

9 Q Could you describe the key features of this
10 photograph as they are pertinent to visual resources
11 analysis of Sutter County.

12 A Yeah. I might add that I've blown up a portion
13 of this photograph to make it more visible, and I've added
14 some labels to highlight some things.

15 If you could look up the right hand corner,
16 those -- I'm sorry, the upper left hand corner, for those
17 of you in the audience, you can kind of see a white spot
18 up there, that is the existing Greenleaf 1 Power Plant.
19 And next to it those who have the air photos themselves
20 can see that I've marked the project site, which is just
21 to the left or to the west of the facility. Then in front
22 of the facility you can see South Township Road, which is
23 labeled. And if you follow that down -- in fact, it's
24 about two miles, you'll come to O'Banion Road, which is
25 also labeled running east west. And on South Township
26 Road, just south of O'Banion Road, you'll see kind of a

1 black area, and underneath that kind of a white spot. And
2 that white spot is a residence. And then across by that
3 residence I have indicated KOP 5, and KOP is key
4 observation point.

5 Q If I could ask you to turn to the next page and
6 in the photograph labeled figure Vis. 14, do you recognize
7 that photograph?

8 A Yes, I do.

9 Q Could you identify it for the record?

10 A Yes. This is a piece of the same -- came from
11 the same photograph that I just talked about, the one
12 taken on April 7, 1996 by the WAC Corporation. And what I
13 have done here is I've blown it up even further to allow
14 us to see in more detail the area near the intersection of
15 South Township and O'Banion Roads.

16 Q And could you briefly describe the key features
17 of this photograph that are pertinent to visual resources
18 issues in the proceeding?

19 A Yes. Now, if you kind of look over on the left
20 side of the photograph, you see O'Banion Road, South
21 Township Road. Just south of it again you see that white
22 spot which is a residence just south of the road, and then
23 you'll see KOP 5 which is -- at least those who have the
24 paper copies, I think should be able to make out KOP 5.
25 And then along -- I think the air photo it seems to I'm
26 afraid that the light's not showing through my sticky

1 back, but you'll see it kind of a black blob there that's
2 KOP 5. And then on O'Banion Road -- Carol, could I get you
3 to maybe point. Exactly. And then above there you can
4 see KOP A. See if you move your -- there we go ago.
5 That's at a point along the sides of O'Banion Road about a
6 thousand feet of South Township Road, that's Point A. And
7 if you could move your pen over, that's Point B, which is
8 approximately 2,000 feet of the intersection with South
9 Township Road.

10 Q Dr. Priestley, with respect to Point A and
11 Point B on this photograph, you referred to one of them as
12 KOP A. Am I am correct that Point A and Point B are
13 labels that you've applied to this photograph and not
14 official KOPs as described in the testimony?

15 A Yes, that's correct.

16 Q Okay. Dr. Priestley, could you turn to the next
17 page on the photograph labeled figure Vis. 15.

18 A Okay.

19 Q Do you recognize this photograph?

20 A Yes, I do.

21 Q Could you identify it for the record, please?

22 A Yeah. This is a photograph that I took myself
23 on November 2nd, and except for blowing it up and the
24 putting it on a form that could be used on the overhead
25 projector, I haven't altered this photo in any way.

26 Q Could you describe the location where you took

1 this photograph and the direction of the view in relation
2 to the blowup map that's a figure Vis. 14?

3 A Yes. So I took this at Point A which is a point
4 about 1,000 feet east of the intersection with South
5 Township Road, and it is just slightly to the west of the
6 residence that's located at that point, and that's the
7 first residence east of the corner from South Township
8 Road.

9 Q And the view from Point A in the photograph is
10 looking generally westerly?

11 A Yes. It's looking we were straight down the
12 road in the direction of South Township Road.

13 Q Okay. And returning to figure Vis. 15,
14 Dr. Priestley, could you briefly describe the key features
15 of this photograph that are pertinent to the visual issues
16 in the proceeding?

17 A Yes. If we could go back to 14, here we are
18 back to the air photo. And, again, you can see the
19 location of the shot that we just saw. It's, again, kind
20 of in front of that first residence to the east of South
21 Township Road. It's about a thousand feet away. And
22 those of you who have the paper copies and maybe some of
23 you in the back might note some little dots on the --
24 little black dots to the area feet between Point A and the
25 corner of South Township Road. Those are trees. There
26 appear to be at least four trees along the south side of

1 O'Banion Road. And then if we could go back to the photo
2 Vis. 15, you can see that when you are standing at the
3 road in front of that first residence on O'Banion Road,
4 you see the trees along the road, and they screen the view
5 as you're looking westward down the road toward the
6 location of a corner tower, a proposed corner tower.

7 Q Dr. Priestley, am I correct that the proposed
8 corner tower, which we will be discussing today would be
9 behind the trees in this photograph?

10 A Yes.

11 Q And, Dr. Priestley, you mentioned a moment ago
12 that the location of this photograph was a thousand feet
13 away. Did you mean a thousand feet away from the corner
14 of South Township and O'Banion Road?

15 A Yes.

16 Q Okay. How close is it to that first residence
17 east of the corner?

18 A Excuse me?

19 Q Can you describe roughly how near you are to
20 that first residence east of the corner South Township?

21 A No further than a hundred feet.

22 Q Okay. And basically this photograph is taken
23 from approximately in front of that residence?

24 A Just slightly to the west of that residence and,
25 you know, right at the edge of the road.

26 Q Okay.

1 A If I could, talk briefly about the view to
2 north?

3 Q Please.

4 A You'll note that the on north side of the road
5 it's planted with an orchard, and so this view is kind of
6 angling kind of towards South Township Road, which is
7 over there to the northwest of the view. But, in fact,
8 you certainly can't see the road because of the presence
9 of the orchard trees, and you may be able to detect kind
10 of at the left end of the road down by the tree by the
11 corner, you might be able to make out some of the poles,
12 the existing 60 KV poles along South Township, but only
13 the tops are visible above the orchard trees.

14 Q Dr. Priestley, could you turn to figure Vis. 16,
15 the next page. Do you recognize this photograph?

16 A Yes, I do.

17 Q Could you identify this for the record?

18 A This is a photo that I took myself on November
19 4th, and I took this at Point B that you might remember
20 from Vis. 14. And this is a point that's approximately
21 2,000 feet from the corner of South Township Road, and we
22 are on the right -- here we are on the south side of
23 O'Banion Road, and this is the view in from the road in
24 front of a cluster of residences that exists at that
25 point.

26 Q And, Dr. Priestley, could you point out the key

1 features of this photograph that are pertinent to the
2 visual issues in the proceeding?

3 A Yeah. Again, we're looking down west of the
4 road and here, again, you can see those trees that we had
5 seen in the previous photograph that block the
6 continuation of your view down the road. And then looking
7 across the road, we can see that at this point there's an
8 open field, and then beyond that to the west we can see
9 that at that orchard again, and we can note that -- we can
10 see the tops of some of the those power poles that now
11 exist along South Township Road poking up a little bit
12 above the tops of the orchard trees.

13 Q And, Dr. Priestley, you can also quite
14 prominently see some power poles running along O'Banion.
15 Can you point those out as well?

16 A Yeah. Carol, could I get you to -- you'll note
17 that there is an existing distribution line along this
18 road, and that one for example has some transformers on
19 it. And then you'll see the service line going across the
20 street to serve one of the residences. And actually if
21 you look down the road, the next one down the road has a
22 similar configuration to the transformer and the service
23 line.

24 Q And, Dr. Priestley, looking at the photograph,
25 if I'm counting correctly, it appears that there are
26 approximately six of these distribution poles between

1 Point B and the corner of South Township and O'Banion; is
2 that correct?

3 A Yeah that's correct.

4 Q On the south side of O'Banion it appears in this
5 photo that there are two service drop poles --

6 A Yes.

7 Q -- between the corner of South Township and
8 O'Banion and Point B. Are there any other features in
9 this photograph that you believe are pertinent?

10 A Yeah. I think we've talked about the most
11 relevant ones.

12 Q Where would Greenleaf 1 be in the photograph, if
13 you could see it?

14 A Well, in this photograph it would actually be
15 over further to the right and off the photograph. At this
16 point it's much further to the northwest.

17 Q Okay. Dr. Priestley, could I ask you to turn to
18 page to Vis. 17. Do you recognize this photograph?

19 A Yes, I do.

20 Q Could you identify this one for the record,
21 please.

22 A Yeah. This is actually a set of three
23 photographs that I took on November 4th from a point just
24 east of Point B along O'Banion Road. So this is taken
25 along the south side of O'Banion Road and I stood on the
26 spot, kind of swiveled around and took three consecutive

1 photographs, and I've pasted them together to create a
2 panoramic view that takes in as kind of a large slice of
3 the view. So, in fact, to see this view if you were
4 standing there, you would have to move your head to take
5 in the whole thing.

6 Q Dr. Priestley, could you point out the key
7 features of this photograph that are pertinent to the
8 issues?

9 A Yeah. This is a view more towards the northwest
10 from this point. And if you look off to the right side of
11 the photo, kind of along the horizon you'll see a little
12 cluster of features popping up from the landscape.
13 They're poking up the from the landscape that is
14 Greenleaf 1.

15 And unfortunately, the day that I was out there,
16 it was kind of a hazy day, so it was a little hard to make
17 out the Sutter Buttes. So, unfortunately, they don't show
18 photographically very well. But the Sutter Buttes would
19 be visual as kind of a purple mass behind the point where
20 you see Greanleaf One, and extending further to the left,
21 to the left there, you see a tree and some structures that
22 are part of an agricultural complex that are a little bit
23 closer.

24 So, in fact, what you see is kind of a massing
25 of kind of visual elements at the base of the Sutter
26 Buttes which would extend up, I want to say something

1 like, about maybe three quarters of an inch or so from the
2 horizon line that you can see here. And I might add
3 that at this point we are over two miles from the
4 Greenleaf 1.

5 And then also -- oh, it's maybe faintly
6 detectable on the photos that you may be able to make out
7 the very tops of the 60 KV line that runs along South
8 Township Road that are kind of in this middle ground
9 behind those orchard trees.

10 Q Then, again, this photograph was taken from
11 Viewpoint B which is approximately 2,000 feet from South
12 Township and O'Banion?

13 A Yes.

14 Q Dr. Priestley, with respect to figures Vis. 15,
15 16 and 17, the photographs that you took, obviously since
16 you took these photographs, you've personally seen the
17 actual view represented by them, have you not?

18 A Yes.

19 Q In your opinion are these photographs a fair and
20 accurate depiction of that view?

21 A Yes, they are.

22 MR. ELLISON: Mr. Fay, at this point I would
23 like to move into evidence Exhibit 40.

24 HEARING OFFICER FAY: Is there any objection?

25 MR. RATLIFF: No.

26 HEARING OFFICER FAY: No objection. So moved.

1 Q BY MR. ELLISON: Dr. Priestley, first you
2 pointed out the trees that screen the view of the corner
3 pole in these photographs for the residences on O'Banion.
4 Do those trees screen the view of the corner pole for all
5 the O'Banion residences?

6 A Well, they certainly screen the views for
7 anybody who would be like at the very front part of their
8 property right along the roadside.

9 Q Having observed that location, is it your
10 opinion that the view of the corner of South Township and
11 O'Banion is screened by the trees and other screening
12 features for all the residences?

13 A Yes.

14 Q Dr. Priestley, I'd like to ask you -- I know you
15 haven't had the opportunity to be in inside any of those
16 residences, but having observed them from the street --
17 first of all, let me ask you this, the direction of view,
18 in other words the orientation of the windows in those
19 homes, what is the orientation of the windows in those
20 homes?

21 A In answering this question it would be good if
22 we were to go back to the Vis. 14, the air photo, and I
23 think that there are couple of things that we can note.
24 One is that the homes are in a line with the grid system,
25 and in most cases it appears that the primary views from
26 these homes are oriented directly to the north and to the

1 south.

2 And then something else that I think is
3 important to note with the exception of the first house to
4 the east of the intersection with Township -- South
5 Township Road, all of the other homes are actually set
6 back pretty far from the road. And in many cases you'll
7 note that there are storage sheds, other utility
8 buildings, buildings on neighboring property that screen
9 the view towards the west. In any case, the view directly
10 to the west -- since these homes are set so far back if
11 you're looking directly to the west, you wouldn't be --
12 you would be looking at the portion of the landscape that
13 is actually south of O'Banion Road and south of the
14 alignment of the proposed transmission line.

15 Q Dr. Priestley, you just testified that in most
16 cases it appears that the orientation of these homes is
17 north and south from this figure. You have personally
18 observed these residences, have you not?

19 A Yes.

20 Q And in personally observing them, have you
21 confirmed that the orientation of the windows in these
22 homes and north and south?

23 A Based on what I could see, you know, from
24 standing at the road, it appeared that most of the windows
25 were oriented, at least from what I could see from the
26 road, I knew that there are windows oriented to the north.

1 Q Did you see any significant windows oriented to
2 the west?

3 A Standing on the road, it was hard to tell.

4 MR. ELLISON: That's all I have.

5 Dr. Priestley is available for
6 cross-examination.

7 HEARING OFFICER FAY: Any questions from the
8 staff?

9 MR. RATLIFF: Yes.

10 EXAMINATION BY MR. RATLIFF

11 Q Dr. Priestley, I'd like to save my questions
12 concerning the most recent exhibit that you put up today
13 for later. I do want to get back to that, but I think I
14 would like to start, first of all, on a more basic and
15 exploratory level concerning what your work experience has
16 been in the past.

17 Is the purpose of your testimony today to assess
18 whether the proposed project including its transmission
19 lines has a significant effect on visual resources as the
20 term significant is used in the California Environmental
21 Quality Act?

22 A Yeah. Ultimately, it's my understanding that
23 that's the intention of this whole analysis.

24 MR. RATLIFF: With the Committee's indulgence,
25 I will use the term CEQA to describe the California
26 Environmental Quality Act, if that's acceptable.

41

1 COMMISSIONER MOORE: That's acceptable.

2 Q BY MR. RATLIFF: Have you ever testified under
3 oath in any other proceeding concerning the significance
4 of the environmental impact to visual resources before?

5 A Yeah. Although I have performed visual analyses
6 under both CEQA and the National Environmental Policy Act,
7 this is the first time in which I have given testimony
8 under oath.

9 Q Have you ever been the principal person
10 responsible for doing an assessment of significance of
11 visual resources in an environmental impact report under
12 CEQA?

13 A Yes, I have.

14 Q And which projects did you do that in?

15 A One I could mention would be the Valley All
16 Transmission Line. This is a southern California Edison
17 project that is now making its way through the California
18 Public Utilities Commission.

19 Q What was your assessment of the significance of
20 that?

21 A There were two alternative routes. One, I made
22 a finding of not -- less than significant visual impacts.
23 And on the other one I made a finding of potentially
24 significant visual impacts.

25 Q Has that proceeding been concluded yet or is it
26 still in --

1 A It's in the works. I know that the application
2 has been filed now with the Public Utilities Commission.

3 Q What was the basis of your conclusion that there
4 was a potential significant visual impact in that
5 document?

6 A In this particular case, the transmission line
7 was located in a desert -- quasi-desert area kind, of the
8 middle part of Riverside County. It's an area that's
9 converting from agriculture to rural residential and even
10 residential. It's kind of a very wide open, quasi-desert
11 like landscape. And the alternative route went down a
12 road and then up and over a number of highly prominent
13 buttes that kind of stuck out of the landscape. And what
14 was proposed was pole locations right on top of those
15 buttes. And I made a finding of significance because this
16 is a violation of one of the cardinal rules of good
17 transmission lines siting and design, which is to make
18 every effort to avoid prominent ridge tops and to try to
19 skirt around so you won't have large amounts of sky
20 lighting. And in this case because of their location on
21 top of these buttes, these transmission poles would have
22 been visible from very, very wide areas.

23 Q Were these metal poles or lattice towers?

24 A They were metal poles.

25 Q Do you remember how tall they were?

26 A Steel poles, let's see. Yeah they would vary in

1 height. Because electrically it's a very complicated
2 situation where they were picking up existing say 15 KV
3 lines and even in existing some 115 KV lines and putting
4 them all on the same tower, so it meant quite a variation
5 in tower height. But these ones, were I would say and I
6 would have to kind of look at my records and tell you for
7 sure, but were on the order of 80 feet or more in height.

8 Q 80 feet. Did any of those lines parallel
9 existing roadways?

10 A Yeah. In fact, both lines more or less did.
11 But because of the topography in this area, there were a
12 number of cases where the roadways would skirt around
13 these buttes that I talked about but the transmission
14 lines would follow the section line and go straight over
15 the Buttes but except for those kind of cases and another
16 area of hilly line land in the southern end of one of the
17 alignment, for the most part these transmission poles went
18 down roads through an area that was mixed agriculture and
19 rural-residential.

20 Q Thank you. Have you found any other
21 transmission lines that you've analyzed and assessed the
22 significance of visual impacts?

23 A Well, yes. During the time when I was working
24 for Envirosphere, which in fact is the predecessor for
25 Foster & Wheeler Environmental. This was in the mid 80's
26 Envirosphere had a contract to provide consulting

1 assistance to the Energy Commission. And during that
2 period I worked on the geothermal public power line and
3 ended up doing the initial analysis and then collaborated
4 with Brian Bell from staff in putting together the final
5 analysis. And, in fact, on that project there were a
6 number of points along the proposed alignment where we
7 found potentially significant visual impacts.

8 Q How long was that line that you were talking
9 about?

10 A It was long. I don't have the mileage figure on
11 the top of my head, but it was from -- extended from the
12 Geysers geothermal area all the way over to Colusa County.

13 Q More than 50 miles, would be fair to say?

14 A Again, it's been a long time since I worked on
15 that, so I can't give you a specific figure.

16 Q Okay. When you do your analysis of
17 significance, do you have a definition of significant
18 effect?

19 A Well, I go back to the definitions of
20 significance included in the California Environmental
21 Quality Act.

22 Q Which one is that?

23 A Well, if you want to take a look at the AFC,
24 those are spelled out in the text of our AFC.

25 Q Are you talking about the Appendix H of the CEQA
26 guidelines?

1 MR. ELLISON: Mr. Ratliff, did you mean to say
2 Appendix G?

3 MR. RATLIFF: Yes.

4 A In our AFC we cite Appendix G and I.

5 Q Excuse me. I think I may have confused that.
6 It is Appendix G. What is that definition that you're
7 using?

8 A Again, if you want to turn to page A.11-4 of our
9 AFC, we've summarized it here.

10 "As a project has a potential for
11 significant visual impact, if it has
12 substantial demonstrable negative
13 esthetic effect, obstructs any scenic
14 vista or view open to the public or
15 results in the creation of an
16 esthetically offensive sight open to
17 public view."

18 MR. RATLIFF: Thank you. I'd like now to turn
19 the questions to the Key Observation Point 5 which with
20 the Committee's indulgence I will call KOP 5.

21 Q As you point out, the staff analysis used a
22 number of points KOPs they've been calling them.

23 COMMISSIONER MOORE: In the future if you would
24 preface it by not using the acronym.

25 MR. RATLIFF: Okay. You want me to call it Key
26 Observation Point?

1 COMMISSIONER MOORE: I think so. It makes it a
2 little bit easier.

3 Q BY MR. RATLIFF: Okay. Did the staff use a
4 number of Key Observation Points here to do its analysis;
5 is that correct?

6 A Yes.

7 Q And in this case you and the staff witness came
8 to agreement on the -- or are in agreement on the
9 significance of the visual impact for most of these key
10 observation points; is that correct?

11 A For most -- for the views most of these key
12 observation points, we are in agreement that the visual --
13 any visual effects would be less than significant under
14 the California Environmental Quality Act.

15 Q Exception to that is Key Observation Point 5.

16 A Yes.

17 Q And on page 67 of your testimony, you give your
18 reasons why you believe the visual impact is less than
19 significant; is that correct?

20 A Let's take a look.

21 Q I'm looking at the last paragraph, the bullets
22 on the bottom of 67 and going on to page 68.

23 A Yes, I see it.

24 Q The first bullet says "The power lines of
25 varying voltages of visual impact are visually prominent
26 and not unexpected elements in rural regions of the

47

1 Sacramento valley landscape region; is that correct?

2 A Yes.

3 Q When you use the term "visually prominent," do
4 you mean prominent in the sense that we normally think of
5 it? Does that mean conspicuous?

6 A Yeah. I would say conspicuous, highly visible.

7 Q Highly visible. So the fact of the transmission
8 lines is highly visible I assume is not the reason that it
9 is not a significant impact at that point?

10 A I want to make sure I follow your question.

11 Q Prominence is not the real reason that there's
12 no significance; is that correct?

13 A That's correct.

14 Q And when you use the word -- term "not
15 unexpected," do you mean you basically mean people do
16 expect to see transmission lines in various places in the
17 valley?

18 A What I mean is that the transmission lines are a
19 very common element of this entire Sacramento Valley
20 landscape region, in fact, are not a surprising or unusual
21 element in the overall landscape setting.

22 Q By this did you mean to suggest that something
23 has to be not a surprise or not expected to be a
24 significant impact?

25 MR. ELLISON: If I could just ask you to
26 clarify. Maybe I -- just have to ask the question reread.

1 Q BY MR. RATLIFF: Well, let me try again. I'm
2 trying to understand the criteria here by which you've
3 determined that this line has no significant impact in
4 visually prominent and not unexpected. And I'm trying to
5 determine whether or not unexpected means in terms of the
6 significance of the impact. What did you mean by that
7 term?

8 A Yeah. I think you have to go back to my
9 approach and to visual impact assessment, the approach
10 which is I think the standard approach is first to look at
11 your project's overall context and understand the
12 composition and the character of the overall landscape
13 setting in which the project is located. And as you
14 probably saw in my written testimony in providing a little
15 description of the overall region within which the project
16 site is set, I noted that the transmission lines are, in
17 fact, a fairly common element of real kind a typical
18 pattern of a piece of the overall landscape pattern and
19 part of the overall landscape character of the region.

20 Q I understand your overall context approach and
21 I'd like to get to that later. I'm trying to break it
22 down into smaller pieces, and what I'm trying to
23 understand is if you think that a significant impact has
24 to be unexpected impact, a surprise in fact?

25 A I wouldn't put it precisely in that term. I
26 wouldn't say so much surprise. But I would need to say

1 that one of the ingredients, and we need to when we're
2 making our assessments, look at a whole set of factors,
3 but one of the ingredients would be the extent to which
4 the transmission lines or other new proposed feature would
5 be consistent with the overall landscape pattern and
6 perhaps an expected part of the overall landscape fabric.

7 Q Would you agree that we live in an environment
8 poor roadways and freeways are not unexpected in the
9 course of the viewshed that we live in?

10 A Sure.

11 Q If you built a freeway in a rural area, would
12 that mean that you would expect that it would not have a
13 significant impact?

14 A Well, again, I wouldn't base my assessment on
15 just a single factor. Again, when one needs to look at a
16 whole range of factors and particularly to look at the
17 extent to which the landscape affected has been recognized
18 for some special visual qualities that it has and given
19 special protections that would suggest that a freeway
20 would not be consistent with it.

21 Q Thank you. I'd like to move on to your next
22 criterion here. That's bullet number 2. It says:

23 "The proposed alignment of the
24 transmission line of the roads and
25 other features of the area's
26 rectilinear landscape would make them

1 consistent with the overall structure
2 of the area's landscape."

3 For the project at hand, does that mean
4 following the local roads in the area?

5 A Yes.

6 Q Would it be correct to say that the residences
7 in the area are located in proximity to those local
8 roads?

9 A To the extent that there are residences in the
10 area and when you have to be -- I guess perhaps we have to
11 be careful about the defining proximity. Because in many
12 cases, homes are actually set back from the roads and then
13 often surrounded by orchards or residential landscaping.

14 Q But the roads are in proximity -- the houses are
15 in proximity to the roads; is that correct?

16 A Yeah. Again, I'm kind of struggling. I want to
17 be careful how we use the term proximity.

18 Q We can put your overhead and back on and see if
19 they're in proximity with the road. Would you disagree
20 with that?

21 A Yeah. I would say the homes are certainly close
22 to the roads.

23 Q Thank you. In addition there are two kind of
24 viewers. There are going to be people who live there and
25 there's going to be people who drive those roads.

26 A Yes.

1 Q In a sense can rectilinear alignments actually
2 increase the impact visually of a transmission line?

3 A Yeah. Not necessarily.

4 Q Do they in this case have that effect by
5 following the roads?

6 A Yeah. In this case, again, following the roads
7 makes the transmission lines kind of consistent with the
8 overall structure of the landscape, reduces the extent of
9 their contrast -- their conflict with the overall
10 landscape pattern. And this photograph, unfortunately --
11 maybe if we could go back to the previous one, I guess
12 it's Vis. 13, which shows us entire extent of South
13 Township Road.

14 As you go down South Township Road from the
15 plant, you can see the plant up in the upper left hand
16 corner. And as you go down South Township Road, just
17 slightly above where -- yeah, right in there -- there is
18 one residence right on the road, and then there's a second
19 one that is set well back to the road and that is
20 surrounded by orchards. It's actually above that.
21 There's another farm complex further south and is set way,
22 way back in the orchards. And then we come to the corner
23 of South Township Road and O'Banion Road where there's a
24 single residence. And then we've talked about the other
25 residences on the eastern extent of O'Banion Road. And
26 when you go down the western side of O'Banion Road, there

1 is a single farm residence in the north side of the road
2 that's set pretty well back from the road. So we're
3 talking about a small number of residences.

4 Q Yes, we are. But my question is whether or not
5 actually aligning the project along the road actually
6 increases the impact to those residences however many
7 there are. Would you agree that that is the case?

8 A To the extent that there are residences that are
9 right on the road, and have an unobstructed view toward
10 the road. And, in particular, if a transmission power
11 were located, like, right across from them and right on
12 their view, in those particular cases, there would
13 certainly be an impact on those particular views.

14 Q Thank you. Before we leave this point, I'd like
15 to ask you, there was discussion earlier about the
16 alignment of the windows in the houses on O'Banion Road
17 east of the intersection with South Township Road. How
18 important is it to you concerning the significance of what
19 the orientation of the windows to the residences is?

20 A Yeah. Actually, I think it's important because
21 I think, again, in doing your visual analysis, you really
22 need to think about what is the extent to which the people
23 living in the area would actually be able to see and might
24 actually have the potential to attend to -- to pay
25 attention to the project being concerned as they go about
26 their daily lives inside their homes and in their yards

1 and so on. To what extent, in fact, would the presence of
2 this thing really be intrusive to people as they go about
3 their daily activities.

4 So, yeah, that's why I think it's important to
5 pay some attention to this issue.

6 Q Would you agree that people's daily lives aren't
7 spent in their windows, though? I'm sorry. I didn't
8 mean -- I guess that's a loaded question. I might ask it
9 different.

10 You would agree that people would see these
11 things, for instance, when they come home to their house
12 when they get out of their car.

13 A Well, they might see them as they're driving
14 down the road and, yeah, when they get out of the car.
15 Again, you really have to go out there and take a look.
16 There may be other properties or kind of complexes and
17 there's landscaping and so on. So when people get into
18 their driveways and down close to their houses, there's
19 landscaping, there's a lot of other objects in the
20 environment, and they may or may not be looking out of
21 their car or paying attention to transmission -- any
22 nearby transmission pole.

23 Q The people see these things, for instance, in
24 their backyards, would that be correct, in some instances
25 or when they ride their bicycles along the roads or
26 whatever they're doing. It's not merely -- I guess the

1 point I'm trying to get you to acknowledge, it's not
2 merely through their windows that they might see these
3 things.

4 A Yeah. To the extent that the places where
5 people are engaging in their activities, they might have
6 an unobstructed view. And as I pointed out, many of the
7 homes are set back from the road, there's landscaping or
8 orchard trees around them. So, actually, when you're kind
9 of in on the properties, you know, it's kind of a
10 question, how much of these proposed poles they might be
11 able to see.

12 Q Could we go back to one of your visual aids that
13 we used today your Viewpoint A. I'd like to get back to
14 that slide, if I could. You say that's 1,000 feet from
15 the corner of O'Banion?

16 A Yes.

17 Q So it would be approximately 1,000 feet from the
18 corner pole?

19 A Yes, slightly further. Just a teeny bit further
20 from the corner pole.

21 Q Do you know if the transmission line would be
22 visible above that tree you say screens that pole?

23 A Excuse me?

24 Q You see a tree in your picture. We see in your
25 Figure A, a tree which you described as screening the
26 transmission line.

1 Do you know if it would be visible above that
2 tree at 1,000 feet of where took the photo?

3 A Yeah. I think it's possible that you might be
4 able to see some of that transmission line above that
5 tree.

6 Q Thank you. How far back from the road is that
7 house set?

8 A This house is actually located just about at the
9 road. They have a front yard that I say is not more than
10 20 feet wide or something.

11 Q Do you know if the tree in question in your
12 photo screens the view of the transmission corner pole
13 from the houses?

14 A Yeah. My judgment is having been out there and
15 taking a look, in fact, from that angle, it would screen
16 it even more than the view when you're right at the edge
17 of the road looking straight down the road.

18 Q The house is how far from the road?

19 A Oh, I want to say approximately 20 feet or
20 something.

21 Q 20 feet from the road?

22 A Yeah.

23 Q Okay. If we go to the next figure that you put
24 up Visual 16, is that actually an additional 1,000 feet
25 further east?

26 A Yes, it is.

1 Q The reason I ask is I was looking at the two
2 photos and it looked like it was one additional
3 transmission pole further east.

4 A Yeah. Measuring from the air photo I came up
5 with 2,000 feet, but it's possible that it's just a little
6 bit less than that.

7 Q Okay. How tall are the power poles that -- how
8 tall is the corner project transmission power pole?

9 A That would be 106 feet tall.

10 Q Would you see that pole above the tree on the
11 road on O'Banion?

12 A You may be able to see some of it above that
13 tree.

14 Q Now, are these the poles that we actually see in
15 the slide, you see these poles that are fairly low on
16 horizon. Do you know how tall these poles are?

17 A These existing?

18 Q Existing poles.

19 A Distribution poles, I haven't measured those
20 myself.

21 Q Would you expect those to be more than 40 to 50
22 feet tall?

23 A Yeah. I think that's a fairly good ballpark
24 estimate. I'd say approximately 50 no more feet.

25 Q How far back from the road are these residences
26 set where you took this photo?

1 A These ones are a lot further back. If you want,
2 we can look at the air photo. I couldn't give you an off
3 the top of my head estimate of how many feet, but they are
4 well set back from the road.

5 Q So maybe the screening of that tree would not be
6 really pertinent to those houses; is that correct?

7 A Well, as I mentioned to you before, when you
8 move back on these properties, there are a lot of other
9 things going on kind of in the foreground and middle
10 ground of the view that would screen the view in that
11 direction.

12 I might also point out that at this point we are
13 getting to be 2,000 feet well over a third of a mile from
14 that corner, so that would -- could certainly attenuate
15 the potential of visibility of anything happening down
16 there.

17 Q In Figure 17 that you put up today, the Buttes
18 weren't visible the day you took that photo; is that
19 correct?

20 A Yeah. When you're actually out there in the
21 field, I could make them out, but unfortunately through
22 the photographic process, I just -- they were very faint
23 and they just faded out.

24 Q The transmission powers that come down from the
25 project will in fact be in front of the view of the Buttes
26 from this perspective if we had a simulation.

1 A Excuse me?

2 Q If this photo included the Buttes, for
3 instance --

4 A Yeah.

5 Q And it included a simulation of the proposed
6 transmission lines --

7 A Yeah.

8 Q Would those towers in fact be in view of the
9 Buttes from this perspective?

10 A Only to the extent that you might be able to
11 detect the towers as very small elements spaced far apart
12 here at the horizon. See, at this point when you're
13 looking towards the plant, the plant would be two miles
14 away, and the towers that would be kind of visible with
15 the Buttes in the background would, again, be
16 approximately two miles away. So what we would be looking
17 at would be very small elements right here at the horizon.

18 And so, in fact, you couldn't necessarily say
19 that these would block the view of "the Buttes" because
20 they would be kind of visible at the base of the mass of
21 the Buttes.

22 Q When you say the power project is two miles
23 away, you aren't talking about all the transmission poles
24 that would come down South Township?

25 A I'm talking about the plant and I'm talking
26 about the transmission poles that would be closest to the

1 plant there along South Township Road. And then, of
2 course, as you move to the left along the horizon in the
3 photograph, the poles would be getting closer to you
4 ranging over approximately two miles at the right end and
5 something like half a mile or so at the left end of the
6 horizon.

7 Q Thank you. Going back to your testimony on page
8 67 one of your criterion in reaching your judgment of less
9 than significant impact is that the scenic qualities of
10 the area have not been given formal recognition and are
11 not subject to any plans, policies or regulation; is that
12 correct?

13 A Yes.

14 Q Is such recognition or the existence of such
15 policies necessary for a finding of significance under
16 CEQA in your understanding?

17 A They're not absolutely necessary, but I think
18 that they're an importantly ingredient. They certainly
19 provide an indicator of special qualities.

20 Q Do you think it's possible to have a significant
21 impact on resources that are not subject to a formal
22 recognition or formal plan?

23 A Yes, it is possible.

24 Q And aren't most visual resources in the world
25 not subject to such plans and formal protection?

26 A Yes, that's true. But these formal protections

1 are very helpful in identifying and highlighting visual
2 resources that we do need in special care and attention.

3 Q The conclusion of your analysis on page 71
4 indicates that one reason the transmission line isn't
5 significant "it is a highly engineered agriculturally
6 oriented landscape based on heavy use of electric power."

7 A Let's see, where do you see that?

8 COMMISSIONER MOORE: Page 71.

9 Q BY MR. RATLIFF: Page 71.

10 A And you're talking about the first paragraph?

11 Q Yes. I want to call your attention to that
12 paragraph. What do you mean by "heavy use" when you make
13 that statement?

14 A Yeah. What I mean is that in this overall
15 landscape region, in fact, it's what you see is a
16 reflection of the fact that there is heavy use of electric
17 power that's made the whole thing possible in terms of
18 pumping system for drainage of the landscape, pumping for
19 moving of irrigation water, and I guess our need people
20 could tell you what happens to electric loads here in the
21 Sacramento Valley on warm summer afternoons when there's a
22 lot of pumping.

23 And, again, if you look around the landscape,
24 you'll see evidence of dropped poles attached to pumps
25 that really makes that landscape possible. And then,
26 again, electricity is used for various kind of

1 agricultural processing that takes place in the region as
2 well.

3 Q Is this landscape any more dependent on
4 electricity than the typical urban environment?

5 A Well, I guess you could say that in our society
6 now is very dependent on electric energy, but you could
7 say that this landscape is more dependent on electric
8 power than perhaps some other agricultural landscape that
9 are, say, based on grazing where there isn't so much --
10 there isn't very much use of electricity for irrigation,
11 pumping or perhaps more traditional agricultural landscape
12 for example Pennsylvania Dutch country.

13 Q Even if we assume for the sake of argument that
14 this an area with heavy electrical use in relative terms,
15 why should that bear on whether we consider a visual
16 impact to be significant?

17 A The bearing or the relevance of this is the fact
18 that this is an overall landscape region in which electric
19 facilities historically have been an integral part of the
20 landscape pattern?

21 Q Could we refer back to Vis. 17 that you gave us
22 today. No, I'm sorry, Vis. 16.

23 And when you gave the statement you just gave,
24 were you referring to the kind of transmission poles and
25 drop lines that you see in the picture Vis. 16?

26 A Excuse me.

1 Q When you just gave a statement talking about
2 the -- what you might call the ubiquitousness of the power
3 lines in the area, are you talking about the kind of poles
4 and lines that you see in Vis. 16?

5 A Yeah. I'm talking about those, and I'm talking
6 about transmission lines as well.

7 Q This particular pole in Vis. 16, how tall is
8 it?

9 A Yeah, again you might recall we just discussed
10 this issue and we agreed it's probably in the range of
11 about 50 feet.

12 Q Thank you. And do you know if that's the
13 distribution line or transmission line?

14 A Distribution line.

15 Q And the line we see coming across the road
16 there, is a tap line for the residence; is that right?

17 A Yeah. It's a service drop for the residence.

18 Q So are those the kind of lines that you consider
19 ubiquitous to the valley?

20 A Those as well as transmission lines of various
21 voltages.

22 Q I take it from what you said, you understand the
23 distinction between distribution lines and transmission
24 lines?

25 A Yes.

26 Q And not to engage in some discussion about how

1 we define all those terms, how many transmission lines are
2 you aware of in that general area besides the watt line
3 and the PG&E line further west two miles west that are on
4 metal towers?

5 A Those are the ones that I'm familiar with in
6 that immediate area.

7 Q Are there any others in like a five-mile or
8 six-mile range that you can think of?

9 A Yeah. I believe that there are, but unless I
10 had a transmission map in front of me, I couldn't name
11 them for you.

12 Q Would you agree with me that most of the
13 transmission lines of which you were speaking, with the
14 exception of those two transmission lines that we have
15 identified, are on wooden poles similar to the ones that
16 you depicted in your visual figures?

17 A Yeah. I'm not sure I could agree with that.
18 Again, you would have to take a look at a transmission map
19 and --

20 Q But you can't mean any lines besides those two?

21 A Not in that vicinity.

22 Q And you can't see any in that -- from that
23 particular vantage point from the corner of O'Banion and
24 South Township, you don't see anything other than those
25 two transmission lines to the west in the distance; is
26 that correct?

1 A Those are the only transmission lines that you
2 see, correct.

3 HEARING OFFICER FAY: Excuse me, can you give
4 us an estimate of how much longer you have, an
5 approximation?

6 MR. RATLIFF: Till the committee gets bored.

7 HEARING OFFICER FAY: Do you really want to
8 phrase it that way?

9 MR. RATLIFF: I would guess another half hour.

10 HEARING OFFICER FAY: Then we will take a short
11 break as our mid morning break and resume in precisely ten
12 minutes.

13 (Brief recess taken.)

14 HEARING OFFICER FAY: We're back on the record.
15 We'll continue with Mr. Ratliff's cross-examination of
16 Mr. Priestley.

17 Mr. Ellison, is the witness available?

18 MR. ELLISON: Dr. Priestley.

19 HEARING OFFICER FAY: Dr. Priestley, please take
20 the stand immediately. Mr. Ratliff proceed.

21 Q BY MR. RATLIFF: Mr. Priestley, if you recall
22 when we broke, I was talking about your concluding
23 paragraph at the top of -- when we broke we were
24 discussing your conclusions at the top of page 71. And
25 specifically the sentence where you stated that the
26 transmission line was not significant because the existing

1 environment was highly engineered, agriculturally oriented
2 landscape based on heavy use of electric power.

3 Is this area highly engineered compared to urban
4 areas?

5 A Yes.

6 Q Would you agree that the area is predominantly
7 vegetation?

8 A Some times of the year.

9 Q Can you explain how it is highly engineered by
10 comparison to, for instance, a suburb in Sacramento?

11 A Yeah. In stating highly engineered in the case,
12 I didn't mean to compare it to other environments, but in
13 and of itself, it's an environment that's highly
14 engineered in terms of everything that's been done in
15 terms of drainage, irrigation, land leveling, provision of
16 various kind of infrastructure.

17 Q You didn't mean to suggest, I take it, that
18 having an environment that is highly engineered makes it
19 impossible to have a significant impact on a visual
20 resource?

21 A No, I did not.

22 Q Do you live in a highly engineered environment?

23 A I do.

24 Q Do you live in a residential suburb or
25 neighborhood?

26 A A residential neighborhood in the city of

1 Oakland.

2 Q If a 100 transmission line were built in close
3 proximity to your house, would that have a significant
4 effect even though you live in a highly engineered
5 environment?

6 MR. ELLISON: Can I ask you to define what you
7 mean by "close proximity"?

8 Q BY MR. RATLIFF: Let's say across the street.

9 A I would have concerns about it.

10 Q You would have concerns. Would you consider it
11 to be a significant effect if it were a residential
12 neighborhood? You can't say in the abstract?

13 A Could you repeat your question.

14 Q The question was if where you live if the
15 transmission line were built in close proximity, which we
16 defined as being across the street from your house, would
17 you consider that to be a significant impact and highly
18 engineered impact in the environment which you live?

19 A I would consider it to have impact, and I
20 personally would be very concerned about them.

21 Q Thank you. Your testimony on KOP 5, that is Key
22 Observation Point 5, says that the view of Sutter Buttes
23 from Mr. Massey's house is screened by the orchard.

24 Are you aware that his house is elevated and on
25 a pad?

26 A No. Now, tell me where you were referring to?

67

1 Q I think we're looking at page 67. You discussed
2 KOP 5, Key Observation Point, 5 at pages 64 and 65. And
3 in the second paragraph, the first full paragraph on page
4 67, you talk about the resident's view of the Sutter
5 Buttes from that corner. And we are talking about, I
6 believe, the residence occupied by Mr. Massey.

7 A Okay. The line in --

8 Q The line in question that I was directing your
9 attention to, the first sentence, the first full paragraph
10 states as follows:

11 "The view toward the SPC site two
12 miles to the northwest would be
13 blocked by the orchard and the
14 proposed power plant would not be at
15 all visible."

16 A This statement would be true and it's still true
17 referring to the view right from that KOP which is down on
18 the street in front of Mr. Matthew's house and in the line
19 of site toward the Buttes. Based on the testimony that
20 Mr. Matthew's provided last week, it sounds like because
21 of the fact that you mentioned that from his house he
22 still had some view of the Buttes over the orchard trees.

23 Q Yes. He stated, and I believe will state for
24 himself, that he still sees over the over orchard; is that
25 correct?

26 A This is what I recall that he said.

1 Q Do you have reason to doubt Mr. Massey's
2 statement in terms of what he sees from his window?

3 A No.

4 Q Would you agree that the orchard doesn't screen
5 the view of travelers as they proceed north on South
6 Township Road from O'Banion?

7 A It doesn't screen views of --

8 Q The transmission line that will be built along
9 South Township Road on the west side.

10 A Well, I think it really depends on where you
11 are. On South --

12 Q North --

13 A On South Township Road.

14 Q North of O'Banion.

15 A So you're describing somebody driving north --

16 Q That's right.

17 A -- on South Township Road, north of O'Banion
18 Road. At that point there are no orchard trees on the
19 left side of the road. However, I have noticed that there
20 is vegetation growing in the ditch, which from the angle
21 view when you're sitting in your car in fact obscures in
22 places the views to the west.

23 Q Would I be correct that -- would it be your
24 opinion that the orchard doesn't screen the view for the
25 people who live east of South Township on O'Banion on the
26 sites of Vis. 16 and Vis. 15 that you gave us today?

1 MR. ELLISON: Mr. Ratliff, I understand your
2 question when you refer to the orchard that is on the
3 southwest corner of South Township and O'Banion?

4 MR. RATLIFF: That's right. It's the southwest
5 corner of that intersection.

6 A Yeah. If you're talking about that orchard, it
7 would not effect the views of the people living further to
8 the east and O'Banion Road. Because, quite frankly, they
9 would barely be able to see it because of the all the
10 other intervening objects in the landscape.

11 Q When you say "it," you mean the orchard?

12 A I mean that orchard on the southwest corner of
13 South Township and O'Banion Roads.

14 Q Now, on page 67 you also state that the corner
15 pole does not interfere with the views of Sutter Buttes
16 from this location. Does that mean the corner pole would
17 be at the intersection at O'Banion?

18 A That's on page 58?

19 Q Yes.

20 A Where?

21 Q That is in the second full paragraph, second
22 sentence on page 67. Again, we're talking about Key
23 Observation Point 5 it states:

24 "The corner pole does not interfere
25 with the view from the Sutter Buttes
26 from the location."

1 We agree that that does not apply for the view
2 from Mr. Massey's house; is that correct?

3 A Not necessarily. Because if you look at that
4 simulation or if you look at that simulation, you'll see
5 that the Sutter Buttes are further to the left of the
6 view. If you look straight forward, you'll see the pole,
7 but the Buttes are over to the left. And my judgment is
8 that when you -- on the same line of sight, when you would
9 be back at Mr. Massey's house, that pole would still be to
10 the right of the view of the Buttes.

11 Q The pole would be to the right of his view of
12 the Buttes?

13 A Yes. It would be on the right side and the
14 Buttes would not be obstructed.

15 Q If we can turn for a moment to Vis. 12 of your
16 testimony. It's the simulation that you did of the KOP at
17 the corner of -- KOP 5 at the corner of O'Banion and South
18 Township. And in that simulation there are two sets of
19 power lines, the proposed line which is simulated in the
20 existing line which is on the wood poles; is that
21 correct?

22 A Yes.

23 Q Does your analysis consider the tunneling effect
24 of drivers going north on South Township Road?

25 A Could you describe what you mean when you say
26 tunneling effect?

1 Q The visual impact of having two sets of lines in
2 close proximity to the road.

3 A Yeah. I wouldn't really use the term
4 "tunneling" for what we're seeing here because tunneling
5 suggests a visual barrier along the sides of the road that
6 really channels your attention. And in this case the
7 proposed transmission poles are going to be located at
8 least -- or in the vicinity of 750 feet apart, so they're
9 fairly spaced apart. And we're looking at relatively slim
10 poles, so it's not as though we're constructing a wall
11 along the side of the roadway. So I would not use the
12 term tunnel effect.

13 Q Did you consider the effect of these two sets of
14 poles on opposite sides of the road in your visual
15 analysis?

16 A Yes.

17 Q Is it in your written testimony?

18 A No.

19 Q Is it important in your view?

20 A Yeah. It's important to the extent that it's a
21 concern that people have labeled as tunneling.

22 Q Did you sponsor evidence SPP's data responses to
23 the staff data request as part of your testimony that
24 you've sponsored?

25 A Yeah. I didn't prepare those data responses
26 because those were done before I became part of the

1 project, but I have reviewed them.

2 Q I understand. But let me read from one of those
3 responses, if I may. I'm going to refer to now to the
4 Response of the Staff's Visual Resource Data Request
5 Number 6 dated March 4 1998. And with the Committee's
6 indulgence, I want to read the response to that.

7 A Could you tell me what number was that was
8 again?

9 Q That was Number 6.

10 HEARING OFFICER FAY: Could you identify the
11 document, again?

12 MR. RATLIFF: It's the Staff Visual Resources Visual
13 Data Request Response Number 6.

14 HEARING OFFICER FAY: And what date?

15 MR. RATLIFF: March 4 1998. And I hate to read
16 a paragraph, but I feel like I need to put the context on
17 this question.

18 The response that we received considering --
19 concerning this effect that we're discussing right was now
20 was as follows:

21 "After further consideration
22 including the cumulative impacts of
23 both wooden and metal poles, the
24 visual analysis should be changed for
25 South Township Road. The visual
26 impact without mitigation would be

1 considered moderate to high because
2 the visibility of two different
3 transmission poles, the smaller
4 existing wooden poles along the east
5 side of South Township Road and the
6 larger proposed steel poles along the
7 west side. The wooden pole line along
8 the east side of South Township Road
9 is 69 KB, and PG&E does not like to
10 underground transmission lines this
11 far.

12 "At this time, no mitigation
13 measures to the visual effects of
14 adding the 2 KB line have been
15 identified."

16 My question is why you fail to address that in
17 your written analysis which has been indicated in this
18 data request to be moderate to high in this visual impact.

19 A My answer to that is in reading the final staff
20 assessment, the focus of that analysis was on the view
21 from Key Observation Point 5, and no reference was made to
22 the effect that you've just referred to.

23 Q Is there any other area that SPP's analysis --
24 I'm talking about the applicant's analysis -- identified
25 an impact as being moderate to high other than this one?

26 A Yeah. I'm not absolutely certain.

1 Q You're not aware of any? You agree you're not
2 aware of any?

3 A Yeah.

4 Q Now, the response to that data request says that
5 no mitigation measures have been identified. Is the
6 applicant proposing any mitigation for that particular
7 visual impact today?

8 A Nothing beyond the use of tubular steel towers
9 that are painted dull, nonreflective colors and the use of
10 nonreflective conductors or wires.

11 Q And those mitigations which the applicant had
12 proposed had been proposed when this data response was
13 written; is that correct?

14 A I believe so.

15 Q Okay. I'd like to move to some of the
16 statements in your testimony that have to do with
17 criticisms of staff's impact analysis.

18 As I understood the gist of your criticism it
19 was that the staff methodology is subjective and difficult
20 to replicate. I believe you said that; is that is that
21 correct?

22 A That's a part of my critique.

23 Q But that is a correct statement of your
24 critique?

25 A But that is a correct statement of elements of
26 my critique.

1 Q Okay. So although you used the staff's key
2 observation points, you state that you depart from the
3 staff's analysis and that you -- here I'm quoting from
4 page 56, you evaluate the project in the context of its
5 entire viewshed; is that correct?

6 A Let's see, where are we looking on page 56?

7 Q Page 56 paragraph number 5, about the fifth
8 sentence down. I'll read the full sentence. It says:

9 "However, in making our final
10 assessment of project significance
11 under CEQA, we evaluated the project
12 in the context of its entire
13 viewshed."

14 And my question is what is the entire viewshed?
15 How do you define it?

16 A Yeah, if you would go back to the map showing
17 the locations of the key observation points, that's figure
18 Vis. 7, and that follows page 59. And the darker tone on
19 that map shows the area from which the plant and much of
20 the transmission line is visible. And then maps in
21 earlier versions of the analyses show the area from which
22 the entire length of this transmission line would be
23 visible.

24 Q So let me see if I understand your answer. Are
25 you saying that those maps indicate the entire viewshed as
26 you define it, or are you saying that Vis 7 indicates the

1 entire viewshed?

2 A This map along with the other maps that show the
3 area along the westernmost portion of the O'Banion route.

4 Q The aerial photo. So this map in addition with
5 which map?

6 A Why don't we take a look here in the AFC.

7 HEARING OFFICER FAY: I'd like for both of you
8 to be real very self-conscious about terms like "this" and
9 "that." Be real specific when identifying.

10 MR. RATLIFF: The map that he's identified as
11 figure Vis. 7, it's on page 51 of his testimony.

12 Q If I ask can assist.

13 A Yeah.

14 Q We have another map that Mr. Walker has showed
15 me. It's called a Visual Resources Figure 6 in his
16 testimony. Is that the map you're looking for right now?
17 It depicts an aerial view of similar to the one in Vis. 7
18 of the area further west of what is depicted in Vis 7. Is
19 that would what you're looking for?

20 I'm sorry. I'm corrected. Apparently, it's
21 further south.

22 A No. That's not the one. I had thought that
23 there was a map in the AFC which showed the western
24 portion of the transmission line route along O'Banion Road
25 indicating areas from which it was potentially visible.
26 But it appears that because no KOPs had been selected

1 along that route that perhaps that map wasn't included.

2 Q Thank you. If we turn to figure Vis 7 at page
3 51.

4 HEARING OFFICER FAY: Excuse me, Mr. Ratliff,
5 sorry to interrupt you again. The public advisor
6 indicated that folks are having trouble following the
7 discussion. Are there any visuals that we can put up that
8 might help orient the people.

9 MR. RATLIFF: We don't have transparencies, if
10 that's what you mean.

11 HEARING OFFICER FAY: Or some of the
12 transparencies that were shown earlier.

13 MR. RATLIFF: I don't think so because we're
14 talking about a map that has a shaded area which indicates
15 that he defines as having the viewshed.

16 HEARING OFFICER FAY: But this is part of the
17 testimony?

18 MR. RATLIFF: It is part of his testimony.

19 HEARING OFFICER FAY: The parties that have that
20 with them, they would be looking at figure Vis. 7 that
21 follows page 59.

22 MR. RATLIFF: It's on page 51 of his testimony.
23 It's an unmarked page perhaps other testimony appears
24 after page 59 but has no page number.

25 HEARING OFFICER FAY: So it's a black and white
26 map with Key Observation Points numbering 1 through 6

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1 called figure Vis 7 on most copies, just for the record.

2 Q BY MR. RATLIFF: Now, that figure Vis 7, I
3 notice the shaded area does not include the homes that are
4 east of South Township Road on O'Banion Road that we have
5 figures for today that you showed us this morning; is that
6 right?

7 A That's correct.

8 Q When you talk about using the entire viewshed
9 for reaching a conclusion about the significance of an
10 impact, what methodology do you use to perform that
11 process to reach the conclusion of significance versus
12 nonsignificance?

13 A In this particular case, since the staff had
14 chosen to use a methodology that looked at -- that
15 evaluated the significance from each of the key
16 observation points that had been selected, we chose to do
17 the same thing, come up with a rating for each of the key
18 observation points, but then at the end step back and
19 evaluate those individual findings in their larger
20 context.

21 Q How do you do that?

22 Let me ask the question differently to make
23 sure you understand what I'm asking. How would we staff
24 replicate that analysis?

25 A By first of all going back to the overall
26 assessment of the character of the overall landscape

1 setting in which the project is located and then to
2 evaluate the extent to which the changes at these
3 individual points overall would change the overall
4 character and quality of the existing landscape in that
5 setting.

6 Q So am I to follow you to say how you
7 characterize the existing landscape becomes critical as to
8 whether or not you have a significant landscape?

9 A It's important.

10 Q Is it more important than in the new features
11 that you are actually adding to the project?

12 A To answer your question in a slightly different
13 way, I think that you have to give all the elements
14 careful consideration.

15 Q Can you tell us what factors you've used?

16 A To --

17 Q When you say you give consideration to all of
18 the factor, what factors are you using?

19 A To --

20 Q To make this evaluation in terms of the entire
21 viewshed?

22 A Yeah. As I indicated before, and I think --
23 let's see if you look on page 55 of my written testimony
24 where I've laid out my analysis, you'll see the factors
25 that I considered. And I don't know whether you'd like me
26 to review those right now.

1 Q No. I can see them and I think I've read them.

2 Let me approach this differently. In visual
3 resource analysis is it common the use the terms dominance
4 and subordinate in terms of the visual effect on an
5 element on a certain view?

6 A I guess my answer is that at one time it may
7 have been more common than now.

8 Q Do you use those terms?

9 A To be quite honest, I try to stay away from
10 them. And this goes back to one of my strong professional
11 feelings about visual analysis work and that it needs to
12 be presented in clear straightforward language that's
13 understandable, gets away from jargon, specialized words
14 that perhaps take on meaning that distance one from the
15 reality of what you're dealing with.

16 Q Do you know what those terms mean, "dominant"
17 and "subordinate"?

18 A Yes.

19 Q What do they mean?

20 A Dominance is a term actually that Burt Litton
21 first kind of brought into this whole sphere of
22 professional landscape analysis. And it means the extent
23 to which a feature can become the primary element in a
24 landscape that really draws your attention to it. So the
25 dominant element would be the primary kind of the focal
26 element in the landscape.

1 Q So would it be correct to say that something is
2 only dominant or subordinate in such an analysis relative
3 to a particular location?

4 A That's right.

5 Q And to illustrate that point if you were, for
6 instance, living at Highway 113, for instance, and looking
7 west, the PG&E transmission line would be subordinate; is
8 that correct?

9 A If even visible, quite frankly. If even visible
10 from there.

11 Q But if you lived at the west end of O'Banion
12 Road, you might consider it to be dominant; is that
13 correct?

14 A Yeah, again, maybe. It all depends on exactly
15 where you're looking for and what else is in the view
16 composition at that moment.

17 Q Okay. How do you in your entire viewshed
18 analysis account for the proximity of what you're
19 analyzing in determining this impact?

20 A I guess my question is proximity to what?

21 Q Proximity to the viewer.

22 A When you're doing the overall analysis taking
23 all of those viewpoints and looking at them together, then
24 it's a question of how close is it to viewers and how many
25 viewers are there, what's the circumstances under which
26 the viewing is taking place.

1 Q So would I be correct in mischaracterizing, you
2 look at the object to be seen from different locations and
3 then you just sort of decide the significant or if it's
4 not significant based on the gestalt of what you're
5 looking at. Is what you're saying?

6 A I'm having -- I want to make sure I understand
7 the context of your question. Are you talking about
8 analyses of impacts on a specific viewpoint or on the
9 overall project setting?

10 Q For instance, how do you account for the
11 proximity of the line to Mr. Massey's house or the house
12 that KOP 4, for example, Key Observation Point 4, which is
13 on O'Banion Road between the power plant -- I mean, South
14 Township Road between the power plant and O'Banion Road.
15 How would you account for the proximity of those viewers
16 or the proximity of travelers on South Township Road to
17 the project itself in your analysis?

18 A In terms of the residential viewers, the
19 proximity gets taken into account in determining, okay,
20 from those views, what would you see when the project were
21 there, and the distance from the home to the new feature,
22 whatever it is, would determine in part the apparent size,
23 in some cases the visibility of the facility.

24 Q Let me lead that for a moment and just ask is
25 the entire viewshed approach actually documented in some
26 place as to how you do it?

1 A Yeah. I haven't -- I can't point you to a
2 cookbook or a technical book that tells you how to do
3 this. But one thing I might say is that the -- not much
4 has been published on methods for a while for a number of
5 reasons. So there's no cookbook that I could point you
6 to.

7 But what I could do and what I did do was look
8 at the testimony on the Crockett case which had been
9 positively cited by the Commission in its decision on that
10 project as an example on the kind of analysis it felt
11 comfortable with making the overall determination of
12 visual effect.

13 Q Is that the origin of this term that we're using
14 here, entire viewshed analysis, is the Crockett decision
15 you're talking about?

16 A Yeah. I'd have to go back -- here you'll see on
17 page 56 in this Paragraph 5, where I am quoting the
18 Commission's decision, they here make reference to
19 "classification of potential individual and visual
20 incursions as significant without evaluating them in the
21 total visual context." And that's the origin of the --

22 Q Now, that sentence that you're quoting was
23 offered as a criticism of the analysis that had been done
24 in that case --

25 A Yes.

26 Q -- is that correct?

1 A Yes.

2 Q But did that decision tell you what you were
3 supposed to do when you did a visual analysis include the
4 total visual context?

5 A It pointed to the applicant's visual analysis in
6 that case as an example. So that's what I went back to.

7 Q Okay. Were there any, like, rules guidelines,
8 criteria as to what you were supposed to do?

9 A As I recall, again, they did not provide a
10 cookbook but as a model I was able to extrapolate.

11 Q Other than the Crockett decision, this notion of
12 total context visual analysis is something that doesn't
13 exist in the published literature, I take it.

14 A But one thing I should point out is that the
15 findings of significance is kind of a creature of the way
16 in which CEQA is structured.

17 COMMISSIONER MOORE: Mr. Priestley, you had a
18 question in the theoretical literature, is there a back up
19 for this finding of total visual significance? I'd be
20 interested in your response.

21 THE WITNESS: Okay. This is an issue which I
22 haven't seen discussed in an explicit way.

23 COMMISSIONER MOORE: Okay.

24 Q BY MR. RATLIFF: So am I correct in stating or
25 would you agree with, then, that there is no published
26 description of how this total visual context analysis is

1 performed?

2 A Yes.

3 Q Thank you.

4 MR. ELLISON: When you say "published," I assume
5 you are referring to -- excluding, for example, testimony
6 in this proceeding of the AFC?

7 MR. RATLIFF: Yes, that's correct.

8 Q On page 67 of your analysis you state, and I
9 quote, let me see if I can find it first.

10 Again, that's going back to bullet Number 1 at
11 the bottom of the page. If I can paraphrase what you've
12 written there, you say:

13 "Power lines of varying voltages
14 are visually prominent in the rural
15 portions of the Sacramento Valley."

16 You're not saying that they're prominent from
17 every perspective in the Sacramento Valley?

18 A No, I'm not.

19 Q And would you agree that they're not prominent
20 in this viewshed?

21 A One of the things that we should point out, in
22 fact, is that there are already visually prominent
23 transmission lines in that viewshed in that we have a
24 60 KV line running up and down South Township Road.

25 Q Yes. How tall are those power lines?

26 A When I went out and measured them, they seemed

1 to be in the vicinity of 70 feet high.

2 Q You're sure they're 70 feet high?

3 A I would have to check my field notes to be able
4 to tell you for sure.

5 Q We're talking here about the power lines on
6 South Township Road, the east side carries the 69 KV line,
7 distribution line.

8 A Plus a distribution line.

9 Q That's right. And you believe those to be 70
10 feet in height?

11 A Yes. My recollection and, again, I'd have to
12 look at my field notes to tell you for sure they're in the
13 vicinity of -- in the range of 60 to 70 feet.

14 Q We'll come back to the point later.

15 The staff's method evaluates criteria of the
16 value of the visual resource; is that correct? Is that
17 one of the criteria that the staff uses for the value of
18 the visual resource that's affected?

19 A Yeah. Could you show me where.

20 Q I could not. But if necessary, I will. Can we
21 agree that the staff looks at visual qualities as one
22 element of its analysis?

23 A Yes.

24 Q And you don't take issue with that criterion; is
25 that correct?

26 A Not with the criterion but in the way in which

1 it has been operationalized by staff.

2 Q But not with the criterion itself?

3 A Not with the concept of considering the visual
4 quality.

5 Q In fact, you used that criterion yourself.

6 A Yes.

7 Q What is the most significant visual resource in
8 the project area?

9 A As we've heard from testimony, I think if you --
10 it would appear that if you were to ask residents of this
11 area, it would be views toward the Sutter Buttes.

12 Q Would you agree that that is an extremely unique
13 visual resource in the central valley?

14 A In the -- well, I want to be careful here. It's
15 special and unique, but the reality is, in fact, these
16 views are obtainable from many hundreds of square miles of
17 the valley. Although these views from this area are
18 really quite nice, this isn't the only place from which
19 views like this can be obtained.

20 Q You can see them from somewhere else?

21 A Yeah, many, many other places.

22 Q But that doesn't make them less unique.

23 A Well, we have to go back to the definition of
24 unique.

25 Q Well, if you drive up Highway 5, do you see
26 anything else like the Sutter Buttes as you drive up the

1 Central Valley?

2 MR. ELLISON: Do you mean -- when you say like
3 the Sutter Buttes, do you see other mountains or hills?

4 MR. RATLIFF: Yeah. Between Redding and
5 Bakersfield, do you see anything approximating the
6 difference in elevation in close proximity to Central
7 Valley agriculture areas which are predominantly flat?

8 A You certainly can see a lot of other mountain
9 when you're driving up and down Highway 5 and Highway 99
10 and so on. And there's only one Sutter Buttes and it is
11 rather a special landmark. But, in fact, again, it can be
12 seen from many, many areas over for many, many square
13 miles.

14 Q One of the bases that you listed for your
15 conclusion regarding significance pertains to the number
16 of viewers, and I think you established today that you're
17 more than familiar with CEQA and it's guidelines.

18 Is there anything in the CEQA guidelines that
19 direct agencies or analysts, such as yourself, decide and
20 how many persons or residences have to be affected before
21 an impact is significant?

22 A Yes. CEQA does not appear to establish any firm
23 guidelines as to the numbers of viewers.

24 Q Do you understand the CEQA concept of threshold
25 of significance of an impact?

26 A I do.

1 Q I don't mean to put you on to spot, but since
2 you're testifying, can you describe it or make maybe let
3 me ask it this way. Is that a regulation adopted by a
4 public agency determining when you have a significant
5 impact based on a legislative level of impact?

6 A Are you referring specifically to --

7 Q Thresholds of significance.

8 A Threshold but for visual?

9 Q For anything. I'm trying to get the concept
10 across in my own awkward way.

11 A I'm familiar with --

12 Q Let me get to the real question. We can just
13 pass that. Are you aware of any public agency in
14 California that have adopted any thresholds of
15 significance for the number of viewers that have to be
16 affected for an impact to be visually significant?

17 A No, I'm not.

18 Q Are you aware of any NEPA provision, National
19 Environmental Policy Act, provision by statutory or by
20 regulation which tell you how many viewers have to be
21 affected for impact?

22 A No, I am not.

23 Q Does the BLM, Bureau of Land Management, visual
24 impact methodology describe how many people have to be
25 affected for an impact to be considered significant?

26 A As far as I know, it does not.

1 Q In your own analysis how does your analysis
2 determine how many viewers are necessary for an impact to
3 be significant?

4 A I have looked at the numbers of viewers both in
5 terms of residences and numbers of vehicles which provides
6 kind of an indicator of the numbers of people who are
7 driving up and down the roads and then have attempted to
8 put them in a relative context.

9 Q Is there anything in your analysis that
10 specifies how many viewers are necessary for this to be
11 significant?

12 A No, there is not.

13 MR. RATLIFF: I have no more questions. Thank
14 you.

15 HEARING OFFICER FAY: Thank you, Mr. Ratliff.
16 You have mercifully concluded your testimony at the lunch
17 hour, and we appreciate that greatly.

18 So what we'd like to do is take an hour and a
19 half for lunch. We'll return at 1:30, and at that time we
20 will address the petition intervened by the Farm Bureau,
21 because if it is granted, then they would want to
22 cross-examine Mr. Priestley as a party to the case. All
23 right so we'll reconvene at 1:30.

24 MR. ELLISON: Before we adjourn, I have a
25 substantial amount of cross-examination for the staff
26 witness, Mr. Walker, and I'm concerned about our ability

1 to get it all in today. I don't know what the Committee's
2 intentions are about how late we might go. I wanted to
3 put everybody on notice as I had previously. If that's
4 the case and if the Committee's concerned about that to
5 suggest that we perhaps take an hour lunch instead of hour
6 and a half just to put every on notice that I do have a
7 lot of cross-examination of Mr. Walker.

8 COMMISSIONER MOORE: Mr. Ellison, I have no
9 problem with taking an hour for lunch. I also don't have
10 any problem in going later. I think we were set up so
11 that we can go into the evening as well.

12 I also have a number of questions for your
13 witness myself, and I don't know whether Commissioner
14 Keese does as well, but we're set up to go through this,
15 and we'll take -- and if we roll on we'll take additional
16 breaks as well.

17 HEARING OFFICER FAY: We'll return at 1:00
18 o'clock.

19 (

20 AFTERNOON SESSION

21 HEARING OFFICER FAYE: The staff has concluded
22 its cross-examination of the Visual Resources witness.
23 And before we proceed, I want to announce there's been a
24 petition for intervention by the Yuba Sutter Farm Bureau
25 dated November 13 and signed by the president of the Yuba
26 Sutter Farm Bureau with a letter showing cause why they

1 ought to be given lead to intervene. And if they are
2 granted lead to intervene, they would be eligible as a
3 party to cross-examine the Applicant's witness at this
4 time.

5 So we need to take this up right now. I'd like
6 to ask if there's no objection to the Farm Bureau's
7 petition to intervene in the case.

8 MR. ELLISON: I thank you, Mr. Faye. First of
9 all, we received this petition. I guess it was sent out
10 late Friday. I did not see it until late last night about
11 9:00 o'clock last night for the first time. And so we're
12 responding to something that we were literally just
13 handed. I want to put things on the record before I state
14 the Applicant's position on this.

15 First of all, petitions for intervention in this
16 proceeding were due on or before the prehearing conference
17 that was held on August 19th. That was what they said in
18 the prehearing conference order.

19 The Sutter -- Yuba Sutter Farm Bureau as well as
20 the individual farmers that are mentioned in it have been
21 participants although not intervenors in this process,
22 both formally and in a sense of appearing at these
23 workshops and hearings and informally in a sense of
24 Calpine meeting with them for many, many months. And
25 Calpine, for example, met with their board more than a
26 year ago, I believe, and made a formal presentation about

1 the nature of the project to them then. We have held an
2 informational hearing in February in which the project was
3 described and the AFC describing the project was described
4 and placed in the local library.

5 And I know that, for example, Brad Foster who
6 was one of the people named to be represented by this
7 potential intervention was certainly there, as I believe
8 others were. And at that time the difference between
9 intervening and public comment was explained explicitly
10 back in February. The role of the public advisor was
11 explained explicitly and was told -- everybody was told
12 that if they had any questions about how to participate,
13 that the commission uniquely has asked this public advisor
14 to help them do that.

15 Subsequent to that we, have held numerous
16 workshops and proceedings on this project culminating
17 beyond the AFC in the release of the preliminary staff
18 assessment which describes the impasse of this project and
19 then ultimately the final staff assessment.

20 All of these things make clear that the Yuba
21 Sutter Farm Bureau and its individual members have been on
22 notice about this project and what was proposed by Calpine
23 for a very long time. And in Calpine's opinion there is
24 no basis for them to have waited so long to choose to want
25 to intervene. This is not a mere technicality, let me
26 say. This is not simply enforcing some arbitrary

1 deadline. The reason for the distinction between
2 intervention and public comment is that intervenors have
3 numerous responsibilities that public comments do not
4 have. And their testimony is given greater weight
5 precisely because it's been subject to the rigorous
6 examination, data requests, potential cross-examination,
7 potential rebuttal, and all of those sorts of things.

8 All of those opportunities and deadlines
9 for that rigor have come and gone with respect to the
10 issues named in this petition which puts the Applicant in
11 a position of -- with respect to this intervention or at
12 least the presentation of witnesses by this potential new
13 intervenor -- of being severely prejudiced by this
14 intervention. And a specific prejudice is that either
15 this testimony comes in without the Applicant having been
16 afforded the opportunity to see prefiled written
17 testimony, to file data requests on it, to present
18 rebuttal witnesses of its own, and to prepare the
19 cross-examination in a way that its witnesses certainly
20 have done and been cross-examined. Or we have to slip
21 this schedule in order to allow for out of all of those
22 procedural fairness events to occur and ignore the statute
23 which calls for a decision in this matter in January.

24 That's the consequence of the Farm Bureau
25 waiting this long to intervene is that they put the
26 Commission and the Applicant and all other parties in the

1 position of having if the intervention is granted a
2 Hodson's choice between creating a procedurally unfair
3 proceeding or missing the statutory requirement for the
4 timeliness of the proceeding. That's a severe prejudice
5 no matter which way you go for the Applicant.

6 Having said all of that and on the basis of all
7 of that, Calpine strenuously opposes this motion to
8 intervene and I want to make that abundantly clear on the
9 record. We think there's no excuse for the Farm Bureau
10 having waited this long. They've been on notice many,
11 many months when these deadlines were due. One of the
12 responsibilities of an intervenor is to obey these
13 deadlines, and they have clearly not done that.

14 If the Committee is inclined, however, to grant
15 a petition over Calpine's objection, then I think it's
16 important that the Committee do what Mr. Fay said the
17 Committee would do at our previous hearing with respect to
18 late interventions, which is to allow the intervenor to
19 participate but only to take the proceeding as they find
20 it, that we will not go backwards to redo things that have
21 already been done and missed by that intervenor's
22 tardiness.

23 And in that case, I wanted to point out that the
24 deadline for filing prefiled testimony has come and gone.
25 The deadline identifying witnesses has come and gone. The
26 presentation of affirmative witnesses on socioeconomic has

1 come and gone. And if you allow the intervenor to
2 participate from this point forward, it would seem to me
3 that that would preclude the presentation of an
4 affirmative witness if they take the proceeding as they
5 find it, that they would then be allowed to intervene in
6 the sense of cross-examining witnesses that will appear
7 from this point in the proceeding forward.

8 So to summarize Calpine's position, we object
9 strenuously and on the basis of the prejudice to the
10 proceeding and to all parties, and specifically the
11 Applicant, we object to the petition to intervene. But if
12 that objection is overruled, we would ask the Committee to
13 at least require the intervenor to take the proceeding as
14 they find it, meaning that the opportunity to present
15 affirmative testimony would not be afforded to this
16 intervenor because that opportunity has already come and
17 gone, but they would be permitted to cross-examine
18 witnesses who appear from this point forward.

19 HEARING OFFICER FAY: Thank you, Mr. Ellison.

20 Mr. Ratliff, does the staff have a response to
21 the petition?

22 MR. RATLIFF: The staff does not either oppose
23 or support a petition, but we are concerned with the
24 impact on schedule, particularly if we had to revisit
25 issues that we've already offered testimony on.

26 So our concern would be that we not have to go

1 back and call witnesses who have already testified to
2 testify again on the same issues that they have addressed
3 recognizing that certain areas that will be addressed that
4 were not apparently addressed in the original testimony.

5 HEARING OFFICER FAY: Thank you. Is there a
6 representative from the Farm Bureau that would like to
7 defend the petition.

8 MR. YOUNG: Yes. I'm Russell Young, Yuba Sutter
9 Farm Bureau. In regarding for the lateness of it, that's
10 been stated in the letter asking for the petition. When
11 we first started in on this realized or didn't realize
12 that public comment would suffice in answering our
13 questions. And at this time we wanted to have the ability
14 to cross-examine the witnesses.

15 I'm not a lawyer. I don't understand the having
16 the witnesses listed way ahead in advance. I feel that if
17 we have one coming up at the next hearing, that the notice
18 will be sent to the parties and they will have a chance to
19 research it, set up their questions and ask their
20 questions if they want.

21 But today I said we don't have any witnesses to
22 bring forward, but we would like to be an intervenor at
23 this time so we would be able to question.

24 Briefly on an incident that happened at the last
25 hearing that came and blindsided us. And had we been an
26 intervenor earlier, we might have found out about it. But

1 like I say, from the start, we felt the public comment
2 would suffice our needs. But as this process has gone
3 along, we have found out it will not suffice our needs.
4 We humbly submit our petition.

5 COMMISSIONER MOORE: I have a question for you,
6 Mr. Young. Do you understand that there are other duties
7 that go with being an intervenor as Mr. Ellison referred
8 to them, that there are responsibilities to prepare
9 documents when you intend to do something going forward,
10 that there are responsibilities in terms of meeting
11 deadlines, having materials that you might want to submit
12 to come up on time? Do you understand about that?

13 MR. YOUNG: If we have witnesses, I understand
14 that they have to have their testimony in ahead of time so
15 opposing party can understand.

16 COMMISSIONER MOORE: In that case, as Mr. Ellison
17 pointed out, the testimony that would have to be on the
18 record has already been identified long ago. I don't
19 recall the deadline for that, but all I'm saying is that
20 we have a series of regulations that govern how we need to
21 respond if you are going to be an intervenor. And I'm
22 asking are you aware of those and are you prepared to work
23 within those if this petition were granted?

24 MR. YOUNG: Yes. We're prepared to work within
25 them.

26 MR. ELLISON: The deadline for filing testimony

1 in this proceeding on land use and socioeconomics as which
2 I understand the Farm Bureau is concerned about is October
3 23rd. So it's not just a matter of having testimony in
4 ahead of time. It's a matter of having it in three weeks
5 ago, three and a half weeks ago.

6 COMMISSIONER MOORE: Mr. Young, as I understood
7 your comments, what you really intend to gain by this is
8 to gain the ability to cross-examine witnesses in a more
9 strenuous way than you feel you were afforded by simply
10 having access to public comments.

11 MR. YOUNG: Yes.

12 HEARING OFFICER FAY: Mr. Young, is it your wish
13 to present affirmative testimony?

14 MR. YOUNG: At this time, we have no witnesses
15 or testimony coming forward.

16 HEARING OFFICER FAY: One thing that I think
17 might recommend to the Committee, if they were seriously
18 entertaining this petition to the intervenor, is that at
19 the very least the rule that we followed throughout this
20 case having testimony filed at least ten days in advance
21 be observed. Therefore, if you do plan to present a
22 witness, the written testimony of the witness would have
23 to be filed by this Friday, November 20th. That would
24 give a ten days before the December 1st hearing.

25 And I'll note at this time we are trying to free
26 up the schedule. So I'm going to renote the December

1 1st hearing to begin at 9:00 a.m. It was noticed to be
2 only an evening hearing. Commissioners cleared their
3 schedule so we would begin on the 1st at 9:00 a.m. and
4 have the evening available as well, so we'll have a
5 daytime and an evening session. And the schedule of
6 events for December 3rd will be moved up to December 1st
7 to the extent we can finish on the 1st so that we would be
8 addressing not only update on land use, we take the
9 testimony on air quality, public health, and then we'll
10 take supplemental testimony as directed on the order of
11 facility closures, socioeconomic land use and
12 alternatives.

13 And if there is any testimony to be filed by the
14 Farm Bureau, they would have to present it on the 1st and
15 prefile it this Friday.

16 MR. YOUNG: Yes, sir. I understand.

17 HEARING OFFICER FAY: These are the Committee
18 rules.

19 MR. KEESE: You certainly helped us out somewhat
20 by limiting the scope of what you'd like to intervene on,
21 the land use and socioeconomic. You indicated that you
22 had no intent at this time of filing affirmative
23 testimony. With a Friday deadline, is that something you
24 would be comfortable with, not filing affirmative
25 testimony but merely being able to cross-examine?

26 MR. YOUNG: Under the circumstances, I would say

1 we'd be comfortable with it, yes. The cross-examination
2 is the most important thing for us now. I do not know of
3 a witness coming -- we have coming forward at this time.

4 COMMISSIONER KEESE: I don't want to prejudice
5 your ability here but when I have to decide whether we
6 should take an extraordinary action and to change
7 something to participate in the procedure all along to an
8 intervenor's status, the smaller bite you're asking for is
9 going to look more favorable to me.

10 MR. YOUNG: I understand that.

11 HEARING OFFICER FAY: Just for the record, the
12 Section 12 of our own regulation states what the rights
13 and duties are to become a party in a case. And in part
14 it says no person who becomes a party shall be permitted
15 to reopen matters or discovery dealt with in the
16 proceeding prior to the time when such person became a
17 party without a showing of good cause.

18 Do you have a showing of good cause as to why we
19 ought to reopen any areas that have already been
20 concluded?

21 MR. YOUNG: No, I don't. However, if it is
22 reopened by another and revisited by the Commission, we
23 expect to have the ability to ask questions at that time.

24 HEARING OFFICER FAY: I understand. I
25 understand. All right. And in addition that same
26 regulation says that each party shall have the

1 responsibility to comply with the requirements for filing
2 and service of documents, presentation of witnesses and
3 evidence and any other reasonable conditions which may be
4 opposed by order of the presiding member.

5 So by petitioning, you agree to abide by the
6 Committee orders, and that means that you send to the
7 Committee -- you've got to send copies to all of the other
8 people on the proof of service list is that --

9 MR. YOUNG: I understand that.

10 HEARING OFFICER FAY: What I would recommend to
11 the Committee is that they grant leave for the Farm Bureau
12 to cross-examine witnesses for the rest of the day but
13 withhold their ruling on this petition so they have a
14 chance to give it some thought and not have to rule right
15 now from the bench.

16 Do you have anything further to say?

17 MR. YOUNG: I didn't quite --

18 HEARING OFFICER FAY: That we would allow you to
19 cross-examine at this time and, in other words, not
20 granting your petition to intervene at this time right now
21 but so that you would not be prejudiced, to allow you to
22 cross-examine this witness and that the Committee will
23 rule later, perhaps later today, on your petition.

24 Normally, a petition is ruled on in writing, but
25 the time lines are so tight in this situation I think it
26 would be better for all parties to know as soon as

1 possible. But I don't think the Committee should be put
2 on the spot to rule on this immediately.

3 So I think with that understanding, we could
4 proceed and withhold our ruling.

5 MR. YOUNG: On the issues that we would like to
6 be able to cross-examine that we missed would be the air
7 quality, one other one.

8 HEARING OFFICER FAY: So you would like to amend
9 your petition to also add air quality?

10 MR. ELLISON: I'd like to clarify. I take it
11 you want to cross-examine on land use, socioeconomic and
12 air quality?

13 MR. YOUNG: Our letter said land use, visual
14 impact, socioeconomic, alternative transmission routing
15 and air quality.

16 MR. ELLISON: So you want to cross-examine on
17 all those areas?

18 MR. YOUNG: If you're going to visit those
19 areas, I would want the right to cross-examine.

20 MR. ELLISON: Well, as a practical problem, I
21 would reiterate our objection, Mr. Fay, that not having
22 received this petition until this morning, I obviously
23 haven't done any of the preparation one would normally do
24 to Dr. Priestley to prepare him to be cross-examined by
25 anyone other than the intervenors that we have had in the
26 proceedings.

1 So if the Committee wishes to allow that
2 examination to go forward over our objection, there's
3 obviously nothing we can do about it. But I would state
4 for the record, Dr. Priestley has not had any opportunity
5 to prepare for a cross-examine by the Farm Bureau.

6 COMMISSIONER MOORE: Mr. Ellison, I'm respectful
7 of that point but certainly it seems to me that in this
8 case with no documents ahead of time, no questions, it
9 would have been pretty hard for Dr. Priestley to prepare
10 in any case of the -- to hearsay. I'm not sure what you
11 would have gotten that would have prepared him.

12 In any case, I mean, you have no more
13 information than we have.

14 MR. ELLISON: Commissioner, let me respectfully
15 disagree. We have spent many hours working with
16 Dr. Priestley, preparing him to be cross-examined by
17 parties. We obviously don't know the specific questions
18 they're going to ask. We know who they are. We know what
19 their position is. We understand what position they have
20 taken in the past. There's a lot of preparation that one
21 does to get a witness to be ready to be cross-examined.
22 And obviously we have none with respect to the Farm
23 Bureau.

24 COMMISSIONER MOORE: Okay. You make your point.

25 HEARING OFFICER FAY: And, Mr. Russell, to be
26 perfectly clear, your petition I believe it asks the right

1 to present witnesses. But you're telling us you do not
2 plan to present witnesses; is that correct?

3 MR. YOUNG: At this time we have no witnesses to
4 present and I see none in the future, especially if we
5 have to have the writing -- this testimony in writing by
6 this Friday.

7 HEARING OFFICER FAY: So we can assume that your
8 petition does not include the request to present your own
9 witnesses and affirm the testimony, just to cross-examine?

10 MR. YOUNG: I think that's an all encompassing
11 sentence.

12 HEARING OFFICER FAY: Okay. Thank you.

13 The commissioners are concerned because the list
14 of subjects you read from is longer than the list on your
15 petition. Your petition was just the land use and
16 socioeconomic, and you listed quite a number of other
17 subjects.

18 MR. YOUNG: I'm sorry. But I thought that
19 letter got to you.

20 HEARING OFFICER FAY: The letter only includes
21 socioeconomics.

22 MR. MOORE: Mr. Young, in the petition that we
23 have you indicated land use and socioeconomic issues.
24 Now, those for the greater part have gone past. We've
25 discussed those at some length.

26 So in a sense you're talking about things that

1 have already been discussed and your ability to
2 cross-examine doesn't exist on those issues.

3 You've now listed air quality which hasn't come
4 up yet and visual impacts which are before us today.

5 Then you said that you wish to have the ability
6 to should we reopen any of those areas to cross-examine at
7 a later date. So I don't know quite how to square what
8 you just said about the number of issues that you'd like
9 to intervene on in your letter which cites land use and
10 socioeconomic issues.

11 I'm assuming that basically what's available to
12 you as a practical matter is in the best case that you
13 would gain the ability to cross-examine or literally
14 direct questions to either the Applicant's witness or to
15 our staff witness but only on those issues going forward
16 out of today. In other words, we have no ability to back
17 cast nor do we really have an ability to reopen the record
18 or new data.

19 MR. YOUNG: I was told that land use was on the
20 agenda today or the next meeting. Is it not?

21 COMMISSIONER MOORE: There is a section on land
22 use regarding the question of how we sequence within the
23 Sutter County process. But for all intents and purposes,
24 that broader land use questions were discussed the other
25 day, and I think you were here.

26 MR. YOUNG: That is one of the reasons that it's

1 listed here and I've listed it to you.

2 COMMISSIONER MOORE: I see, because it came up
3 on our list. I understand. Okay. Thank you.

4 MR. YOUNG: One other thing, if you do give us
5 the right to intervene, we will get copies of what's been
6 said, like, as soon as everybody else does.

7 HEARING OFFICER FAY: That's correct. You would
8 be on the proof of service list, and we'd have to mail it
9 to you the same time they mail it to other parties.

10 Now, keeping in mind what I said about the
11 Committee withholding it's rule at least to later today at
12 the very least, but so is that you wouldn't be prejudiced
13 we would give you lead to cross-examine this witness at
14 this time.

15 So are you prepared to do that?

16 MR. YOUNG: Yes. I'm prepared to do that.

17 HEARING OFFICER FAY: Why don't you go ahead
18 then, cross-examine Mr. Priestley. We've not ruled on the
19 petition yet. But to the extent that Mr. Priestley is
20 going to be cross-examined, your objection is overruled,
21 Mr. Ellison, and we'll go ahead. We just want to give the
22 Committee time to think about the petition and not have to
23 rule on such short notice.

24 MR. YOUNG: At this time I'll turn it over to
25 Brad Foster.

26 MR. ELLISON: Let me -- before we end the

1 subject, I'll just ask one question. The question is I
2 assume that should the Committee choose to deny the
3 intervention that we will strike the questions and answers
4 from this intervenor. I see heads nodding.

5 HEARING OFFICER FAY: Yes. Logically, if the
6 petition is denied those questions and answers would be
7 stricken.

8 MR. ELLISON: In that case let me make a
9 provisional motion to strike from inventing new
10 procedures. And in my statement I want to make clear to
11 Sutter Yuba Farm Bureau, we did receive this petition just
12 this morning. We haven't had the opportunity to discuss
13 what questions or what your concerns are. So we're sort
14 of shooting in the dark here, and maybe what you have in
15 mind is something that is workable, and we'd be happy to
16 sit down and talk to you about it. But just based on the
17 petition we have to strenuously object, and we understand
18 the Committee's ruling.

19 HEARING OFFICER FAY: I know Mr. Ellison touched
20 on how early the deadlines were that have been missed and
21 that sort of thing. I'd like to put this in context. Our
22 bias of the Energy Commission is to bend over backwards to
23 get as much public access to the process as possible. In
24 a normal proceeding, a petition such as this would be so
25 late as to be grossly prejudicial to the parties. And, in
26 fact, Mr. Ellison has already stated that it is.

1 Nevertheless, we are obviously making a stretch
2 to allow you to cross-examine right now pending the
3 ruling, and the Committee will certainly take into account
4 the Commission's great interest in public access. But I
5 know you can understand we've got to balance that with
6 fairness to the parties, to all the parties that have
7 participated right along, especially since you folks have
8 had notice of all these possibilities.

9 With that said why don't you go ahead and ask
10 the questions.

11 MR. ELLISON: Mr. Fay, let me say one other
12 thing. We should note on the record one of the
13 intervenors who has been active is not here today. They
14 have taken quite an interest in the socioeconomic issues,
15 and I suspect that they might -- although I don't know --
16 they might have to say about this. And I think the record
17 should reflect that they're not here.

18 HEARING OFFICER FAY: Okay. Mr. Foster.

19 EXAMINATION BY MR. FOSTER

20 Q This is going to be very simple and short. We
21 had the visuals earlier up on the screen Number 15. It
22 was facing west on O'Banion Road. We talked about the
23 trees that were going to block the corner pole.

24 My question is is this a deciduous tree or an
25 evergreen?

26 A It appears to be a deciduous tree.

1 Q I'm going to have the same question with the
2 orchard.

3 A Yeah. It's clearly deciduous.

4 Q We also saw the distribution lines with the
5 lines going across the street to pumps, to homes or
6 whatever.

7 Are any of these lines placed on the west side
8 of Township Road, north of O'Banion which would be in the
9 direct view of Sutter Buttes?

10 A Which lines are you referring to now?

11 Q We're on O'Banion. We're looking at a picture
12 west of O'Banion on Visual 16.

13 A Okay.

14 Q And you have the power lines with the
15 transformers and lines going across the street. Do we
16 have a power line running on the west side of O'Banion
17 Road that's delivering power to pumps or is this -- on
18 Township Road. I'm sorry.

19 A On South Township Road?

20 Q On South Township Road, west side of the road.

21 A At the present time for most of the length
22 between O'Banion Road and the power plant, the 69 and
23 12 KV lines are running up and down the east side of the
24 street. But at a point about an eighth of a mile south of
25 the Greenleaf 1, as you know, there's a jog in that road.
26 South Township Road is not straight. At that point at

1 that jog, that line is on the west side of the street.

2 Q Thank you. Did you take any consideration into
3 these whole viewing areas to an agricultural form of life,
4 that we spend most of the daylight hours in the fields and
5 not in our homes?

6 A See, I want to make sure I understand your
7 question. You're indicating that most of the day you're
8 outside and not in your home?

9 Q Yes, I am, and most of my neighbors. And we
10 talked about all these key observation points. But in all
11 reality, as a farmer, people in that area are not looking
12 out their windows. They're standing in their front yard.
13 We are -- that entire countryside. Even in pruning of a
14 prune orchard, half the day is spent above the tree line,
15 and were any of these impacts taken on this?

16 A That's probably one of the downfalls of a key
17 observation point. That is a -- pick a spots that are
18 intended to be representative of the kinds of views that
19 people get.

20 And so, in fact, when one makes an assessment,
21 this is an argument for doing the holistic kind of
22 approach where you take into account these non -- kind of
23 nonpoint sort of viewings.

24 I guess my primary response is in a general
25 sense, yes. But given the small numbers of people
26 involved with those kind of viewing experiences, that

1 heavy weight was not given to those kind of views.

2 Q On most of these photos we brought up the
3 viewing the older plant. What is the magnitude of the way
4 the new plant going to be in comparison to one of these
5 pictures next to the old plant?

6 A When you say "magnitude" --

7 Q Well, you point out the speck of the old plant,
8 and the new plant being much taller and larger how much
9 greater?

10 A Why don't we take a look at some of the figures,
11 okay. In my written testimony, on page 54, I think
12 there's a little bit of a summary here. So some of the
13 key things are the turbine building and the cooling tower
14 are now 50 feet tall and the stack is 60 feet tall.

15 Q The cooling tower is 50 feet?

16 A Yes.

17 Q Does this have anything to do with the dry
18 cooling which is hundred feet?

19 A No. We're talking about Greenleaf 1 here.

20 Okay. And then if you look on page 55 of my
21 written testimony, at the top of the page you'll see that
22 the stacks are 145 feet high. The generator housing units
23 would be 70 feet high. And that dry cooling unit that you
24 referred to would be 109 feet high.

25 Q Thank you. One other question. Does a
26 single-phase transmission line have less of an impact as a

1 double impact visual impact in your opinion as a
2 single-phase?

3 A Well, what I would say there is clearly more to
4 see of a two-circuit. Are you talking about a two-circuit
5 line?

6 Q Yeah.

7 A So with a two-circuit line, there's clearly a
8 bit more to see than there would be with a single-circuit
9 line. But in both cases you do have the transmission
10 pole. So the difference is with a double-circuit line the
11 pole might be a little bit higher and there would be more
12 arms at the top.

13 MR. FOSTER: Thank you. That's it thank you.

14 HEARING OFFICER FAY: Thank you, Mr. Foster.

15 Commissioner, do you have any questions of this
16 witness?

17 COMMISSIONER MOORE: I do.

18 EXAMINATION BY COMMISSIONER MOORE

19 Q Dr. Priestley, you have spent a fair amount
20 time, the vast bulk of your time talking about
21 transmission lines. But only until the last set of
22 questions have we discovered anything about the facility
23 itself, and I want to pursue that for just a moment.

24 In your report I didn't see an analysis of what
25 the impact of the facility when it's expanded would be on
26 the night sky. We heard some testimony in an earlier

1 meeting about the magnitude of lighting impacts. In fact,
2 most of the power plant tend to be lighted at various
3 places along the catwalks for safety, as I understand, it
4 through the night to make sure people can get around
5 without hazard.

6 Can you describe the magnitude of the visual
7 impact on the night sky when this is combined with the
8 existing plant and the range at which it would be seen
9 from the surrounding area?

10 A Yeah. On this issue, we have agreed with the
11 Energy Commission Staff Assessment that with the various
12 mitigation measures that they have proposed that the
13 impact on the night sky would not be significant.

14 Q Can you just describe what you would see at the
15 end if it was all mitigated, if everybody's mitigation
16 measure were implemented and this were diminished from
17 what it could be. In fact, maybe for my own benefit you
18 could talk me through what it would be like if it weren't
19 diminished and then I can understand the relative
20 magnitude of the mitigation measures proposed. Without
21 those mitigation measures, by the way, would it be
22 significant?

23 A In this particular context my assessment is that
24 it would not be significant.

25 Q Okay. Can you describe the range of what would
26 happen with the mitigation measures. How far away would

1 you be able to see the plant and do those mitigation
2 measures take into account any of the impacts on the
3 existing Greenleaf 1.

4 A In terms of the mitigation measures, we might
5 take a look at precisely what they are. First, and this
6 is one that hasn't been proposed specifically for night
7 lighting but, in fact, it could have some implications for
8 it is Mitigation Visual 4 which involves a creation of a
9 landscape buffer around the southeast and northern sides
10 of the plant site. And trees will be planted that
11 ultimately will grow 60 to 80 feet tall.

12 So from many of the close-in viewing locations,
13 the screening provided by that vegetation would, in fact,
14 block views of much of the light coming from the existing
15 Greenleaf 1 plant and from the proposed facility.

16 Q Dr. Priestley, let's assume that I'm -- that's
17 20 meters at full height, so at a distance of 20 meters
18 out, assuming that there were no lights higher than 20
19 meters high on the building itself. If the landscaping
20 buffer were in place, I wouldn't be able to see anything
21 going on. As I proceed outward beyond that, let's say I'm
22 now one kilometer away looking back at the plant --

23 A Yeah.

24 Q -- do I see above the screening at all? Do I
25 see glow or do I see lighting coming from that? How well
26 has the screening done in deflecting or shielding?

1 A For longer distance views, the screening would
2 not have very much effect. But as you start getting in
3 closer to the plant, then it would play a role.

4 Q And how far away would I be before the lights
5 simply became another distant feature in the horizon, same
6 as the city would be, they'd be in a relatively dark
7 background at night because it's surrounded by ag land.
8 How far would I go before they diminished in significance
9 to just be another set of lights out in this distance?

10 A Yes. I'm afraid I can't give you a threshold.

11 Q Let me make sure that I've got the visuals right
12 here. In your, I believe, it's Visual 12, which is the
13 poles, two poles going down the road. I'm at visual 12
14 which has a superimposition of a single pole on the
15 opposite side of the street from a 60 pole wooden pole.

16 And so with that visual aid in mind, is that a
17 fair representation of the new pole design whether it's
18 die (phonetic) pole or single pole for the wires that it
19 carries the support structure is what you envision would
20 go alongside the road?

21 A Yes.

22 Q That type and magnitude?

23 A Yes.

24 Q And when we discussed this earlier, when you
25 were discussing it with the staff, I believe Mr. Ratliff
26 was asking you the questions about it at that time, and he

1 asked the question regarding, I believe tunneling. And I
2 was expecting an answer where you would say, well, because
3 there was no horizontal or roof feature to it, you
4 couldn't get tunneling. But, in fact, you answered that
5 because there was no consistent side to it. But as I look
6 at this, I'm struck by the fact that I have a corner that
7 is distinctly defined. There's no mistaking the fact
8 that -- where I had -- if I only had one set of poles on
9 one side, I was looking out at an open-ended vista, but
10 now the vista is defined. I have a diminishing frame as I
11 go forward, I have a sense of perspective. I have a
12 corridor that's defined. Do you concur with that?

13 A Yeah. I'm more comfortable with the use of the
14 term defined visual corridor, yes.

15 Q Do you think that that corridor feeling or the
16 sense of definition of sides is diminished significantly
17 if you had the poles on both sides -- I'm sorry -- on one
18 side, both poles on one side, would we be back even with
19 the greater magnitude pole style? Would you still have a
20 more open feeling if both poles were on the same side of
21 the road, were that to be possible?

22 A Yeah. I think certainly the sense of there
23 being a defined corridor would be lessened.

24 Q Okay. I'm struggling to find 15 and 16. Those
25 are the ones that you included in the --

26 A This morning.

1 Q -- this morning. And I'm now asking myself the
2 question of how to define visual impacts. I mean, I think
3 in this case, you probably have had the most thankless job
4 of trying to take and almost quantify something which
5 defies quantification.

6 So in that spirit, let me ask you what
7 mitigations are available when you make the decision that
8 its economically not viable to underground for very long
9 distances, especially with this high voltage. What types
10 of mitigations are really available to you other than to
11 carry things on a single side of a road, one pole instead
12 of many, combined wires closer? What else is available in
13 your toolkit?

14 A Yeah. I think you've hit on some of the key
15 ones, the use of the tubular steel pole is really one of
16 the major things that available. Sometimes, too, if there
17 is an existing distribution line down the road, it's as
18 you probably know the technologically it's a lot cheaper,
19 more feasible -- technologically more feasible to
20 underground distribution lines and transmission lines.
21 And very often the distribution lines are put underground
22 to reduce the number of poles and wires. And, in fact,
23 that is what's going to be going along O'Banion Road.

24 Q One of the things that strikes me is that the
25 poles that go up in terms of their life span probably
26 describe a life span of 80 years. I know that the

1 Southern California Edison people were showing me new
2 transmission towers made of composite materials that
3 apparently have a useful life span that could exceed a
4 hundred years. And that's pretty impressive.

5 Most of the trees on the other hand that would
6 be used for screening probably have a useful life before
7 they reach maturity and finally overmaturity. I know I'm
8 not telling you anything that you don't know from your
9 landscape days.

10 What provision is made to make sure that if
11 there is a screening barrier, if there's landscape buffer
12 that gets established that it's somehow established in
13 perpetuity. I look to the question of downtown Sacramento
14 where 30 percent of the urban forest is overmature, and
15 when you cut it down you've got 60 to 70 years of growth
16 before you get to that kind of a treescape again. And
17 then it only lasts in that period for 30 years or so.

18 How do we go from nothing to something that
19 screens and then account for the fact that there's a life
20 span of these. How do you make sure that your landscape
21 buffers are there in perpetuity?

22 A That could be achieved by this establishment of
23 a landscape management program where the status of the
24 vegetation and its functioning as screening is monitored
25 and that there is a plan to put in new plantings over
26 time. So that as old plantings have to go, there's

1 something there to take its place and serve the screening
2 role.

3 Q Let me take you back to a question that was
4 asked of you earlier regarding the use of two words,
5 dominance versus say subordinate. We didn't go very far
6 on that. But let me ask you in the context of Visual 12,
7 I think it was, in Vis. 12 from your Key Observation Point
8 12. Would you consider that in a relative scale a new
9 pole is dominant and the old pole is subordinate in
10 scale?

11 A Yeah. I have lots of reservation about using
12 these kind of terms, but I would agree that the new pole
13 really is the primary element that you see in your view,
14 the kind of the -- focus of your attention. And although
15 the existing poles are less important that they are also
16 visible in and important in that scene.

17 Q Is the new structure that's proposed high enough
18 that it warrants an aircraft warning light a winking light
19 or anything else that is a warning to aircraft that might
20 be in the area and if it's not, at what height does it
21 become 140 feet?

22 A I don't think that it is, but I can't tell you
23 what the precise threshold is where warning lights are
24 required.

25 MR. MOORE: All right. Okay. Thank you very
26 much.

1 Mr. Fay.

2 HEARING OFFICER FAY: Mr. Keese has indicated he
3 has no questions. I have a few questions Mr. Priestley.

4 EXAMINATION BY HEARING OFFICER FAY

5 Q On page 54 of your testimony you refer at the
6 bottom of the third full paragraph to the views along
7 Highway 20 as being protective views or designated scenic
8 views, but that in fact in spite of that southern Sutter
9 County has allowed development in industrial park along
10 Highway 20 very near the Sutter Buttes.

11 This industrial park, does it intrude on the
12 viewshed of Sutter Buttes? Does it impact the scenic
13 views in your opinion on Highway 20?

14 A I have driven by that site and as you drive by
15 it, clearly you can see these industrial structures and
16 the layout of the industrial park in your views towards
17 the Buttes.

18 Q So would this be an example of that County
19 policy not being followed, or does it seem to be in
20 contrast of the County policy?

21 A Yeah. I guess ultimately you'd have to -- this
22 is a question for the County.

23 Q Just based on your experience, if you have to
24 evaluate that and advise somebody, would you say that was
25 an example of their policy being followed?

26 A Yeah. I'm not quite sure I'm understanding the

1 point of the question. I apologize.

2 Q My question is you cited Highway 20 as being, I
3 believe, one of the areas that is designated as a scenic
4 highway. And in your opinion, is that industrial park
5 near the Sutter Buttes consistent with the practices of
6 the scenic highway?

7 A I'll tell you my frank opinion. I think time
8 will tell what kind of design guidelines they have for
9 those kind of facilities in terms of setbacks, in terms of
10 materials, color screening, all of these things only my
11 personal view, my professional view that in that
12 particular location the industrial park is not necessarily
13 in conflict with their policy of making this a scenic
14 corridor. If they really pay attention to how those
15 buildings are sited and what their effects are going to be
16 on the view corridor towards the Buttes and again what
17 kind of treatments they give to kind of integrate the
18 facilities in to the scene.

19 Q Okay. And on page 55 you describe your
20 methodology. Can you give us an example of where this
21 methodology has been applied other than the Applicant in
22 this Crockett Power Plant project. Can you give us a
23 sense of -- in your profession is this only the second
24 time that this methodology has been proposed or can you
25 put it in context for us?

26 A In terms of the overall methodology that I've

1 outlined here, I would say that this is pretty much the
2 standard practice for environmental analyses that are
3 undertaken under the California Environmental Quality Act.

4 In the last couple months I've kind of done an
5 informal survey of how people are doing these things. I
6 know how I've been doing these, and various people that I
7 work with do them. And this is kind of consistent with
8 with the practices of people that I have worked with.

9 So just to confirm that my perceptions about in
10 this were correct. For example, I made a call to the
11 environmental coordinator at California Public Utilities
12 Commission and they use an approach that is similar to
13 this one. And then a review of other environmental impact
14 reports, various kinds of projects indicate that in
15 general this kind of procedure is the one that is followed
16 for analyses under CEQA.

17 Q And does this include your recommendation that
18 the decision maker evaluated the view impacts project in
19 an overall context as opposed to evaluate significance
20 from strictly key observation points?

21 A Yeah. Clearly the Crockett case is the clear
22 cut example of the -- look at the overall, and I would
23 have to take a closer look to kind of give you how things
24 kind of shake out on the individual viewpoint versus the
25 overall.

26 Q Are you familiar with the approach used by BLM?

1 A Yes, I am.

2 Q And I understand the staff cites that as sort of
3 guiding their methodology. Is yours different from the
4 approach used by BLM?

5 A Yes, in some ways it is. One is because the BLM
6 method was developed in a very specific context for a
7 specific purpose. As you know the Bureau of Land
8 Management is responsible for managing huge acreages of
9 land here in the west, much of it either wildland or
10 rangeland, land that is perhaps more natural in character.
11 And they have lots of it.

12 This method was developed as a way that they
13 could kind of quickly begin to kind of do a triage, sift
14 through their land and identify, well, where are those
15 pieces that really are visually sensitive. And then based
16 on this analysis, then they in their management planning
17 identify visual quality objectives. For each chunk of
18 land, just depending how it shakes out, there is a
19 different level of development that they have decided
20 would be appropriate for that area given the visual
21 quality objective that they want to achieve.

22 So this is really the primary use of this system
23 which is, again, is as kind of a planning tool rather than
24 as an impact assessment tool.

25 Q So what is your view of the appropriateness of
26 applying the BLM approach to this case?

1 A Well, my feeling is that it's not especially
2 appropriate in this case. Again, given the fact that it
3 was developed primarily for use in a different kind of
4 landscape and that it was designed for a different
5 purpose. And then beyond that, I have some major
6 reservations about the kind of approach that they have
7 taken where assessment levels are applied to various
8 factors and then matrices are combined. It's a system
9 that's really built on abstractions without lots of
10 empirical support. And my feeling is maybe you're doing a
11 broad brush cut for these huge amounts of acres and, in
12 fact, can be a very useful thing. But I think apply -- in
13 other context it's dangerous.

14 Q Shifting gears now, are you familiar with visual
15 context of the property that is being considered at the
16 west end of O'Banion Road near the Wildlife Refuge Levy
17 Sutter Bypass Levy being used for the switching station
18 for the terminus of the transmission line for the project?

19 A This will be the Duck Club property?

20 Q Duck Club.

21 A Yes, I am.

22 Q Okay. Can you describe for us what the current
23 visual situation is, viewshed at that duck club and what
24 esthetic changes could be imposed?

25 A Yeah. This terminus of O'Banion Road at the
26 bypass levy is kind of like an interesting little nexus of

1 infrastructure and support facilities. Because when you
2 reach the end of the road, first you have the levy itself,
3 then you have the PG&E 500 KV line crossing the road
4 there, and next to it the Western Area Power
5 Administration 230 KV line, and then at the north side of
6 the road, right up against the levy, you have the new
7 pumping station an old pumping station, you have several
8 canals. Then on both the north and south side of the road
9 there are in areas that are now used for storage of
10 agricultural equipment. And then in that general vicinity
11 on both the north and south sides of the road you have
12 landing strips for agricultural aviation. And then on the
13 Duck Club property just to the west of the two
14 transmission lines, you have the Duck Club which is kind
15 of a collection of buildings, trailers, outbuildings, big
16 gravel parking lot and so on.

17 Q And if the switch yard for the terminus would
18 put their -- switching station was placed there as
19 proposed, how would it change the viewshed you just
20 described?

21 A So, say, where we were to assume that the
22 switching station were to be placed just on the east side
23 of the PG&E 500 KV line, you'd have the addition of about
24 a two-acre facility that would be surrounded by a
25 chain-link fence, and it would contain equipment, some of
26 it going up, some of which would be up to, say, about 50

1 feet high.

2 Q And what distance would that be roughly from the
3 Duck Club?

4 A I'd have to take a look at a map to tell you for
5 sure, but it would be at least the distance of the right
6 of way of those two transmission lines. So we're talking
7 in the order of several hundred feet from the Duck Club.

8 Q Are there ways to mitigate those visual impacts?

9 A Yes, there are. And, in fact, my professional
10 opinion would be first of all use to do the usual things,
11 make sure that we use flat nonreflective paint for the
12 equipment, make sure that we use a facility designed which
13 is more horizontal because sometimes technologically there
14 are choices where you can kind of go flat or put the
15 equipment up in the air. I would strongly suggest that
16 keep the equipment as low as possible.

17 On your fence definitely use nonreflective,
18 dull-colored fencing material. I think it would be a
19 great idea use a technique that PG&E uses a lot, which is
20 to put wooden slats in the chain-link fence which provides
21 a very quick cost-effective screening and then suggest
22 that landscaping be placed around the northern and western
23 perhaps eastern perimeters of the fenced in areas to
24 provide this screening to kind of integrate into the
25 surroundings.

26 Q Okay. If I could get you to turn to page 68 of

1 your testimony that is Vis. 12 from Key Observation
2 Point 5, and we discussed that at some length. I have a
3 color rendition of that. And then it show -- and then to
4 compare that to Staff's Figure 16 in the staff visual
5 testimony, which is from the same point of view. In fact,
6 it may be the same photograph just retouched differently.
7 It shows the artist's rendition of from what transmission
8 poles would like in Key Observation Point 5. Do you have
9 that in front of you.

10 Can you give the Committee an idea of which view
11 might be more accurate. The Applicant's shows a sort of
12 spectral or ghostlike gray tower that blends into the
13 skyline, and the staff has apparently made it darker and
14 outlined it in black line.

15 How are we to evaluate such a different visual
16 impact in terms of what the real picture is like?

17 A Yeah. I think that figure Vis. 12 is closer in
18 terms of providing a sense of the form of the transmission
19 line, of the transmission tower, of the insulators and the
20 conductors. The location which would be on the north side
21 of the orchards, it would certainly be more accurate as
22 well as in terms of color.

23 I would hope that when the project is built that
24 we could use a color that is a bit darker flatter and more
25 on the order of the color that we see in Figure 16.

26 MR. RATLIFF: Excuse me, just to clarify, both

1 the figures that you were referring to were submitted by
2 the Applicant.

3 HEARING OFFICER FAY: Thank you, Mr. Ratliff,
4 but we have Mr. Priestley's opinion on the two photos. I
5 appreciate that correction, though.

6 Q Mr. Priestley, do you know -- this is a little
7 perhaps out of your ken, but are you familiar with the use
8 of nonspectral conductors to eliminate reflections off
9 wires in mitigation? It's in your testimony.

10 A Yes. This is, I think, these days very much a
11 standard mitigation.

12 Q Are you aware if that increases the risk to
13 wildlife, to birds?

14 A I'm afraid I can't speak to that.

15 Q And the commissioner asked you about the effect
16 of mitigation for the lighting facilities. Now, I
17 understand that one of the conditions that the Applicant
18 has agreed to is to mitigate, reduce the lighting impact
19 of the existing Greenleaf 1 plant as part of this project
20 if it is licensed and built; is that correct?

21 A Yes, it is.

22 Q And so if both projects have minimized lighting,
23 is there a sense you can give us of what the average
24 person would perceive? Is this something that is
25 obviously -- it must be a compromise between minimum
26 offside glare and adequate safety lighting. So is the

1 criteria to prevent any direct view of the lighting
2 element? Is it a function of hooding these lights so it's
3 just downcast lighting? Can you describe it for us?

4 A The mitigation measure specifies shielding of
5 lights to prevent off-site glare. So my understanding is
6 that the lights would be focused to provide the lighting
7 to the property to the places where it is needed.

8 Q But if you were asked to give direction to the
9 Applicant, how, what criteria would you use so that it
10 would avoid off-site glare, just the hooding?

11 A Yeah. Primarily that to -- first of all, to
12 direct the light have lights on only where they're needed
13 and when you have them, to put shields on them, to direct
14 the light to where it's needed without having light go off
15 the property.

16 Q And the vegetative screening that is called for
17 will that include any deciduous trees so that there will
18 be screening even in the wintertime?

19 A So, actually, the present scheme specifies
20 deciduous trees which actually would lose their leaves,
21 and because we're talking about a 20-foot planted strip,
22 presumably during the wintertime just because of the
23 presence of branches and so there wouldn't be some degree
24 of screening. And I know at least there has been no
25 informal conversation about adding evergreens to the
26 scheme.

1 I know the initial thinking was is that well
2 evergreens might not do very well in the soil, and that if
3 you had to plant surrounded by a -- surrounded by a
4 complete ring of evergreen trees, it would -- in fact, it
5 would look very out of place and just call attention to
6 things.

7 But my own professional judgment is if you look
8 at a lot of the old farmsteads in the area, in fact, they
9 are surrounded by mixed plantation of deciduous and
10 evergreen trees, and, in fact, it can be very attractive.
11 And my recommendation, in fact, would be to modify the
12 landscape plant, to mix in some evergreen trees and
13 particularly to take a look at -- well, what are some of
14 the more key views towards the bigger equipment and to
15 make sure that we had the evergreen trees very
16 strategically placed.

17 MR. ELLISON: Mr. Fay, if I could interject. We
18 have, I believe, an agreement with the staff to do
19 precisely what was just described. And Ms. Wardlow can
20 describe it, if you wish. I believe where we are, and
21 staff can correct me if I'm wrong, is that the staff --
22 were we to put in evergreen trees and would -- I can
23 certainly understand about when they would be planted and
24 the size of the trees, et cetera, that the staff now
25 agrees that the power plant would not have a significant
26 visual impact, and one of the factors in that

1 determination is that we've agreed to include some
2 evergreens along with the deciduous trees.

3 Ms. Wardlow do you want to address the
4 situation.

5 HEARING OFFICER FAY: Ms. Wardlow, if you could
6 just cite where, you know, which condition which condition
7 refers to that.

8 MS. WARDLOW: It'll be actually be a
9 modification to one of conditions because we've agreed
10 with staff that we would have evergreen. And I would
11 actually like to refer -- the county has a list of trees
12 for landscape requirements. The list happens to include
13 some evergreens that are non-native trees, so we'll be
14 using a list of trees that the county has actually issued
15 in the landscape plan.

16 HEARING OFFICER FAY: Thank you.

17 MR. ELLISON: I would expect and I would
18 anticipate when Mr. Walker testifies that he may have a
19 proposed condition.

20 HEARING OFFICER FAY: You sort of put staff on
21 notice when Mr. Walker testifies. Good. Thank you.

22 I have no further questions. Mr. Ellison, do
23 you have any redirect.

24 MR. ELLISON: Yes, I do. Not very much.

25 FURTHER EXAMINATION BY MR. ELLISON

26 Q Dr. Priestley, Mr. Ratliff asked you some

1 questions with respect to Exhibit 40 and the photographs
2 that you took that are included in the Exhibit 40. And he
3 asked you about the fact that there was some haze on the
4 day that you took those photographs such that the Sutter
5 Buttes were somewhat obscured. In the reprints of the
6 photographs, they're very much obscured.

7 Do you recall those questions?

8 A I'm not sure. If you could --

9 Q Just generally, do you recall that subject being
10 discussed with Mr. Ratliff? This is just a lawyer's trick
11 for setting the stage. Say yes.

12 A Okay. I'll entertain.

13 COMMISSIONER MOORE: Leading the witness.

14 MR. ELLISON: I apologize. I'll withdraw the
15 question.

16 HEARING OFFICER FAY: You can presume that
17 Mr. Ratliff discussed the hazy day. Go ahead and answer
18 the question.

19 Q BY MR. ELLISON: Just add a little levity into
20 the process.

21 The question I have, first of all, is there a
22 significant difference on a hazy day between the impact of
23 haze on a distant object, such as the Buttes, compared
24 with the impact the haze on a much nearer object, such as
25 the transmission towers on South Township?

26 A Yeah. I think it's fair to say that just as

1 a physical fact that an object that is further away with
2 more haze in between than the object, it's going to be
3 harder to see it than one that is closer to you.

4 Q And to the extent that the transmission --
5 existing poles on South Township were visible over the
6 screening on that day, you couldn't see them despite the
7 haze?

8 A Yeah. You could make them out.

9 Q And they are visible although faint in these
10 photographs?

11 A Yeah. In real life you could see them. You
12 could detect them a little bit more clearly than they show
13 up in this reprint.

14 Q Did you choose to take these photographs on that
15 day because it was a hazy day?

16 A No. I chose to take this photograph that day
17 because that was the time I was here for a hearing, and I
18 was able to sneak out a little early and run down to the
19 project site and take some photos. And, in fact, I do
20 apologize now that we're getting to the time of year that
21 the days are getting shorter and shorter the available
22 light isn't as good and clarity conditions aren't as good,
23 I do apologize that I wasn't able to come up with a better
24 shot than that.

25 Q We've been referring to this as a hazy day. Do
26 you have any knowledge as to whether this day was typical

1 or atypical of the amount of haze one would expect to find
2 out there?

3 A I don't live in the Sacramento Valley region, so
4 I think I'd have to defer to somebody who lives here and
5 could really tell us the frequency of different days,
6 level of clarity.

7 Q Okay. Turning to another subject, Mr. Ratliff
8 also asked you some questions about the existence of
9 transmission lines in the area. There's a 69 KV
10 transmission line that runs down South Township Road, is
11 there not?

12 A That's true.

13 Q And we've discussed that in the record. I'd
14 like you to refer to Figure Vis. 16 of Exhibit 40. And in
15 that photograph you see the existing distribution poles
16 that run along O'Banion. Do you not.

17 A Yes.

18 Q And they run from the north side of O'Banion to
19 the corner of South Township?

20 A Yes.

21 Q At the corner of South Township those lines
22 cross the street and connect to a pole that is on the
23 southeast corner of South Township; isn't that correct?

24 A Yes.

25 Q And that pole on the southeast corner of
26 O'Banion and South Township supports both the O'Banion

1 distribution lines as well as the South Township
2 distribution and transmission lines, correct?

3 A Yes.

4 Q So that pole has two distribution lines and a
5 transmission line on it, correct?

6 A Yes.

7 Q In this photograph, can you see that pole or is
8 it completely screened by the trees that we've been
9 discussing?

10 A When I look at this photograph, I can't see it.

11 Q And that pole would be the same side of the
12 O'Banion as the new corner pole we've been discussing,
13 correct?

14 A Yes.

15 Q And its location would differ only that it would
16 be nearer by the width of South Township than the new
17 pole, correct?

18 A That's correct.

19 Q Lastly, Dr. Priestley, Mr. Ratliff also asked
20 you some questions about a data response provided by the
21 Applicant in which the effect of having transmission and
22 distribution lines on both sides of South Township was
23 discussed. Do you recall that?

24 A Yes.

25 Q And I believe he read you the data response
26 suggesting that the effect of that having the two lines on

1 each side of the street was moderate to high. Do you
2 recall that?

3 A Yes, I do.

4 Q And is that statement that the effect would be
5 moderate to high the same thing as saying that it would be
6 a significant impact under CEQA?

7 A No, it is not.

8 Q Could you explain why?

9 A Yeah. This statement refers to the impact or
10 the visibility of these facilities as they are seen from
11 that particular viewpoint, but it doesn't then evaluate
12 them in terms of the sensitivity of the view in the
13 numbers of people who would be seeing it. And to make
14 that determination of significance, you would want to look
15 at the whole picture.

16 MR. ELLISON: Thank you. That's all I have.

17 HEARING OFFICER FAY: All right. Keeping in
18 mind, that recross is limited to the scope of the
19 redirect, in other words, the three questions that
20 Mr. Ellison asked, those subjects. Is there any recross,
21 Mr. Ratliff?

22 MR. RATLIFF: Almost none but more than that.

23 FURTHER EXAMINATION BY MR. RATLIFF

24 Q I'd just ask the witness, you just heard
25 Mr. Ellison asking questions about the transmission line
26 on South Township and in that answer you told him that it

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1 did have a transmission line. Was that on a wooden pole?
2 A Yes.
3 Q And did you tell us that the height of that line
4 was 70 feet, that pole I should say?
5 A This morning we agreed to an approximate figure
6 of 60 to 70 feet.
7 Q "We" being whom?
8 A I suggested this figure and I believe that you
9 agreed to it.
10 Q I'm reminded that line in the Lone Ranger, or at
11 least I think it was a caricature of the Lone Ranger.
12 HEARING OFFICER FAY: What do you mean we?
13 Q BY MR. RATLIFF: What do you mean we?
14 Have you measured that line?
15 A Yeah. Actually, I'm frustrated that I don't
16 have my field notes because one day a couple of weeks ago,
17 I went out there and did some measurements, and I'm
18 frustrated I can't put my hands on my notes.
19 Q Have you checked with Mr. Davy on the height of
20 that line?
21 A Mr. Davy?
22 Q The man sitting on your left.
23 A Okay. No, I have not.
24 Q Is it possible that line is less than 70 feet?
25 That pole, I'm sorry.
26 A It's possible.

1 MR. RATLIFF: Thank you.

2 MR. ELLISON: Just to clarify, you were asking
3 about the specific corner pole that I was discussing or
4 about the transmission towers, generally?

5 MR. RATLIFF: Well, I think if the pole height
6 of that particular pole is different from the other ones,
7 I would be interested to know what the difference is.

8 MR. ELLISON: Well, the reason I ask and it's
9 just to state for the record that pole serves at the
10 intersection of both the O'Banion lines and the South
11 Township lines. It may, in fact, be taller than the rest
12 of them. I don't know that.

13 MR. RATLIFF: Okay.

14 HEARING OFFICER FAY: Does the Farm Bureau have
15 any recross, again, limited to the scope of the redirect.

16 No. Okay. Thank you. All right. Anything
17 further from the Committee?

18 No. Then that concludes our presentation of
19 affirmative case by the Applicant on the visual resources
20 and the cross-examination of their witness. We will take
21 a ten-minute break and return for the staff to present
22 their witness.

23 (Brief recess taken.)

24 HEARING OFFICER FAY: During the break, the
25 Commissioners deliberated on the petition to intervene,
26 and determined to grant the petition to intervene on Yuba

1 Sutter -- pardon me -- bureau to this extent. The
2 indicated representatives Brad Foster and Russell Young
3 will be placed on the proof of service list to represent
4 the Farm Bureau. They will be limited to
5 cross-examination with no filing of direct testimony, and
6 their cross-examination will be limited to the coverage
7 that remains on the air quality and the supplemental
8 testimony on socioeconomics and land use.

9 But we also recognize the continuing right of
10 these individuals any member of the Farm Bureau and, in
11 fact, any member of the public to make public comment just
12 as you have in the past. So this in no way limits that
13 right of participation.

14 Is there any question about the granting of the
15 petition to intervene? Okay. Yes, sir. Please step
16 forward and state your name.

17 MR. BURKE: My name is Jerome Burke. I live in
18 Sutter County. This is just a question for my own self.
19 The granting of the intervenor status for the Farm Bureau
20 and those two individuals, they, if I understand
21 correctly, can't enter testimony or call witnesses?

22 HEARING OFFICER FAY: That's correct.

23 MR. BURKE: Is that in the interest of time?

24 HEARING OFFICER FAY: They entered in such a
25 late time. I asked Mr. Young if that was acceptable, and
26 he indicated it was but not to sponsor witnesses. Under

1 the circumstances the time available, it is not in my
2 opinion a great burden for them to have the right.

3 MR. BURKE: I'm not saying that.

4 HEARING OFFICER FAY: It would be --

5 MR. BURKE: I'm curious to the process if they
6 had gotten in sooner if it would be --

7 HEARING OFFICER FAY: The answer is yes. If
8 they had intervened prior to the hearing conference they
9 would have been able to, no question.

10 All right. We'd like to move ahead, then, and
11 ask the staff if they're prepared to present their witness
12 on visual resources.

13 MR. RATLIFF: The staff witness to visual
14 resources is Gary Walker. Would you please swear the
15 witness.

16 GARY WALKER,
17 called as a witness, being first duly sworn by the
18 Certified Shorthand Reporter, testified as is hereinafter
19 set forth.

20 EXAMINATION BY MR. RATLIFF

21 Q Mr. Walker, did you prepare the staff testimony
22 found in the final staff assessment entitled Visual
23 Resources?

24 A Yes, I did.

25 Q And you have some changes to make to that
26 testimony at this time?

1 A Yeah. I have a few minor updates primarily to
2 address Calpine's submittal of new simulation of the power
3 plant site with the trees planted and that causing me to
4 consider that the impacts from Butte Three would not be
5 significant especially with the change in the mitigation
6 of the power plant to move up the planning date
7 approximately two years so that the trees will get started
8 sooner, and Calpine has given informal or conceptual
9 agreement to that change, and also to change the
10 recommendation about the westerly transmission route to no
11 longer propose that because of information gathered at the
12 November 2nd workshop regarding land use and biological
13 impacts.

14 Q Do these changes reflect changes that have
15 occurred since the workshop and available mitigation that
16 Calpine has agreed to?

17 A Yes.

18 Q Okay.

19 A If I could read that one condition, if you think
20 it would be useful.

21 Q Yes. You can read the condition if you wish.

22 Does the Commission wish to hear the conditions
23 concerning the landscape?

24 HEARING OFFICER FAY: Is this an additional
25 condition or does this modify?

26 THE WITNESS: It's a modification.

1 HEARING OFFICER FAY: Please do.

2 THE WITNESS: The condition is page 284 for the
3 Final Staff Assessment. And at the very beginning
4 instead -- strike out "within 60 days after first
5 electricity generation" and insert "by December 1st of the
6 year in which ground disturbance related to construction
7 of the power plant begins."

8 The intent of that change for the -- per the
9 conversations with the Applicant that they plan planting
10 in the fall when first best survival rate can be achieved
11 and construction might start before that before -- at
12 least before the fall in which they start construction.
13 They should have the planting in as opposed to doing it
14 basically after all project construction is finished which
15 is common practice.

16 MR. RATLIFF: We'll provide this in writing to
17 the Committee.

18 HEARING OFFICER FAY: Thank you.

19 Q BY MR. RATLIFF: Do you have other changes to
20 make?

21 A No.

22 Q With those changes, is your testimony true and
23 correct to the best of your knowledge and belief?

24 A Yes.

25 Q Could you summarize your testimony briefly?

26 A I examined the visual setting of the project

1 including the power plant transmission line and natural
2 gas line. This examination included the region defined as
3 the Sacramento Valley as well as the viewshed from the
4 project could be seen.

5 In consultation with Calpine consultants, we
6 selected key observation points to represent the public
7 views of the project. I evaluated the views from these
8 locations in regards to a number of factors including
9 visual quality, view sensitivity, visibility and viewer
10 exposure. I then evaluated the effects that the project
11 would cause in regards to contrast form line texture and
12 scale as well as dominance and view blockage. I concluded
13 that visual impacts of the gas line would not be
14 significant. I originally concluded that the power plant
15 had a potential to cause significant visual impacts due to
16 its visual dominance and cooling tower.

17 However, to additional mitigation agreed to by
18 Calpine, I now conclude that visual impacts due to power
19 plant would be less than significant. In regards to the
20 proposed transmission line, I conclude that line would
21 cause a significant visual impact even after
22 implementation of all mitigation required by stipulation
23 by Calpine and staff. I attempted to identify mitigation
24 measures authorize this impact. These included placing
25 the line underground and use a different transmission line
26 route.

1 However, after further investigation, revealed
2 that underground is a questionable feasibility and the
3 alternative route could cause significant impacts of its
4 own. Staff does not propose either of these measures.

5 I then evaluated the possibility of placing the
6 existing electric lines along South Township Road
7 underground and placing poles to avoid the corner of South
8 Township Road and O'Banion Road. But the feasibility of
9 those both measures has not yet been determined. We are
10 waiting for additional information from Calpine and PG&E.

11 That concludes my summary.

12 Q You heard the testimony earlier today from
13 Mr. Priestley and you've reviewed his written testimony;
14 is that correct?

15 A That's correct.

16 Q Regarding Mr. Priestley's testimony, do you
17 recall the part where you he states that he was using
18 nontechnical language to systematically identify important
19 visual features and conditions affecting each view,
20 identifying changes summarizing impacts and significance.
21 And he goes to say that in assessing these impacts, the
22 factors and assumptions leading to conclusions reached
23 were clearly stated; is that correct?

24 A Yes.

25 Q Do you agree with his approach or his
26 description of his approach?

1 A No, I do not. Mr. Priestley's description of
2 his approach is inaccurate in a number of ways.

3 First, Mr. Priestley does not systematically
4 identify the important visual features and conditions
5 affecting each view.

6 Second, Mr. Priestley does not systematically
7 and completely identify changes. He does not address
8 major factors typically considered in visual impact
9 analysis.

10 Third, in assessing impacts and significance, he
11 did not clearly state factors and assumptions leading to
12 the conclusions reached.

13 Fourth, because of these defects Mr. Priestley's
14 approach provides no means for another visual analyst to
15 replicate his analysis and arrive at the same conclusions.

16 In addition to these methodological problems,
17 Mr. Priestley's testimony contains several defects
18 regarding the analysis itself.

19 First, Mr. Priestley's testimony contains
20 factual errors.

21 Second, Mr. Priestley's testimony fails to
22 analyze visual impacts on nearby residences.

23 Third, Mr. Priestley substantially understates
24 visual effect of the proposed transmission line primarily
25 because he fails to distinguish between the visual effect
26 of major transmission lines on steel structures and small

1 electric lines on wood poles. I will elaborate on these
2 points later in my testimony.

3 Q Go ahead.

4 A To elaborate now on the methodological points
5 regarding Mr. Priestley's testimony, first, as I
6 mentioned, Mr. Priestley does not systematically identify
7 the important visual features and conditions affecting
8 each view. He fails to address a number of factors that
9 experts and teachers in this subject area consider
10 important.

11 For instance, in regard to sensitivity of
12 viewers, he doesn't give any consideration to fact that
13 residential viewers typically considered as having high
14 sensitivity to changes in their surroundings. He also
15 does not specifically address the duration of length of
16 time you see a view. For instance, residents who see a
17 view for a number of hours a day, almost every day, for
18 years have a long duration of view.

19 Second, Mr. Priestley does not systematically
20 and completely identify changes. He does not identify or
21 address major factors typically considered in visual
22 impact analysis. For instance, in regards to the effects
23 of the proposed transmission line, he does not discuss the
24 difference in size between proposed structures and
25 existing structures, typically referred to technically as
26 scale contrast.

1 Third, in assessing impacts and significance, he
2 does not state clearly the factors and assumptions leading
3 to the conclusion reached. The testimony provides no
4 explanation of how the factors mentioned were weighed to
5 arrive at conclusion.

6 The result of these defects is that use of his
7 approach by different people can result in drastically
8 different conclusions.

9 Q There's been a lot of discussion today about
10 methodologies by BLM and the Energy Commission for their
11 analysis. Why did the Energy Commission develop the
12 analysis they used?

13 A Staff developed its methodology to minimize the
14 kinds of problems that an approach such as that used by
15 Mr. Priestley presents. All visual analysis has an
16 inherent subjective element. One of the major flaws of
17 Mr. Priestley's approach is that it presents a black box
18 analysis. No one else can understand how he arrived at
19 his conclusions because he does not explain how he weighed
20 these factors considered.

21 Mr. Priestly criticizes staff's approach because
22 "it would be difficult for me or any other visual
23 assessments specialist to apply staff's method and reach
24 the same conclusions," on page 58.

25 However, as previously discussed,
26 Mr. Priestley's methodology does not address important

1 factors that staff's methodology does include, and it
2 provides no explanation of why factors were given relative
3 importance or even one what weight should be given to any
4 factors. This means that it would be even more difficult,
5 if not impossible, for another visual assessment
6 specialist to apply Mr. Priestley's method and reach the
7 same conclusions. Staff's methodology attempts to make
8 the analytical procedure as transparent as possible so
9 that others can understand it.

10 Q Is Mr. Priestley's method consistent with the
11 method used in the AFC, the Application for Certification?

12 A No. The application states on page 8.11-4:

13 "The assessment and visual effects
14 was based on principles of the visual
15 contrast established by the Bureau of
16 Land Management, BLM, and the Visual
17 Resource Management System. Factors
18 considered in the assessment include
19 distance, visibility conditions,
20 scenic quality, view orientation and
21 duration, degree of change in line,
22 form, color and texture that the
23 proposed features will create from
24 each viewpoint. These changes were
25 rated as low, moderate or high in
26 assigning their ratings."

1 Therefore, the application uses the very
2 methodology that Mr. Priestley criticizes.

3 Q Does the staff methodology incorporate elements
4 from BLM?

5 A Yes, it does.

6 Q Why?

7 A The BLM approach is the most widely recognized
8 and used approach in visual assessment. The factors are
9 fairly comprehensive and are considered important by
10 experts in the field.

11 Q Does the staff approach differ from BLM's
12 approach?

13 A Yes, in several respects. The BLM approach was
14 developed to aid in management of large tracts of land,
15 primarily natural landscape. Furthermore, it provides a
16 method which to determine whether impacts are acceptable
17 within areas with a designated management class, but it
18 does not specifically provide a method to determine
19 whether impacts will be significant. Staff's approach
20 provides a method to address specific projects, to
21 evaluate projects in any setting, such as natural, rural
22 or urban and to determine with impacts will be
23 significant. It also incorporates factors identified in
24 other basic works regarding visual analysis.

25 Q You've heard us discuss earlier today the number
26 of viewers. Does your methodology consider the number of

1 viewers?

2 A Yes, it does.

3 Q Does the number of viewers by itself determine
4 whether an impact would be significant?

5 A No. The number of viewers must be considered
6 along with many other factors.

7 Q Is that true of other visual assessment
8 methodologies that you're familiar with?

9 A Yes, it is.

10 Q Could you describe some of those methodologies?

11 A Yes. The Bureau of Land Management methodology
12 itself accounts for a number of viewers. In their Visual
13 Resource Management Program, a number of viewers or use
14 volume is used in assessing potential visual impacts.

15 However, when use volume is low, changes due to
16 the project can be considered unacceptable depending on
17 level of user attitude, or concern about potential changes
18 and other factors such as level of contrast that a project
19 will cause.

20 So impacts can be unacceptable if even with low
21 user volume according to BLM.

22 Another example is a visual assessment
23 methodology developed by a consultant for applicants for
24 power plant commission. This method has been used in two
25 siting cases so far. According to this methodology, it's
26 possible for an impact to be considered significant even

1 if only a small number of residences are affected,
2 depending on the degree of visual change that the project
3 would cause.

4 Q You've heard discussions today concerning Key
5 Observation Point 5 on South Township Road.
6 Mr. Priestley's testimony states at page 67:

7 "The transmission towers would be
8 prominently visible as roadside
9 features to people traveling up and
10 down South Township Road and O'Banion
11 Road."

12 Do you agree with Mr. Priestley?

13 A The poles would certainly be prominent. I would
14 characterize them as dominant.

15 Q Mr. Priestley also states on page 67 that the
16 proposed poles and conductors "would not constitute a
17 significant impact" on travelers on South Township and
18 O'Banion Road. One reason is "power lines" of varying
19 voltages are visually prominent and not unexpected
20 elements in rural portions of Sacramento Valley landscape.

21 Do you agree with that?

22 A No, I disagree. Although small lines on wood
23 poles are common in the region and viewshed, major
24 transmission lines are not visible in major portions of
25 the region and are subordinate in large portions of the
26 region where they are the visible. The two major

1 transmission lines that are visible in this viewshed are
2 distanced from residences and most travelers so they're
3 not visually prominent. There's a big difference between
4 major power plant using steel structures and the more
5 common smaller electric lines on wood poles.

6 For example, I prepared a diagram that shows the
7 proposed transmission line and the existing electric lines
8 along South Township. I'd like to show --

9 HEARING OFFICER FAY: Counsel, is this available
10 as part of the record?

11 MR. RATLIFF: No, we'll have to produce it.

12 HEARING OFFICER FAY: Will you be providing
13 copies?

14 THE WITNESS: We have copies here if you want
15 copies.

16 Q BY MR. RATLIFF: Can you tell us what that
17 diagram depicts?

18 A Yes. On the left is a diagram of the proposed
19 poles as provided to us by Calpine. It shows the double
20 circuit structure 106 and a half feet tall. Based on that
21 height shown in the diagram, I scaled off smaller existing
22 poles at a height of 50 feet. That information was
23 provided to me on existing poles by Doug Davy, Calpine
24 consultant, as the height of the existing poles which had
25 been passed along to him from PG&E.

26 Q Did you also attempt to measure the height of

1 the existing poles?

2 A Yes. I went on out in the field and used a
3 geometrical proportion method type of known object to the
4 height of the pole and the shadow each of them cast and
5 used a proportion, figured out that the poles are around
6 50 to slightly less than 50 feet tall.

7 Q So it's your understanding based on your own
8 measurements that this diagram depicts accurately relative
9 difference between the new poles of and the existing poles
10 on South Township road?

11 A Fairly accurately. Actually, it could be
12 considered conservative in the difference because only the
13 106 and a half foot poles are shown, and it's not clear
14 whether poles of greater heights such as 120 feet may be
15 used along the proposed. And as I said, the existing
16 poles are so much shorter than 50 feet and this depicts a
17 50 feet.

18 Q Mr. Priestley also used the rectilinear as being
19 something that reduces impact. Do you agree or disagree?

20 A Well, in the case of the proposed transmission
21 line, the effect placing the alignment along South
22 Township Road would be to actually increase impacts
23 because it would make it closer to residences and
24 travelers.

25 Q Mr. Priestley also states that a number small
26 number of viewers would be affected, and that's one of

1 the reasons for his conclusion of less than significant
2 impact. Do you agree?

3 A Well, his depiction of the number of viewers
4 affected is not accurate. Mr. Priestley only mentions one
5 home near the transmission line in his testimony.

6 Q Referring to his written testimony.

7 A His written testimony today he mentioned that
8 there are other two other residences farther east. My
9 written testimony includes those residence as well.
10 These additional homes are within one half mile of the
11 proposed line.

12 Furthermore, the number of travelers along South
13 Township Road are residents who regularly use that road.

14 Q Mr. Priestley also emphasizes the existence or
15 lack of existence of formal policy plans and regulations
16 providing protection of visual resources. Do you agree or
17 disagree with that?

18 A I agree that that's one criterion to consider in
19 evaluating the potential for significant impact.

20 However, satisfaction of this criterion is only
21 one of many that can lead to the conclusion that the
22 project will cause in significant impact and is not
23 necessary to this criterion to justify to cause a
24 significant impact.

25 Q Page 69 of his testimony, Mr. Priestley states:

26 "The steel pole towers used have a

1 form that would make them consistent
2 with the forms of the many wood pole
3 lines that align roads in the area."

4 Do you agree?

5 A No. As evident in Mr. Priestley Figure Vis. 12,
6 the proposed structures would include three large
7 crossarms to carry the six conductors as well as a smaller
8 crossarm to carry the two shield wires. In comparison the
9 existing poles have only two small crossarms, and only
10 carry small only small conductors. Furthermore, they
11 would be much larger than the existing poles.

12 Q Does the visual simulation that we're talking
13 about here, Vis. 12, does it accurately portray the six
14 conductors and shield wires that would be used?

15 A No. The simulated conductors in the figure are
16 barely visible. In fact, they would be approximately
17 twice the diameter of the existing conductors which are
18 quite visible, so they would be more prominent.

19 Q And the corner pole depicted in Vis. 12, does it
20 accurately represent the typical appearance of proposed
21 crossarms?

22 A No. Because the pole in the foreground is at a
23 90 degree corner. The crossarms are placed at an angle
24 rather than perpendicular to the line of site, so they're
25 shorter. If they were perpendicular to the road from the
26 nearby residences which is located diagonal to the

1 intersection, the crossarms would appear wider than they
2 do in the figure. As you can see by looking further down
3 the line, subsequent poles do appear wider in proportion
4 to their height than the crossarms do as opposed to this
5 one on the corner.

6 Q Can you comment about the color of the power --
7 of the poles in the simulation?

8 A Yes. Mr. Priestley says that use of neutral
9 gray, nonreflective finish would help the towers to be
10 absorbed by their background. This particular simulation
11 maximizes that color matching process. But, of course, in
12 reality, the color of the sky changes a lot during any day
13 in the season.

14 One example of a possible scenario what the
15 poles could like look at different times of day and
16 different seasons is shown in the Visual Resources Figure
17 16. That figure was provided to us by the Applicant.
18 They have since provided a subsequent Vis. 12. You can
19 see there's quite a bit of difference in the contrast, not
20 only in the initial pole but all the poles down the road.

21 Furthermore, for southbound travelers on South
22 O'Banion Road -- South Township Road and for westbound
23 travelers, in the afternoon this structure would be
24 backlit by the sun, so they would be in shadow which would
25 greatly increase the amount of contrast, that they would
26 be much darker than they appear. When they're in shadow,

1 in the background is light sky but they're very dark.

2 Q You heard the discussion earlier today what has
3 been called the tunneling effect. Do you consider the
4 omission of such an issue in Mr. Priestley's testimony to
5 be serious?

6 A Yes, I do. And Mr. Priestley fails to address
7 the contrast and scale between existing lines and the
8 proposed lines as well as failing to address the tunnel
9 effects on both sides of the road.

10 And his testimony is not consistent with
11 Calpine's previous position regarding this topic as was
12 previously mentioned, the Data Response 6 to the staff's
13 data request. The Applicant's consultant changed their
14 analysis up to regard the impact of the two different
15 lines of moderate to high because of the high visibility
16 of two different transmission systems, old systems. And
17 they could find no mitigation measures to reduce that
18 impact.

19 It was stated in regard to Mr. Priestley's
20 direct testimony or redirect that only visibility was
21 considered in arriving at that conclusion in the data
22 response of moderate to high. But that's not correct. If
23 you look in the Application for Certification, on
24 page 8.11-20, the discussion of the visual impacts of the
25 electric transmission line from KOP 5 which originally
26 said it would be moderate already says that the view is

1 somewhat reduced because of existing visual features, so
2 visual quality was considered in the original AFC
3 analysis.

4 And so, therefore, the subsequent elaboration of
5 the reconsideration in the data response clearly would
6 have had that in mind as well.

7 MR. ELLISON: Mr. Fay, at this time I'm going to
8 register an objection. Mr. Walker repeatedly has been
9 characterizing what Mr. Priestley says and doesn't say
10 which those issues are in the record and they speak for
11 themselves.

12 I would suggest that he is mischaracterizing
13 what Dr. Priestley has testified to. He, for example, did
14 not testify that the difference was just visibility. If
15 staff wants to brief this issue, they're free to do that,
16 but to have their witness testify as to what our witness
17 said is inappropriate.

18 HEARING OFFICER FAY: Okay. We'll take that
19 under advisement. I'm not going to grant your objection.
20 I think the Committee can take the words of the witness
21 from the witness and not from the opposing witness. And
22 so we'll be looking at Mr. Priestley to find out what
23 Mr. Priestley said.

24 Go ahead, Mr. Walker.

25 Q BY MR. RATLIFF: You heard today the testimony
26 concerning the screening effect of the orchard at Key

1 Observation Point 5. Do you have any observation to make
2 on the testimony that you heard concerning that screening
3 effect of the orchard?

4 A Yes. Mr. Priestley's testimony states:

5 "At the time of the original photo
6 from the KOP was taken, the Buttes
7 were visible and in the far distance
8 to the northwest. Since that time,
9 however, the trees in newly planted
10 orchard on the west sides of South
11 Township Road have grown to the extent
12 that the Buttes are no longer
13 visible."

14 Although this thing is true for the precise
15 location from which the photo was taken, it's not true for
16 most of the area that the location represents. The trees
17 now obscure the view of the Buttes from a portion of South
18 Township Road that is south of O'Banion Road.

19 However, the trees do not obscure the view of
20 the Buttes from the two-mile portion of the proposed
21 transmission line route along South Township Road north of
22 O'Banion. And in addition, the trees are not obscuring
23 the view of the Buttes from three residences within one
24 half mile of the proposed transmission line in the area.

25 Q Mr. Walker, did you help in selecting the Key
26 Observation Points?

1 A Yes, I did, as I stated in my summary.

2 Q Why was Key Observation Point 5 chosen?

3 A It was chosen to be a representative view toward
4 the plant site as well as the road of the proposed
5 transmission line along South Township Road.

6 Q What viewers was it intended to represent?

7 A It was chosen to represent travel on O'Banion
8 Road as well as residential viewers and South Township
9 Road.

10 Q How does that relate to the concept of the Key
11 Observation Point in your view?

12 A A project can be seen from essentially unlimited
13 number of discrete points within a viewshed. Key
14 Observation Points are chosen to be representative of
15 areas although a photo from a particular key observation
16 point show only "a single view," as Mr. Priestley cites.
17 The analysis regarding that observation point address
18 impacts on a larger area with variations in views. My
19 discussion of the impact of the proposed transmission line
20 from Key Observation Point 5 addresses the most important
21 aspects of the impact of the entire proposed transmission
22 line on the viewshed. That is, discussion, therefore, in
23 substance addresses the "overall viewshed approach" that
24 Mr. Priestley cites from the Crockett Decision.

25 Q So in your view your analysis is consistent with
26 the Crockett Decision?

1 A That's true.

2 Q Now, you referred earlier to certain errors in
3 Mr. Priestley's testimony. Can you tell us what those
4 are?

5 A Yes. The first error is Mr. Priestley's
6 statement on page 64 that the view from Key Observation
7 Point 5 "was taken between the road in front of a
8 relatively new home at a location in the alignment between
9 this home's large front windows and the Sutter Buttes."

10 I've been in front of the windows of that home.
11 The photo location for Key Observation Point 5 is not in
12 the alignment between this location and the home's large
13 front windows and the Sutter Buttes. The photo location
14 is substantially to the south of the alignment between the
15 home's front windows and the Sutter Buttes.

16 The second error is Mr. Priestley's statement:

17 "As the simulation Figure 12
18 indicates, the corner pole does not
19 interfere with views of the Sutter
20 Buttes from this location. The Buttes
21 are located further to the left of
22 this view and are now hidden from view
23 by the orchard views. To take into
24 account that the orchard might be
25 removed at some point in the future,
26 restoring the home's views of the

1 Buttes, the transmission towers along
2 O'Banion Road could be spaced in such
3 a way that no towers would be sited
4 within the residence's view toward the
5 Buttes."

6 This evaluation is inaccurate. The home is
7 sufficiently far from the orchard and is elevated such as
8 the butte orchard does not screen any of view from the
9 toward the Buttes. Mr. Priestley's statement "the corner
10 pole does not interfere with views from this location"
11 applies to the view from South Township Road but not to
12 the residence.

13 Q You concluded that the impact on visual
14 resources from Key Observation Point 5 was significant; is
15 that correct?

16 A That's correct.

17 Q Can you tell us why you document the conclusion?

18 A I considered a number of factors in determining
19 that visual impacts due to proposed transmission line from
20 the area represented by Key Observation Point 5 would be
21 significant.

22 First, visual quality for Key Observation Point
23 5 is moderate to high because of the views of the Sutter
24 Buttes.

25 Two, because of the residences in the area
26 represented by Key Observation Point 5, viewer sensitivity

1 is high.

2 Three, from South Township Road, O'Banion Road
3 and the nearby residences along O'Banion Road, the Sutter
4 Buttes and the transmission line would be highly visible.

5 So considering the foreground, number four,
6 considering the distance to the proposed transmission
7 line, the small number of viewers and the long duration of
8 view, viewer exposure is moderate to high for Key
9 Observation Point 5. If the number of viewers had been
10 larger, then exposure would have been higher rather than
11 moderate to high. That was the effect of having the small
12 number of viewers reduces the viewer's exposure.

13 Number five, the proposed transmission line
14 would dominate the view.

15 Number six, the proposed transmission line would
16 create levels of contrast with the existing poles in
17 regard to form and scale.

18 Number seven, the proposed transmission line
19 would create a tunnel or corridor effect for travelers on
20 South Township Road.

21 Q The proposed mitigation by Calpine does not
22 reduce this effect to less than significant?

23 A Yes. Those measures -- essentially the colors
24 of the poles and the conductors do not. As I previously
25 discussed, the colors of the poles will mitigate to some
26 degree, but it will vary greatly depending on atmospheric

1 conditions and sometimes contrast will be substantial.

2 Q Can you briefly describe any mitigation measures
3 that you considered?

4 A Yes. I requested information from Calpine and
5 the Energy Commission staff regarding undergrounding of
6 the proposed transmission line. Based on concerns about
7 feasibility of such a measure, I decided to not propose
8 it. I also investigated the potential for using
9 alternative transmission lines. Calpine states in the
10 application that it considered three possible transmission
11 line routes and conclude that overall the proposed route
12 was best.

13 I asked data request to find out how Calpine
14 arrived at that conclusion. Because the answer was not in
15 detail, I was not convinced about the relative merit of
16 those routes, and so I proposed that staff consider more
17 detail an alternative that would run directly west from
18 the power plant site and south from the PG&E transmission
19 lines to O'Banion Road. Other staff including biological
20 land use impacts preliminary concluded that route would be
21 acceptable, in fact, better in terms of land use.

22 However, at the November 2nd workshop, November
23 4th workshop we found out more information about that
24 route whereby land use impacts would be greater for that
25 group and biological impacts could be significant.
26 Therefore, I'm no longer proposing that route.

1 Q To respond to one of the Committee's questions
2 raised earlier, did you prescribe or develop mitigation
3 for night lighting that is required in the conditions of
4 the FSA?

5 A Yes, I did.

6 Q Could you describe those briefly?

7 A Yes, the Commission for the power plant itself
8 requires that no lighting shine directly off site, that
9 all of its lighting be shielded and that timers be
10 employed to minimize when lights are on and switching such
11 that lights don't -- aren't necessary to be -- aren't on.
12 And as far as the cumulative impact of the lighting, a
13 separate condition requires that shielding be placed on
14 existing mainly one lighting to reduce the overall effect.

15 Q Does that conclude your testimony?

16 A No.

17 Q It doesn't. Okay.

18 A In regards to attempting to find mitigation
19 measures for the transmission line, I pursued two other
20 possibilities. One measure was to underground the
21 existing 69 KV and 12 KV, kilovolt, PG&E lines on the east
22 side of South Township Road from the power plant site to
23 O'Banion Road. Because this would eliminate the tunnel
24 effect or that the proposed line would cause and would
25 remove existing poles from the view from nearby
26 residences, I concluded that the net impact of the

1 proposed transmission line would be less than significant
2 with this mitigation.

3 However, information obtained from Calpine
4 indicates that PG&E has a policy not to place lines as 69
5 kilovolts underground. Staff is presently investigating
6 whether it is possible to make an exception to that policy
7 in this case. Staff has been in contact with PG&E and is
8 waiting for a response.

9 In addition, staff's preliminary cost estimates
10 of placing both existing lines underground would cost
11 approximately two million dollars. Calpine has expressed
12 concern about accepting this much expense for this
13 mitigation.

14 The other potential mitigation measure that I
15 identified was to avoid placing the pole at the corner of
16 South Township Road and O'Banion Road. As discussed
17 previously, a corner pole would be in the view of the
18 Buttes from a home that faces that intersection, as well
19 as being in the view of travelers who make that turn on
20 that corner. Staff of the Sutter Planning Department has
21 expressed concern regarding the resulting -- the effect of
22 a transmission conductor crossing agriculture land at an
23 angle. Calpine has retained a crop duster as a consultant
24 and has stated their intention to ask the crop duster how
25 this measure will affect aerial applications.
26 Implementation of this would reduce impacts to the

1 residence at the corner of Township Road and O'Banion Road
2 and to travelers.

3 However, the conductors would still be in the
4 view of the Sutter Buttes and the poles would be visible
5 in the periphery of that view.

6 In addition, impacts to the two residences
7 father east on South Township Road and O'Banion Road would
8 not be reduced, and impacts to travelers on South Township
9 Road and O'Banion Road would not be substantially reduced.
10 Therefore, although staff supports this measure, it will
11 not reduce the less than significant level.

12 Q Does that conclude of your testimony?

13 A Yes.

14 MR. RATLIFF: The witness is available for
15 examination.

16 HEARING OFFICER FAY: Mr. Ellison, do you have
17 quick questions of this witness.

18 MR. ELLISON: Yes, I do.

19 EXAMINATION BY MR. ELLISON

20 Q First of all, good afternoon, Mr. Walker.

21 A Good afternoon.

22 Q I have, as I stated earlier, an extensive number
23 of questions for you and I want to let you know that I
24 endeavored over the weekend and prior to that cut this
25 down as much as possible.

26 By way of sort of a brief opening statement let

1 me say that this issue is very important to Calpine not
2 because your finding would in any way keep from licensing
3 the project but rather because Calpine has worked very
4 hard and spent a great deal of money to eliminate all
5 potentially significant impacts in this project. And your
6 finding is the only finding of the staff that there is any
7 significant impact from the project. And that's the
8 reason that this issue is important to Calpine.

9 So we do have a number of questions, and I'm
10 going to try to move through this as quickly as I can. I
11 know you're an experienced witness I would ask you to
12 confine your answers to the question that I am asking.
13 I'm sure you know that you have the opportunity on
14 redirect to elaborate if you need to.

15 Lastly, if I ask any questions that are in any
16 way unclear or use terms that you're not familiar with, as
17 an experienced witness, I'm sure you'll ask me to clarify
18 and I invite you to do that.

19 Let me begin -- first of all, let me introduce
20 Karen Munson who's from my office who is handling some of
21 the overheads since she hasn't appeared here before.

22 Karen, can you put that depiction back that was
23 used there the direct.

24 Mr. Walker, let me begin by responding to some
25 of the things in your direct testimony and specifically
26 this figure which I guess we haven't assigned an exhibit

1 number to this. I guess we should.

2 HEARING OFFICER FAY: Yes. Mr. Ratliff, are you
3 going to put copies of this for the record?

4 MR. RATLIFF: Yes.

5 HEARING OFFICER FAY: Okay. We'll designate
6 this as the next exhibit number and I'd like you to read
7 the title of the document.

8 MR. RATLIFF: It's titled Comparison Proposed
9 Transmission Poles with Existing PG&E poles Along South
10 Township Road.

11 HEARING OFFICER FAY: That will be designated
12 Exhibit 41.

13 Q By MR. ELLISON: With respect to Exhibit 41,
14 first of all, when did you prepare this exhibit.

15 A Few days ago.

16 Q The purpose of this exhibit, I take it, is to
17 demonstrate the difference between the existing poles and
18 the proposed new ones?

19 A Yes.

20 Q And I take it that that difference was
21 significant to you in your analysis?

22 A Yes.

23 Q And in particular was the width of the arms of
24 the new poles as depicted here significant to you?

25 A The width is important and used primarily, and I
26 didn't have this comparison until very recently, so my

1 testimony is not based on -- my concern about the size of
2 the proposed structure was not based on this diagram.
3 It's based on simulation.

4 Q I take it you've prepared this exhibit because
5 you want to illustrate among other things the width of
6 these arms, correct?

7 A Yes.

8 Q And I take it that you're doing that because you
9 think the width is significant?

10 A As one point, yes.

11 Q If the arms were significantly narrower than
12 depicted in this, would that be an important change from
13 your perspective?

14 A It could be depending on how much narrower they
15 would be.

16 Q Let's suppose they were only two thirds the
17 width that is depicted there.

18 A I don't think that would change the relative
19 size of these two structures very much.

20 Q That wasn't my question. The question was
21 whether that change would be a significant change in terms
22 of the width of the arms and the overall appearance?

23 A No.

24 Q Okay. Now, you haven't presented this exhibit
25 to Calpine previously, have you?

26 A No.

1 Q And the depiction of the new poles that you have
2 does not come from Calpine's visual testimony, does it?

3 A I don't know where it came from. I was given it
4 by the project manager.

5 Q Well, at the top it states Project Description
6 Figure 4, correct?

7 A Yes, but he got it from Calpine.

8 Q Okay. Well, let me state for the record that
9 this was an exhibit that was prepared by Calpine to
10 illustrate not the visual impact of these facilities but
11 rather just their basic design. And in that regard, let
12 me ask you, Mr. Walker, did you check this depiction of
13 the new poles to see whether they were done to scale?

14 A No, I did not.

15 Q Okay. Let's do that. Look at this -- I don't
16 know if you can all hear me, but if you look at this arm
17 right here, what I'm pointing to in the overhead, is
18 Exhibit 41 new pole, the widest arm and this is labeled 15
19 feet 9 inches. Do you see that, Mr. Walker?

20 A Yes.

21 Q And vertically do you see a scale over to the
22 left that shows the vertical height of the pole. Do you
23 see that?

24 A Yes.

25 Q And the first implement at the bottom is 30
26 feet; is that correct?

1 A Yes.

2 Q If I take this 15 feet 9 inches and I transpose
3 it down here, it doesn't match up, does it?

4 A No.

5 Q In fact, it suggests that whether -- rather than
6 being 15 feet 9 inches, it would be 25 feet wide, correct?

7 A Assuming the 30 feet is correct, which we have
8 no idea.

9 Q Okay. Would you accept my admission that this
10 is not to scale and in order to just show the design this
11 depiction exaggerates dramatically the width of these
12 arms. Do you disagree with that?

13 A It appears that it exaggerates it. It's not
14 clear that it exaggerates it dramatically.

15 Q Do you think the difference between 25 feet and
16 16 feet is a significant difference?

17 A Yes. But, again, I'm not sure that's in correct
18 proportion. But I don't know whether the scale on the
19 left hand side is right.

20 Q The bottom says 30 feet scale.

21 A Yes.

22 Q And if you compare as I just did the 15 feet 9
23 inches to that, you get 25 feet, correct? Roughly, give
24 or take. I'm not going to quibble over a foot or two.

25 A No. 15 compared to 30 gives you 15 or 14.

26 Q If you take this 15 feet 9 inches as shown, I

1 want to measure off that distance and lay it along the
2 vertical scale here and give me an estimate of how many
3 feet you get if this is 30 feet. What would you get?

4 A 20 some feet. I don't have a ruler with me.

5 Q More than 20 feet?

6 A I would think so.

7 Q 25 feet?

8 A I can't tell.

9 Q Okay. Do you disagree, then, that this is an
10 inaccurate and misleading description of the visual impact
11 of the new pole?

12 A Well, I'd say it's inaccurate but to how
13 inaccurate, is a matter of debate. The height is not a
14 matter of debate because I scaled the small poles off the
15 height given for the large poles.

16 Q That was my next question. So the relative
17 height, 50 feet to 106 feet you believe is accurate?

18 A I know it is.

19 Q Okay.

20 A I have calculations to prove it if you want
21 them.

22 Q No, that's fine. But the width of those arms
23 relative to the height of either pole is you would agree
24 inaccurate?

25 A Yes. The width of the poles, however, are
26 proportional because I drew the width of the wood pole to

1 the scale that I know they are because I went to the field
2 and measured the width of the wood poles, and I scaled
3 them to the width of the proposed pole.

4 Q So what you're saying is that the width of the
5 arms on the existing pole, the smaller one, you believe is
6 accurate?

7 A No. I'm talking about the width of the pole
8 itself, the vertical pole itself.

9 Q On the existing one or the new one or both?

10 A I made the width of the -- I know that the
11 size -- the width of the existing pole is accurate as
12 shown in the drawing.

13 Q Okay. But not the new pole.

14 A Well, from my understanding of what I was told,
15 the width of the proposed pole which was I understand 36
16 to 46 inches or 42 inches.

17 Q Is that correct?

18 A I'd have to check. I don't know. Based on
19 that, then, this 15-inch width shown here for the pole is
20 approximately correct without a third of the width the
21 shown pole.

22 Q Now, Mr. Walker, you testified at some length,
23 and I objected about what Mr. Priestley said or didn't
24 say. Let me just restate it for the record. I'm not
25 going to cross-examine you. I think Dr. Priestley's
26 testimony speaks for itself, but I do want to address one

1 issue that you raised there.

2 And that is you testified that Dr. Priestley's
3 so-called holistic approach is inconsistent with what
4 Calpine had presented in the AFC.

5 A Yes.

6 Q You have, also, if I could direct you to
7 page 314 of the final staff assessment. Have you found
8 that page?

9 A Yes.

10 Q Toward the bottom in the final paragraph there,
11 you described your key observation point type analysis and
12 state:

13 "This approach has also been used
14 by applicants for recent siting cases
15 including SCA Proctor and Gamble
16 Project, SCA Campbell Soup Project,
17 San Francisco Energy Company Project
18 and High Desert Power Project and the
19 Sutter Power Plant Project.

20 Do you see that?

21 A Yes.

22 Q And you were referring there, again, by the
23 reference to Sutter to what is in the AFC; is that
24 correct?

25 A Could you restate that, please.

26 Q You're reference to this method having been used

1 in the Sutter Power Plant Project was in reference to
2 what's in the AFC?

3 A Yes.

4 Q Would it surprise you to learn that Applicants
5 present information in the AFC is in the form that the
6 staff desires it?

7 A Doesn't surprise me but they often do not.

8 Q Is it your opinion that when they present
9 something in the form the staff desires that they
10 necessarily agree with the staff's methodology?

11 A No.

12 Q So the fact that the AFC uses the Key
13 Observation Points or the facts that other applicants have
14 used the Key Observation Points is not evidence that they
15 necessarily agree with that methodology, is it?

16 A Yes, I think it is.

17 Q Are you familiar with the concept of data
18 adequacy?

19 A Yes.

20 Q And Energy Commission and specifically staff
21 desire information in order to do the analysis using their
22 method, correct?

23 A Depends upon which information you're talking
24 about, if it's factual information or interpretive
25 information. Factual information, it needs to be a
26 certain level of detail needs to provide on a certain

1 breadth of topics that needs to be covered. As far as
2 interpretive information, staff puts no specific
3 requirement on.

4 Q Okay. With regard to your answer a while ago
5 that you thought applicants present the information in the
6 form that the staff desires it is evidence that the
7 applicant agreed with that approach.

8 Let me ask you this, can you show me anywhere in
9 the AFC where any applicant's filing a statement that says
10 that?

11 A No. The very fact that some applicants do not
12 use that approach makes it clear that applicants do not
13 necessarily think they have to file it in the same
14 approach that staff does, and several have not used that
15 approach.

16 Q Is it conceivable to you that Calpine in this
17 case and the AFC may have presented information using your
18 approach because they wanted to address your approach even
19 though they did not agree with it?

20 A Well, Calpine didn't use my approach. They used
21 the BLM approach which I have already said has some
22 problems that I think need to be dealt with, and that's
23 why my approach differs from the BLM approach. The
24 Applicant use the straight BLM approach.

25 Q Do you think that Calpine's presentation in the
26 AFC of the Key Observation Points was intended to provide

1 information that you could use using your approach?

2 MR. RATLIFF: Object on the grounds that the
3 question requires the witness to speculate on Calpine's
4 intention.

5 MR. ELLISON: I'll restate the question. That's
6 a fair objection.

7 Q Do you think it's conceivable to you that
8 Calpine presented that information, the key observation
9 points, for the purpose of giving you the information to
10 do the approach your way?

11 A I think that it's conceivable, and I think
12 it's -- however, that information needed to be presented
13 in that way for them to use that approach, the BLM
14 approach.

15 Q You also testified on direct about the
16 differences between the depiction of the corner poles at
17 South Township Road and O'Banion Road used in your
18 testimony and that used in Dr. Priestley's. Do you recall
19 that?

20 A Yes.

21 Q And specifically in a comparison to Visual
22 Resources Figure 16 you used in your testimony in the very
23 similar figure that was used in Dr. Priestley's testimony,
24 correct?

25 A Yes.

26 Q I ask you to turn to Visual Resources 16 for a

1 moment?

2 A I have it.

3 Q Okay. The corner pole that's shown there has a
4 distinct black line outlining it, does it not?

5 A Well, there's a black line outlining it. I
6 don't think it's very distinct.

7 Q In reality would the pole have a black line
8 outlining it?

9 A No.

10 Q And the pole also is shown as being in front of
11 the orchard trees at the corner, correct?

12 A Yes.

13 Q And in reality it would be behind those trees,
14 correct?

15 A According to Calpine's latest proposal.
16 However, that pole when I just did a quick and dirty
17 measure of it, my figure is shorter, noticeably shorter,
18 than the pole shown in Calpine's figure. So in that sense
19 it understates the impact in relation to the Calpine's
20 most current simulation.

21 Q Well, let me stipulate on that, that's correct,
22 Mr. Walker, and in fact I am informed and I want to inform
23 the Committee that Calpine's resubmission that the
24 depiction was done from slightly closer to the pole,
25 therefore, making it look taller than in this depiction.

26 And, in fact, we believe that the correct one

1 for representing the KOP 5 is in terms of its height and
2 size is Figure 16 used by the staff. But the reason
3 Calpine presented the new figure was because they
4 recognized the outlining in this one as well as the
5 positioning of the pole exaggerated its impact.

6 Mr. Walker, you also testified that you had in
7 some way tried to estimate the height of the existing
8 distribution poles in the area, correct?

9 A Yes.

10 Q And you did that by some form of triangulation?

11 A Yes.

12 Q Which pole did you use to measure those
13 heights?

14 A The second pole that you see in the figure, not
15 the first pole.

16 Q Can you tell me why you chose that pole?

17 A It appeared to be representative of the poles
18 along the route.

19 Q And the first pole was not representative?

20 A No. It's seemed to be slightly taller.

21 Q And that first pole that's slightly taller, is
22 that the one that's on the southeast corner of South
23 Township and O'Banion?

24 A Yes.

25 Q And that's the one that serves the dual purpose
26 of supporting the Township lines as well as the ones

1 running on O'Banion?

2 A Yes.

3 Q Did you make any efforts to measure that one?

4 A No.

5 Q You have testified that the home at the corner
6 of South Township and O'Banion is elevated so that it
7 could see over the orchard. Do you recall that?

8 A Yes.

9 Q Are you aware that there is a county requirement
10 for the elevation of structures such as that home for
11 flooding purposes?

12 A No, but I wouldn't be surprised.

13 Q If you look at other homes and, for example, the
14 Greenleaf 1 office, they are similarly elevated, are they
15 not?

16 A I don't remember. Some of those homes have been
17 out there a long time and are not elevated.

18 Q Okay. I'll accept that. Subject to check I'm
19 informed that that level is approximately two feet above
20 the road. I'm not asking to confirm that. But just for
21 the moment assuming it's true, is that roughly the kind of
22 elevation we're talking with for this home?

23 A No. I think it's actually more because there's
24 a deck around the home that it's elevated above the
25 ground, and there are two steps up from the home to the
26 floor of the house.

1 Q Okay. Well, that concludes my examination of
2 your -- not all of your testimony, certainly, but the
3 additional direct that you presented today.

4 Let me begin by clarifying a couple of things,
5 and then we'll talk about your prefiled testimony.

6 First of all, just to be absolutely clear, is it
7 your understanding that at this point the dispute that
8 exists between your testimony and Dr. Priestley's
9 testimony as to a significance finding is confined to the
10 significance of the transmission line at KOP 5?

11 A The significance of the transmission line,
12 period, KOP 5 is simply the representative of the whole
13 area from which transmission line can be seen up and down
14 South Township Road and O'Banion Road as well as the
15 houses near O'Banion Road -- on O'Banion Road.

16 Q Okay. But it's with the understanding that
17 that's representative as you described it. We're not
18 talking about a dispute on any other KOP, are we?

19 A No.

20 Q And we're not talking about a dispute as to the
21 visual impact of the power plant itself?

22 A No. I should correct the first "no" that I said
23 in the sense as I mentioned on direct other residences
24 along South Township road, just those representative of
25 KOP 4 are among those travelers who come out and use South
26 Township Road and O'Banion Road and live in, walk around

1 in the area, travel on their bikes, that sort of thing.
2 So in that sense they're part of that group that's
3 representative of KOP 5.

4 Q But your finding of significance is confined to
5 KOP 5 in the views that it represents, correct?

6 A Yes.

7 Q Okay. In your prefiled testimony there is a
8 several rather lengthy discussions of the of cooling tower
9 plume. For example, pages 268 and 9, there's a section on
10 visible plumes. All the Appendix E addresses visible
11 plumes. Appendix F has a discussion of visible plumes.

12 Am I correct that all of this remains in your
13 testimony notwithstanding the dry cooling configuration
14 because you're treating the dry cooling configuration as
15 mitigation, correct?

16 A Correct.

17 Q There's no misunderstanding that there are no
18 cooling tower plumes in the project now, correct?

19 A That's correct.

20 Q Mr. Walker, I do have a couple of questions
21 regarding your qualifications, not many, but I do have a
22 couple.

23 First of all, I understand that your educational
24 degree is in history, correct?

25 A History and archeology and an anthropology.

26 Q And do you have any degrees in landscape

1 planning or planning, generally?

2 A No, I do not. I have taken class in
3 environmental planning as well as landscape design and
4 while I was in taking my graduate work at Santa Barbara
5 for my master's degree.

6 Q Master's degree in what?

7 A When I got my master's degree in history and I
8 went on contemplating a Ph.D, I took classes in
9 environmental planning as well. My focus was on
10 environmental history.

11 Q So you're testifying that you took classes in
12 environmental planning as part of your effort to obtain a
13 history degree?

14 A Yes. As part of my preparation for Ph.D in
15 history because typically are required to have an outside
16 subject that you also have expertise in.

17 Q How many classes are we talking about?

18 A Three or four.

19 Q And what were they?

20 A I'd have to look at my resume to specify the
21 name, actually, look at my detailed resume, not the one
22 provided attached to the testimony.

23 Q Did any of those classes focus upon landscape
24 planning or visual impact analysis?

25 A One of them did but dealt with EIR preparation.

26 Q The class focused on EIR preparation with an

1 emphasis on visual impact analysis or EIR preparation
2 generally?

3 A EIR generally and one agriculture aspect of
4 that was visual. I've also since taken classes at --
5 extension classes in environmental impact analysis that
6 dealt with visual resources.

7 Q Have you ever taught any classes on visual
8 impact analysis?

9 A No.

10 Q Have you ever taught on any on landscaping?

11 A No.

12 Q And in terms of your professional experience
13 doing visual impact analysis, have you ever done any of
14 that work outside the Energy Commission?

15 A No.

16 Q Mr. Ratliff asked Dr. Priestley, and I'm going
17 to ask you what is your definition of significant as used
18 in a CEQA analysis of visual impact?

19 A Well, I used as much legal guidance as is
20 available and the short guidance provided in appendix to
21 CEQA are substantial negative visual effects of scenic
22 views and other factors involved in that appendix are
23 basically guidelines, but there are other considerations
24 to be made that aren't included in that list because it's
25 very brief.

26 Q Are you referring to Appendix G of the CEQA

1 guidelines?

2 A Yes.

3 Q Is it fair to say that in determining
4 significance, one look at the change in the visual
5 environment introduced by the project?

6 A Yes.

7 Q So one is looking for the difference in the
8 visual environment before and after the project. Is that
9 fair?

10 A Yes.

11 Q Is it also fair to say that just because
12 something is visual does not necessarily mean it has a
13 significant impact under CEQA?

14 A Correct.

15 Q I want to ask you just a couple of questions
16 about the general character of the landscape in the area
17 of the power plant. I want to emphasize these questions
18 are not focused on any particular observation point. They
19 are about the general landscape.

20 But if one were to go there the vicinity of the
21 power plant, first of all, you would see the Greenleaf
22 power plant, correct?

23 A Yes.

24 Q And you would see that there's a large
25 commercial agriculture drying facility there as well as
26 the power plant?

1 A If you got close enough to it, not from O'Banion
2 Road.

3 Q And you would see that there is a 115 kilovolt
4 transmission line that runs from the Greenleaf Power Plant
5 north on South Township and then past residences on Best
6 road?

7 A Yes. If you were immediately adjacent to that
8 transmission line, if you were very far south down South
9 Township Road, that would be distinct.

10 Q We've had a great deal of discussion about the
11 other transmission lines and distribution lines that one
12 would see. I don't think there's any dispute that there
13 are other distribution and transmission line in the
14 general vicinity of the power plant, correct?

15 A Correct.

16 Q The properties that surround the site are not in
17 a natural state, correct?

18 A Correct.

19 Q Is it fair to say that all of them have been
20 significantly altered by man?

21 A Yes.

22 Q And there are some significant commercial like
23 structures associated with the farming in the area,
24 correct?

25 A Yes, but not in the viewshed.

26 Q Which viewshed are you referring?

1 A Viewshed of the project.

2 Q Where are you defining as the viewshed of the
3 project?

4 A Area from which the project can be seen.

5 Q So it's your testimony that there are no
6 significant industrial structures in the area from which
7 the project can be seen?

8 A Not agricultural. If you're talking about
9 Greenleaf 1 because it has drying capability then
10 Greenleaf 1.

11 Q When you refer to the area that the project can
12 be seen, are you including within that the area of -- that
13 the transmission line can be seen?

14 A Depends upon your definition of the transmission
15 line route. The proposed route as it now is constituted
16 along O'Banion Road, I don't remember any large industrial
17 agricultural facilities.

18 Q Well, let me just pick one just for the sake of
19 discussion. We've had this discussion of the house east
20 of South Township on O'Banion. You're familiar with those
21 residences, are you not?

22 A Yes.

23 Q Have you been out there recently?

24 A Yes.

25 Q Are you aware that there is a relatively new
26 large warehouse structure for agricultural purposes that

1 is constructed just west of the second residence?

2 A Yes.

3 Q That would be a large agricultural structure
4 that's in that viewshed, would it not?

5 A Not in the way I define large because
6 agricultural structures can be very large, such as grain
7 silos, drying structures and all. That is a relatively
8 not large, I would say moderate sized structure.

9 Q Would you estimate the size of that structure?

10 A Not with any certainty. I can say probably 60
11 feet long and 40 feet wide.

12 Q It's considerably larger than the home?

13 A Yes.

14 Q And it's taller than the home, is it not?

15 A Yes.

16 Q But you would nonetheless describe this as a
17 moderately sized structure?

18 A Yes. Because agricultural structures can be
19 over a hundred feet tall, maybe several hundred feet tall
20 and much larger in footprint in that structure, too.

21 Q And are there examples of the large structures
22 that you're referring to in the general area of the
23 project although perhaps not within is it viewshed?

24 A Yes.

25 Q And in the general area of the project and
26 within the viewshed, I would see a significant number of

1 trucks, would I not, related to agriculture?

2 A Depends upon the season. You're talking about
3 harvest season, you'd see much more trucks harvesting.
4 Typically, in my trips out there, I've not seen a large
5 number of trucks. I've seen a moderate or light number
6 actually because those roads aren't heavily traveled. The
7 number of pickup trucks but in terms of large farm trucks,
8 they're not frequently seen in large numbers.

9 Q I'm not asking so much about the numbers. I'm
10 asking would you be surprised to see large numbers of
11 trucks related to agriculture in that area?

12 A No.

13 Q And you would expect to see crop dusters from
14 time to time?

15 A Yes. Seasonally when they're --

16 Q And you would expect to see farm equipment
17 operating?

18 A Yes. Again, seasonally because of the nature of
19 rice production, there's large portions of the year when
20 no structures are in those fields because they're flooded.

21 Q It's fair to say that this is a farming area,
22 correct?

23 A Yes.

24 Q And that farming is a significant commercial
25 enterprise?

26 A Yes. Actually, commercial maybe misleading

1 because commercial often has a connotation that aren't
2 related to agriculture, such as urban commercial. It's a
3 very special subset or special hybrid, actually, its own.

4 Q But commercial in the sense of moneymaking. You
5 would accept that, would you not?

6 A Yes. Potentially moneymaking.

7 HEARING OFFICER FAY: Intervenors are making
8 objections.

9 MR. ELLISON: My apologies to the audience.
10 (Brief recess taken.)

11 COMMISSIONER MOORE: If everybody can hear me,
12 we're going to make a slight change in procedures here in
13 order to accommodate what could be an future error in
14 procedures. A court reporter backup has not made
15 themselves known, so I don't know whether it's going to be
16 possible for us even if we want to continue into the
17 hearing.

18 With that in mind, I'd like to ask counsel for
19 the Applicant if he can suspend his questions comfortably
20 right now and allow us to take the NEPA part of this
21 hearing out of order and my comments on the hearing order
22 which I issued on Friday, and then we'll make a decision
23 following those whether or not we can continue on with the
24 process.

25 Mr. Ellison.

26 MR. ELLISON: That's fine.

1 COMMISSIONER MOORE: With that in mind, and if
2 there are no objections by the staff to that, I realize
3 it's a little bit irregular but I'm trying to make sure
4 that we get the things that we need to get done
5 procedurally. And if this is a convenient breaking point
6 for Mr. Ellison, we can pick it up again either this
7 evening or at a later date, and we'll attempt to do that.

8 With that let me turn to Ms. McMahon and ask her
9 for the NEPA procedures.

10 MS. McMAHON: Okay. This section of today's
11 agenda will be an open comment forum. Because of the
12 joint nature of this project between federal and state
13 agencies, Western will use this public record and
14 incorporate and address all previous comments that have
15 been made, both oral comments and the written comments
16 that we've received. Western has been receiving copies of
17 the comments that have been sent to CEC, California Energy
18 Commission. Therefore, there won't be a need to repeat
19 your previous comments, whether they were presented here
20 orally or whether they were presented in writing.

21 Public comments assist decisionmakers by
22 identifying their concerns and values of the interested
23 parties. So since this is a very important part of the
24 Western NEPA process, we would like to now welcome
25 additional comments on any part of the projects or address
26 DEIS/FSA.

1 HEARING OFFICER FAY: Ms. McMahon, am I correct
2 in understanding that Western plans to use any comments
3 made at the previous hearings and at future hearings as
4 well?

5 MS. McMAHON: That's correct.

6 HEARING OFFICER FAY: So there's no need for
7 someone to repeat comments or concerns that have already
8 been spoken on the record?

9 MS. McMAHON: That's correct.

10 MR. FOSTER: My name is Brad Foster. My
11 question is when are we going to come up with a
12 transmission route with the several proposed routes. We
13 are leaving the immediate neighbors in the vicinity of the
14 plant without their supervisor's participation in the
15 project. So until we come down with a definite route, we
16 have no representation at the county level. Thank you.

17 MR. ELLISON: Let me comment because this issue
18 has come up again. As far as the Applicant is concerned,
19 and I believe the staff is now in agreement, there's only
20 one route being recommended by the Applicant and the
21 staff, and it's the same route which is the plant out on
22 South Township, directly on the west side of South
23 Township, down South Township to O'Banion, on the south
24 side of O'Banion out to the switchyards.

25 So if there's any confusion or ambiguity, let me
26 make it crystal clear that the Applicant's proposed route

1 is now the route being recommended by the staff, and
2 there's no other party to the proceeding recommending any
3 other routes. So I think the routes's pretty clear.

4 COMMISSIONER MOORE: Ms. McMahon, can I ask you
5 on behalf of Western authority, is that the route that
6 you've used in your EIS or what you assume?

7 MS. McMAHON: Yes. That was the route that was
8 in the draft environmental impact statement as the
9 recommended route.

10 COMMISSIONER MOORE: So where we've had some
11 questions in the past as to whether or not Western would
12 act at any given point in time to select a route where
13 they've said that they would wait until the last minute to
14 select a route. In fact, at this point, the route for all
15 intents and purposes for Western is that route just
16 described by Mr. Ellison?

17 MS. McMAHON: Yes. Because this is an applicant
18 driven process, the Applicant chooses the route. Western
19 doesn't have another preference other than what the
20 Applicant has recommended.

21 COMMISSIONER MOORE: Okay. And with regard to
22 NEPA, what unique features about the EIS rather than
23 CEQA, California Environmental Quality Act, EIR would be
24 before us today? What should people note that's different
25 about the EIS, Environmental Impact Statement, than is in
26 an Environmental Impact Report? What's different? Why do

1 we have a NEPA process coincident between a CEQA process?

2 MS. McMAHON: It isn't necessarily a difference
3 in the documents. That's why we were able to do them
4 jointly. What it is is a different process, different
5 agencies are regulated by different environmental
6 regulations. Federal agencies are regulated under the
7 National Environmental Policy Act. State agencies are
8 subject to the California Environmental Quality Act.

9 COMMISSIONER MOORE: So for purposes of the
10 public, the comments that they've been making all along,
11 as Mr. Fay indicated, will get incorporated into the
12 Environmental Impact Statement and there's no further
13 differentiation in the Environmental Impact Statement that
14 would require a different kind of testimony or a different
15 level of testimony at this time.

16 MS. McMAHON: No. The processes have been a
17 little bit different. Our noticing process requires a
18 two-week notice which is why the NEPA comments are
19 specifically being taken at this hearing.

20 However, in an effort to work collaboratively
21 between the two agencies and in order to ease the burden
22 on the public, we will be taking comments from all the
23 hearings and all other avenues, the comments that have
24 been presented, whether they're phone calls or whether
25 they're written letters, handwritten, typed documents,
26 whatever has come in during the public comment period,

1 which as a reminder, again, our NEPA public comments
2 period closes December 14.

3 COMMISSIONER MOORE: So for all practical
4 purposes, what we have is a procedural discussion here in
5 comments today that would be different from any other kind
6 of comment we've gotten so far would be on the nature of
7 the procedures of NEPA rather than the substance of the
8 project.

9 MS. McMAHON: That's correct. What we're hoping
10 to encourage the public is that if there's something that
11 they wanted -- have wanted to comment on but they had to
12 leave early from a meeting or they remembered after the
13 subject matter was closed that we will be accepting all
14 those comments at this time.

15 COMMISSIONER MOORE: Okay. Well, I think we've
16 attempted to be open on that as well, so I think we can
17 say that we're jointly open to a broad range of comments,
18 even at those times when it's off the topic, we've
19 entertained those comments.

20 Is there anyone else who would like to comment
21 on the NEPA process, National Environmental Policy Act
22 process? All right.

23 Seeing none --

24 MR. HENSON: My name is it Leonard Henson. My
25 question is, Mr. Moore, can we talk about the project
26 itself?

1 COMMISSIONER MOORE: Yes.

2 MS. McMAHON: Yes.

3 MR. HENSON: I've been taking those for days.
4 The overhead that showed the two poles that were there was
5 an error in the math. The error is in the 20 and 30
6 dimensions if you run that -- in page 11 of the book is
7 what it was taken from. If you run that down through the
8 ground then it's 106 feet tall. That's where the error
9 was in that. So the little one is out of perspective a
10 little bit.

11 This thing is against the general plan because
12 then the general plan on page 17 says the view of the
13 visual aspects of the county natural resources should be
14 protected. So that's where it says that in the general
15 plan. This is not in order at all. I didn't know we were
16 going to do that. Sorry about that.

17 A little bit of my background. I studied and
18 got my degree in Cal Poly San Louis Obispo in agricultural
19 soils. And after a term with Uncle Sam, that's what I've
20 been doing is farming. And I can tell you that when they
21 said the high loads in the afternoon come because of
22 afternoon pumping and the heat. No. It's the air
23 conditioners in town. We pump -- we don't pump in the
24 afternoon because the power is more expensive at that time
25 of use. I shut my pumps off every weekday afternoon
26 because the power is four times more expensive than --

1 it's a highly engineered area. Boy, I got lost on that.
2 Oakland's a highly engineered area. I've driven through
3 their freeways, but I don't know what that has to do with
4 anything.

5 And then they're talking about was the -- in the
6 industrial park up on the Buttes. Were those things
7 exemptions to the general plan or something.

8 Well, the cotton gin -- the first thing built
9 was the rice drying facility, the drying facility, the big
10 square concrete building. It was built. Then the cotton
11 gin was built several years ago. The general plan is less
12 than two years old so they try to address some of those
13 problems. And now the new building has gone up and is
14 lower than that, than those two buildings, has a lot of
15 landscaping up in front. It's a good example of the
16 general plan and the local government trying to prevent a
17 problem from getting worse.

18 Now, on today's stuff, what do you usually see
19 out there. Yeah. You expect to see drops and you expect
20 to see service lines on wooden poles. In fact, you don't
21 even see them. They're so common. You don't even
22 recognize them when you go through. Is there a power line
23 along the road you drive home to? There might be. I
24 don't know. I can't remember for sure. But is there a
25 230 kilovolt steel tower there? Yeah, that's dandy. They
26 put one in a mile down the road here. Go down Butte House

1 a mile and where Township -- Yerba Buena Road crosses,
2 there are some of those steel poles. I don't know if
3 they're the same size, but they are huge, and you notice
4 that if you don't notice anything else when you go
5 through. You just notice the poles.

6 The looking at the window orientation the homes
7 is immaterial. You spend 90 percent of your time on the
8 farm outside. It's a way of life. It's what you do. You
9 enjoy the view. That's why I do it. I don't do it for
10 the money. It's a way of life. If I earn enough to feed
11 my family and put them through school, that's all I ask.

12 It's where the windows are and what you see out
13 the bedroom door. No, no. It's what you see when you go
14 out the countryside. And it does not belong out there.
15 Hiding those power poles -- my boy rented Godzilla last
16 night. We saw it at home. Hiding those power poles is
17 like trying to hide Godzilla either in a zoo or in town.
18 Well, he'd hide better in the zoo, but you ain't going to
19 hide him no matter where you put him. You need to get rid
20 of those power poles by putting them Elverta or somewhere
21 else where you don't have all these power poles. And
22 we're obviously talking five miles of power poles. What
23 happens when we need reliable voltage down there and we
24 say two, and we need 23 miles of these suckers.

25 That's all I got to say.

26 COMMISSIONER MOORE: Thank you, Mr. Hensen. We

1 appreciate it.

2 Anyone else who wishes to comment on the NEPA
3 process. Mr. Akin.

4 MR. AKIN: I'm Jim Akin. I guess you all know
5 me. I've been up here too many times now, but I do have a
6 question.

7 The question is simply I understood that they're
8 updating all the generators in Shasta and the generators
9 at Oroville Dam. And I understand that they will pick up
10 maybe half, again, as much as the old generators been
11 generating. What's the power situation going to be with
12 these polluting plants that you have when these other new
13 water generators come on line. Are we going to need these
14 extra plants that Calpine is talking about in the near
15 future. So what is the synopsis of this situation?

16 COMMISSIONER MOORE: Well, you've asked two
17 questions. One regards air pollution, and we'll be
18 dealing with air pollution questions in a later hearing.
19 You specifically called that out.

20 And the second is whether or not they're still
21 needed, and the official testimony is that you have before
22 you, that I have before me as presiding member, is what
23 was presented to me by the staff in terms of need
24 conformance, whether the State needs the new power. And
25 the staff conclusion was that given what they knew was
26 coming in the future, we still had a need so that's the

1 official testimony that I have in front of you.

2 MR. AKIN: Evidently they're not taking in
3 consideration perhaps the new lines because when the new
4 lines come in, when the new generators come in, there will
5 be more power lines going someplace because they're
6 overloading now as you well know.

7 COMMISSIONER MOORE: Well, Mr. Akin, all I can
8 tell you is that the staff assures me that they have taken
9 that into account in the last electricity report.

10 MR. AKIN: Well, thank you. But I still don't
11 know any more than I did before I come up here.

12 COMMISSIONER MOORE: Thank you.

13 Mr. Massey. Mr. Massey.

14 With that -- I'm sorry. Yes, sir. Come up
15 here.

16 MR. BURKE: I feel like Mr. Akin. Jerome Burke,
17 again.

18 I have, I guess, two questions, one for the
19 staff. And that is in looking at the staff's assessment
20 of alternate sites, there was some mitigations offered for
21 water and the dry cooling system which would help the
22 drainage situation offered by Calpine somewhat down the
23 road from the beginning of this process. So I was
24 wondering if the staff had had time to go back to all the
25 alternate sites, particularly the one in the Elverta area,
26 to reevaluate those based on those mitigations.

1 COMMISSIONER MOORE: What's your second
2 question?

3 MR. BURKE: My second question is if for some
4 reason through all this process, the Calpine proposal here
5 was to be rejected based on a number of factors that we've
6 all talked about, is there an accelerated process by which
7 a lot of this testimony, it seems to me, is transferrable,
8 if you will, to another situation within the county, and
9 is it possible to speak -- I'm trying to offer an
10 alternative here were this to be rejected, and would we be
11 going through another year's worth of hearings for an
12 alternate site or is there some mechanism by which these
13 people would get what they want and everybody could
14 win-win.

15 COMMISSIONER MOORE: Let me see if I can get an
16 answer to both of your questions.

17 Staff, can you answer the question, the first
18 one, Paul.

19 MR. RICHINS: Yeah. The alternative analysis,
20 we took a look at the project as proposed by Calpine not
21 with the mitigation, but the project as proposed by
22 Calpine and then compared that with the numerous
23 alternative sites. We did not then go back after the
24 mitigation measures were proposed and adjust our analysis.
25 However, I would anticipate that there probably would not
26 be significant difference in the conclusions.

1 COMMISSIONER MOORE: Could you answer the second
2 question as well, whether or not the documentation we had
3 presented to us would be transferable to another project
4 or another alternative, should it be selected?

5 MR. RICHINS: There's probably attorneys in here
6 that could do better answering the question.

7 But, in essence, the way the Energy Commission
8 operates, we're required to review an application and then
9 provide an assessment and analysis of the impacts of that
10 application. And in this case we have an application for
11 a specific site, and so the Energy Commission has to make
12 a decision whether to approve or to deny if an alternative
13 site were identified as a preferable site. The Calpine
14 Corporation or somebody else would have to come in and
15 propose that site, and we would start the process over
16 again.

17 Now, that's not to say that they couldn't use
18 some of the information that was gathered in these
19 proceedings to help them and to help staff. But,
20 basically, the proceedings would start over again because
21 it's a new site, and there are people in those localities
22 that would have concerns just like the people in the room
23 tonight. So to be fair to them, we have to do a complete
24 analysis just like we have for this project.

25 MR. BURKE: Would you anticipate that the
26 process would go quicker because a lot of the alternate

1 site analysis had already been completed.

2 MR. RICHINS: We have to do an alternative
3 analysis on the alternative site. So, in essence, for
4 example, if the Elverta site was deemed better, then there
5 would be an application received on the Elverta site, and
6 we would do an analysis of alternatives based on the goals
7 and objectives of the particular plans that's being
8 proposed.

9 MR. BURKE: Thank you.

10 MR. RICHINS: So to answer, it would not
11 necessarily be quicker and depending on the issues that we
12 uncovered, it could be just as long or it could be longer.

13 MR. BURKE: Nobody can predict the future.

14 HEARING OFFICER FAY: I understand the logic in
15 your question. Some of the details that I'm sure would
16 come up if you got into this further with Mr. Richins and
17 things like, where does transmission line have to go to
18 get from the plant to the grid? Where does the gas supply
19 pipeline have to go?

20 These are very specific things and every time
21 you move a power plant, the answers to those questions
22 change and so that's why it is very site specific.

23 COMMISSIONER MOORE: Mr. Ellison, you have
24 something you want to add to that?

25 MR. ELLISON: Just two things. First of all, I
26 want to express appreciation on behalf of Calpine for the

1 people who are looking for creative solutions, and
2 certainly that suggestion was that in that vein of trying
3 to find a win-win. And I wanted to express our
4 appreciation for trying to do that.

5 But, unfortunately, the answer that you got is
6 correct. We would to have start the process over. People
7 in the new community -- I'm sure if this process had
8 started with Calpine walking in and saying we've just
9 selected this site, but we've held hearings somewhere else
10 on some other site, and you folks are just going to have
11 to accept the record we made somewhere else, I'm sure
12 there would be a lot of -- and I'm sure you can understand
13 why we would have to start over.

14 COMMISSIONER MOORE: Thank you. Mr. Henson.

15 MR. HENSON: Leonard Henson, again. The
16 question is for the Western Power lady.

17 Has anybody -- there was discussion earlier, do
18 these power poles fit between this canal in this road?
19 Does anybody know?

20 MS. McMAHON: I think they're still working that
21 out.

22 MR. ELLISON: We think they do, but that's
23 something that is to be worked out with the mutual consent
24 with obviously the water district and everybody else. If
25 they don't, they'll go on the other side of the road.

26 MR. HENSON: Where?

1 MR. ELLISON: I'm sorry. The other side of the
2 ditch. The route on the west side of South Township would
3 remain the same. It's just which side of the ditch would
4 it be on.

5 MR. HENSON: When do we find this out if they're
6 going to go alongside the road or out on the side?

7 MR. ELLISON: Well, for purposes of the analysis
8 in the proceeding, we've looked at both so it's not
9 necessary to find it out in exact placement of the poles
10 in order to do the analysis that's necessary.

11 But in terms of answering your question, we
12 would find that out post-license and when we sat down with
13 people to negotiate the easements and make judgments about
14 what everybody in the community thought was best and what
15 made the most sense.

16 MR. HENSON: I'll make sure to mention that
17 Wednesday night in the Planning Commission.

18 COMMISSIONER MOORE: Thank you, Mr. Henson.
19 Anyone else? I'm going to close -- just the phrase I'm
20 going to close up seems to elicit more comments. I'll
21 remember that. Yes, sir.

22 MR. HUNT: Harry Hunt. And I still don't
23 understand how come they're going now for 75 acres or 77
24 acres of industrial tract instead of -- I understood it
25 was going to be where the plant would sit. And I'm sure
26 that what it was boils down to is Greenleaf said they

1 weren't going to put any more things out there, and now
2 they bought it so they're going to put another generator
3 and then five years from now or whatever. What's the next
4 thing that's going to go on that 77 acres that changing
5 records to. It looks to me like it's just a beginning of
6 the end of the farming in this general area. Eventually
7 it will be an industrial tract if that goes through.

8 I think I mentioned here before that there's a
9 lot of knocks that's going to come out of 205 tons in this
10 new one. Well, the other one's 195 already, if I
11 understand correctly.

12 I think I mentioned that before that my son also
13 already has cancer, but I don't know if -- I sure can't
14 prove that it came from Greenleaf, but I can't prove that
15 it didn't either. From that it's already putting out,
16 from what I understand, as much as 30,000 cars a day.

17 The trees, is there going to be a berm around
18 the edge of the field? Is that where these trees are
19 going to go on it? If it is, that's just one more hazard
20 to the airplanes, crop dusters, if they get too close to
21 the edge. If those trees grow because that water table is
22 so high, I think the roots will get wet. They're going to
23 fall over anyway. Those evergreen trees are not made to
24 grow into that much water, and we have to get the trees to
25 cover around there. It probably -- it would be a lot of
26 them be falling over. Okay. Thank you.

1 COMMISSIONER MOORE: Thank you, sir.

2 MR. ELLISON: One quick response to the issue of
3 rezoning of the full 77 acres parcel has come up before.
4 And let me clarify that if Calpine had their preference,
5 they would only rezone the portion of the plant or the
6 portion of the site they're using, but the county does not
7 subdivide, and so the requirement is to zone all of it or
8 none of it. So that's the reason for the rezone of the
9 entire site because the county requires it that way.

10 Calpine has expressed a willingness to negotiate
11 language limiting the development of the site
12 notwithstanding the rezone of the power project and
13 there's some discussion about doing that.

14 MR. HUNT: Do you know why the county would have
15 such a ruling?

16 MR. ELLISON: I think it's better addressed to
17 Mr. Carpenter, but it's typical for counties to zone
18 parcels completely rather than subdividing them. That's
19 not the usual policy.

20 COMMISSIONER MOORE: If it's a single ownership,
21 zoning depends on the ownership in this case.

22 MR. ELLISON: If you try to get the your
23 property rezoned, I think you'd find the same thing. It
24 has to do with the kind of uses that are permitted and how
25 much you want to allow people to subdivide their property.

26 HEARING OFFICER FAY: In addition, I understand

1 the plan overlay will restrict the uses of the property as
2 well and therefore prevent further industrial development
3 on the property; is that correct?

4 MR. ELLISON: That's correct.

5 MS. WOODS: Mary Woods. I'm quietly listening.
6 Can't these people operate these things, say, for three or
7 four years get it online and sell it to someone else.
8 Then can not the new buyer come in and ask for the same
9 thing all over again?

10 COMMISSIONER MOORE: Madam, there's no
11 restriction for anyone asking for anything.

12 MS. WOODS: Right.

13 COMMISSIONER MOORE: You can ask for
14 something --

15 MS. WOODS: It does --

16 COMMISSIONER MOORE: I'm saying you could make a
17 petition to us, and we would have to respectfully consider
18 it.

19 MS. WOODS: Yeah. So there's nothing to say
20 that it would even stay 500 megawatts.

21 COMMISSIONER MOORE: Well, this plant is not
22 going to be -- if it's approved, it's not going to be
23 anything other than what they have been asking for
24 certification for because our restrictions will limit it.
25 Were it to be approved, it would limit it to what they've
26 asked for. Some future event, someone asking for

1 something in the future, I simply can't predict.

2 MS. WOODS: So there is that possibility
3 somewhere.

4 COMMISSIONER MOORE: There's an infinite number
5 of possibilities.

6 MS. WOODS: Right. Thank you.

7 COMMISSIONER MOORE: All right. Anyone else who
8 would like to address this under the NEPA consideration.

9 Seeing none. Let me go on to one other item and
10 that is the hearing order, which is Docket 97-AFC-2. This
11 was issued by me on Friday. And I want to clarify what I
12 intended with the hearing order and then entertaining
13 questions so that everyone is clear on what we have in
14 mind.

15 First of all, the hearing order is designed to
16 fill what I perceive to be information gaps in the record.
17 I attempted to be as clear as I can about what those
18 examples are. I attempted to do this as early in the
19 process as I could because I didn't want to penalize
20 anyone, neither the Applicant or the public in terms of
21 time. I'm very mindful of the time schedule that we have
22 in front of us and trying to meet that in a fair and
23 impartial way. I don't want to, as I said, penalize
24 anyone either in terms of their ability to speak or in
25 terms of our ability to make a real decision.

26 Since I am in this case one of the

1 decisionmakers, as the presiding member, my opinion issued
2 in the presiding members proposed decision will be
3 important to my colleagues and set the framework for what
4 we do in the future in the decision that we finally make.

5 As a consequence I want to make sure that the
6 record on which I base that opinion is as clear and
7 complete as possible. Frankly, it's also clear to me that
8 since we have so many of these coming down the line, I
9 want to make sure that we're consistent in our application
10 of CEQA in our application of our own Aqueous Act
11 requirement from project to project. So that we don't
12 treat one applicant any differently than anyone else.

13 So with that in mind and with the idea that I
14 want to make sure that we do adhere to our timeliness and
15 with the idea that I'm trying to fill in the gaps in the
16 record, I've identified areas where I think additional
17 data or testimony is needed.

18 First in terms of alternatives, it seems to me
19 that we can clear up and make a little more rigorous the
20 analysis in alternatives, make it easier for not only the
21 public but for me to understand what the nature of the
22 alternatives really were. I'm not sure that discussion of
23 the no project alternative is as complete nor as relevant
24 as it could be, and I think that can be cleaned up. I
25 think some of the quantitative references can be cleaned
26 up and made more regular. And finally I think that the

1 overall transmission line connection can be clarified.

2 The Part B in land use in project alternatives I
3 think is clear on its face. The county is acting
4 concurrently with us. It's not clear on who really should
5 be out front, who should follow at this point, but we're
6 trying to coordinate that as closely as we can to make
7 sure there's no overlap.

8 As it is right now given were the staff county
9 recommendation to be adopted, this wouldn't be an issue,
10 but we don't have that condition today. In fact, we have
11 always had the condition where it was possible that the
12 county would not grant the general plan change, and it
13 seems to me that appropriately should be a discussion item
14 in the analysis.

15 In terms of the socioeconomics, it is not clear
16 to me that we have fully evaluated some of the economic
17 and fiscal impacts, and I have outlined a couple of
18 examples there where I think this should be done.

19 In terms of the plant closure fund, while this
20 is nominal, it seems to me, and as Mr. Ellison testified,
21 and I believe it was his testimony before, the likelihood
22 a plant like this closing without any economic value left
23 in the structure such that it would be then sold to a
24 bidder or moved off site is low. It seems to me that that
25 procedure should be responsibly documented. And I think
26 that that's easily done by the Applicant in cooperation

1 with staff. I think that this is something we should have
2 in the record. While it's not specific to a combined gas
3 facility, it certainly has been in other facilities in the
4 past. And, frankly, I don't know what the future of these
5 facilities would be. I don't know. They're going to be
6 out there. I think what the Applicant knows is probably
7 well beyond mine, and so I think that we should evaluate
8 that and get it documented in the report.

9 With that I'm open to questions on my intentions
10 or scope of either from the Applicant or from the staff,
11 and I suppose finally if the public has questions as well,
12 if I can clarify anything that I put down. And turn to my
13 own staff first. Mr. Richins.

14 MR. RICHINS: These items it appears are going
15 to be heard on December 3rd, and it's unclear whether
16 there's a product that is required prior to December 3rd.
17 Could you clarify that?

18 COMMISSIONER MOORE: Yes. I think that there
19 should be a product which we can review. Given the normal
20 time deadlines for backing up, I believe it's ten days
21 that we need to have. Frankly, I don't consider that
22 there is.

23 The only place where I think that there's
24 additional field research that might be required is in the
25 socioeconomics section wherein field data might have to be
26 generated. Otherwise, it is my belief that this is a

1 matter of using existing data and constructing the
2 language that would adequately deal with it. So I had
3 anticipated that we would have a report in our hands and
4 then be able to discuss it on the 3rd. If that's not
5 possible, then that certainly is something I'd like to
6 hear about, but I believe that it would be possible given
7 what we already know. And if we did so, we heard it on
8 3rd, it would not upset our existing timetable at all.

9 So I would say I'm going to yield to your best
10 judgment as to whether we could get answers to this. I
11 know Commissioner Keese would like to hear it if he could
12 on the 1st. But if it comes on the 3rd because that's how
13 much time you need, or if you convince me that it has to
14 come at a later date, then I'll find some way to
15 accommodate that and still get it into the record.

16 MR. RICHINS: Now, I'm really confused. What
17 would be discussed on December 1st.

18 COMMISSIONER MOORE: We're on -- December 1st
19 we have a land use discussion, air quality, public health.
20 In other words, if you came in earlier with this material,
21 I would add it to the December 1st hearing.

22 MR. RICHINS: Because we're going to meet all
23 day and into the evening on December 1st.

24 HEARING OFFICER FAY: We're going to renote
25 that.

26 COMMISSIONER MOORE: Mr. Fay was making that

1 fact known earlier today. I'd anticipated that this would
2 come up on the 3rd. That's why I'm telling you. If you
3 came in earlier, I would accommodate that, but I'm
4 anticipating that this would be discussed on the 3rd.

5 MR. RATLIFF: Commissioner, I have a feeling
6 since I have to absolutely be sure myself tell staff what
7 to do, I thought I'd asked you on the last paragraph on
8 page 3, the order, the second sentence starts, revising
9 the analysis for no project alternative could help remedy
10 the cost and benefits impacts and benefits. And the third
11 sentence says, for example, all other alternatives might
12 be measured against no project alternatives as well as the
13 Applicant's proposed project.

14 Would that be looking -- are you talking about
15 the alternatives and identified by the Sacramento area
16 Transmission Planning Group?

17 COMMISSIONER MOORE: Yes.

18 MR. RATLIFF: And we would do a cost comparison?

19 COMMISSIONER MOORE: Yes. Frankly, Mr. Ratliff,
20 had I been looking at this at the same set of factors
21 before the hearings, I probably would have suggested a
22 broader range of alternatives but I didn't. And we didn't
23 have them, so I'm limiting my comments to those identified
24 in Sacramento.

25 By the way, we were informed in testimony that
26 we didn't have the final report for that and wouldn't have

1 it for some time. I think that's unfortunate, and we'll
2 try and work that in as we get it with the presiding
3 members decision when it comes in. But, frankly, it seems
4 to me that at the heart of that lies the discussion and
5 rationale for no project, at least from what we got in the
6 testimony. What happens if you don't do a project? What
7 happens if there's simply no support? And I think that
8 that wasn't fully discussed.

9 So here's one of the difficulties with taking my
10 notes and translating them into a hearing order is that I
11 didn't do the exact translation. That's why we have legal
12 staff to take what I put out and clear it up. Sorry. I
13 said that with some tongue-in-cheek.

14 But, frankly, what I was looking for was some
15 sort of a matrix. I was looking for something that
16 allowed these things to be compared one to the other
17 consistently using a set of identifiable factors probably
18 some of those that could be found in the Sacramento
19 report, which I don't have but which apparently is in a
20 draft of some kind. I needed some framework in which to
21 say, well, no project is a result in these type of
22 conditions. And in the case of the testimony from
23 Mr. McKuen some fairly dire works in the future.

24 What happens with the other alternatives either
25 in terms of land use, et cetera. Those conclusions are
26 spread throughout a whole section and they're not

1 consistently done and they're not compactly done. A lot
2 of facts in there. But when it comes to using a document
3 which can be the basis of decisionmaking. In that section
4 what I have is a document that contains a number of facts
5 and conclusions, but it's not presented in such a way that
6 it readily supports coherent decisionmaking. I'm trying
7 to correct that so that we have a clearer statement of the
8 relationship of the alternatives. It's really my intent
9 here.

10 MR. RATLIFF: Okay. And I take it that has to
11 do with the third paragraph being in the alternative
12 transmission possibilities?

13 COMMISSIONER MOORE: There may be alternative
14 transmission possibilities, and I'd like to make sure that
15 we consider those so you could --

16 MR. RATLIFF: I was trying to distinguish that
17 from what was addressed in the first paragraph which was
18 alternative science.

19 COMMISSIONER MOORE: Yes.

20 MR. RICHINS: I had a follow-up question. We
21 heard from Sabet from Western Air Power that the report
22 they're working on will not be available for some time, so
23 that puts staff kind of at a disadvantage trying to
24 produce a report in less than a week and develop a matrix
25 based on document that you receive sometime in the future.

26 COMMISSIONER MOORE: It does and you can

1 understand -- I know what kind of position that puts me in
2 hoping to right a proposed member's decision made based on
3 what Morteza said would be coming.

4 Now, frankly the short-run answer to this is
5 that you have to rely on the testimony that you have, and
6 I understand that. There's a previous draft, that report
7 that's out and Morteza is going to amplify this. And my
8 understanding -- why don't you identify yourself for the
9 record.

10 MR. SABET: Morteza Sabet, Western Air Power.
11 The confusion I think lies in the section that you
12 basically referred to. The fact remains that this plant
13 basically was proposed not as a solution for the
14 Sacramento air problem. This plant was basically proposed
15 to seize the opportunities seeing a problem as a business
16 venture for Calpine. And that's what confusing the issue.

17 But the matrix that you're after is exactly what
18 I'm after as the chairman of the group. We look at what
19 does it take to fix this whole problem in the long haul.
20 Long haul you look basically five, ten, fifteen years.
21 The planning is because we're going to the marketplace
22 kind of assessment we're talking about.

23 So the question is that security of the system
24 to be hooked up at a longer term. So if you're looking at
25 transmission alternative versus local generation, we are
26 very limited in focus because this is a very high level

1 and screen analysis. If we did these combination or
2 permutation of lines, we didn't tell any generation what
3 would be the cost. We need the security.

4 On the other hand, what if we didn't do any
5 transmission and we did put the generation in the
6 Sacramento basin, what would be in terms of security. And
7 you can go ahead go in for permutation on those scenarios.
8 What size generator. How well you distribute it. Why do
9 you distribute generation. The better system responds.
10 Less concentration, I mean more concentration, large
11 plant, small plant. You have a different system.

12 Our focus is very, very narrow. Right now we
13 are looking at 500 -- basically similar plant of Calpine
14 proposed power plant. If that plant were to be located in
15 Rancho Seco and other locations in Sacramento compared the
16 building transmission line. If those performance are
17 equal or near, what is the cost to do so, either one. And
18 basically we are going to do that matrix. I'm going do to
19 my best for my meeting at the end of the month. That's
20 where we are.

21 COMMISSIONER MOORE: Thank you very much.

22 Paul, let me just elaborate on that by saying
23 that the discussion of alternatives in this case really
24 has nothing do company with Calpine's business decision.
25 I'm not responsible for that. And, frankly, it's none of
26 my business whether they can make a good business out of

1 developing on this site or another site.

2 My question -- my responsibilities has to be in
3 the public interest. Is this site the best one at this
4 time for an upgrade to the system. Just because it's a
5 market-driven system and somebody has found an opportunity
6 to bid in does not answer the question of whether or not
7 the alternative site might not be in the better public
8 interest.

9 The EIR is a public interest document, not a
10 business document. I presume -- have to presume, given
11 the level of effort that they put into this, that this
12 represents their best business decision. The thing that
13 makes the most sense. Land's the most appropriate, the
14 cheapest, access to gas, access to a transmission system.
15 Fine. That's none of my business, and it's not none of
16 the business of the public to analyze their business
17 decisions.

18 So what I need is a framework of alternatives
19 that looks at the public interest. How does the system
20 run. What are the alternative sites, and I'm asking for a
21 more simplified decision matrix of alternatives.

22 MR. KEESE: Mr. Moore, I probably I hope I heard
23 you misspeak. You said is this the best site for
24 generation in the state. Recognizing as we have, let's
25 say, we have four projects in front of us now, are you
26 suggesting we only approve the best of those four or best

1 of ten or the best of fifteen.

2 COMMISSIONER MOORE: No. In fact, I wasn't
3 saying --

4 MR. KEESE: So I heard you say make sure that
5 this is the best site for the generation in the State of
6 California?

7 COMMISSIONER MOORE: You misunderstood. I did
8 not say the best site in the state. I'm saying that given
9 the alternatives that we've identified, is this the best
10 alternative.

11 MR. KEESE: Of those.

12 COMMISSIONER MOORE: Of those in the public
13 interest. So I'm asking to frame this in the public
14 interest, to really make a clearer, cleaner relationship
15 known in the alternative section, try and tighten up the
16 alternative section so it's clear what the alternatives
17 bring to each one of the parts.

18 Does that answer the question?

19 MR. RICHINS: I understand what you want, but I
20 don't think given the time frame that we have and in the
21 number of alternatives that the Sacramento Planning group
22 looked at, how we conducted our alternatives analysis was
23 to take a look at each one, I think it was 21 or 22
24 technical areas, all the way from cultural paleo to
25 engineering to efficiency on through the whole list of
26 technical areas that we've been discussing and doing

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1 analysis on each -- for each one of those as it relates to
2 each alternative and then try to compare whether it was
3 better worse or the same.

4 And I guess what I'm understanding you -- or are
5 asking is for us to take a look at all the technical
6 sections that we have in the public interest and try to
7 identify of the numerous alternatives that Western in the
8 Sacramento Planning group are considering what might be
9 better as compared with the no project alternative.

10 Many of these alternatives are transmission line
11 routes of which have not been very well defined or maybe
12 not defined at all except in concept. And so for us to do
13 a biological assessment of an unknown transmission line
14 route is problematic.

15 COMMISSIONER MOORE: Well, I certainly am not
16 expecting for -- should I be put in a position of asking
17 for a separate biotic report or anything of that nature
18 for each one of the projects. But, frankly it seems to me
19 that it is reasonable to for a clearer selection of
20 alternative characteristics such that I can when I issue
21 an opinion have confidence that I am either selecting or
22 rejecting one alternative versus another clearly with
23 reason and in this broader public interest, and I think
24 that the section as it is written right now doesn't do
25 that.

26 MR. RATLIFF: Commissioner Moore, I read that

1 order a little bit differently than Mr. Richins did.

2 Again, I thought that the third paragraph that
3 you were talking about wants essentially a comparison of
4 the project to the alternatives and with the very strong
5 emphasis on what the no project at all were built. In
6 other words, if there were no project, what happens and
7 then comparison of this project with other alternatives
8 such as the transmission alternatives as discussed and
9 we'll be addressing in the report. Am I am right at least
10 for that part of it?

11 COMMISSIONER MOORE: Yes.

12 MR. RATLIFF: And the other part addressed in
13 the first paragraph I think I read it to be that you want
14 the analysis to be clearer, you want it to identify if
15 there are preferable alternatives among the site power
16 plant that we considered in our original analysis. Am I
17 getting that right?

18 COMMISSIONER MOORE: Say the second part of that
19 again?

20 MR. RICHINS: I think the second paragraph goes
21 to the power plant site themselves. And if I'm correct
22 about that, I think what it's asking us to do is be
23 clearer in that analysis as to whether or not there were
24 any sites that we looked at that were environmentally
25 superior or economically superior to the site that was
26 chosen. Am I missing something?

1 COMMISSIONER MOORE: No. I think you're saying
2 it right. In the end, what I was trying to avoid was to
3 go through and say, look, here's an outline of how to
4 organize the section. That's not my business. Staff does
5 that professionally for a living.

6 What I'm trying to suggest is that a need -- a
7 basis on which to make a decision and it has to be clearer
8 which means that alternative sites need to be either
9 framed or compared more clearly. In response to
10 Mr. Richins point before, I expect people to go out and
11 generate a lot of information. Although I think Morteza's
12 information is going to be important, frankly, that goes
13 to a whole different question about data adequacy of the
14 front end. This is not the place to deal with that given
15 the process that we've already undertaken.

16 But in future projects it will be. And so where
17 something that's as critical as Morteza's analysis is to
18 understanding the possibilities isn't available, then
19 maybe the application isn't ready for discussion yet.

20 So I'm saying given the data that we have
21 available, characteristics about each alternatives site,
22 it is possible to organize this in a way that we can allow
23 a clearer cross comparison between cost and benefits, some
24 of them intangible, some of them qualifiable, rather than
25 quantifiable, and it'll allow an easier and clearer
26 alternative section to be used in the decision.

1 Mr. Ellison.

2 MR. ELLISON: Commissioner, since the order
3 directs all parties or the parties to submit supplemental
4 testimony, I think I have some questions on behalf of the
5 Applicant. With your indulgence.

6 COMMISSIONER MOORE: Yes.

7 MR. ELLISON: I guess the first question is at
8 the outset am I right in reading this, that the Applicant
9 is directed to submit supplemental testimony.

10 COMMISSIONER MOORE: Frankly, I believe that
11 that got in there as a translation of my notes which said
12 I'd like to have the section cleared up, and they wanted
13 to make sure that they can go and ask the Applicant for
14 information should they need it. I believe that's the way
15 it got in my original notes. I was not specifically
16 ordering or asking the Applicants to supply anything.

17 But it seems to me that in the interest of
18 getting -- maintaining the time schedule, staff may have
19 occasion to ask the Applicant for more information, and I
20 had hoped that they would comply.

21 MR. ELLISON: Well, we certainly would comply
22 and probably would submit supplemental testimony on at
23 least some of these issues, provided that we understand
24 what you're looking for. And I think the discussion we
25 just had will assist in that.

26 Let me ask a couple of questions. And with

1 respect to the other first paragraph under alternatives,
2 specifically the question of evaluating the economic cost
3 increases and saving that sort of thing of different
4 alternatives. One of the problems that we may have here
5 and the reason that you don't see a lot of analysis in the
6 document in this is we have a problem of proofing the
7 negative. In the new merchant world, as you stated a
8 moment ago, all of those costs are absorbed by Calpine and
9 not the public.

10 So if you're looking at this from the
11 perspective of the public and you're defining cost to be
12 the cost of constructing and operating the project, all
13 the alternatives are the same, public experience is no
14 cost.

15 If, however, you mean by that, and I think you
16 do and I'm clarifying, the sort of ancillary economic
17 costs that would be experienced by others and the
18 Applicant locating the project that at various places,
19 then I think there is quite of bit of information on the
20 record but obviously you can always provide more, and we'd
21 try to do that.

22 Am I correct in my understanding that you're not
23 looking for the Applicant's assessment or anybody's
24 assessment of what the Applicant's cost of constructing
25 and operating at the different sites would be?

26 COMMISSIONER MOORE: Well, as you're likely to

1 find, out in wearing my other hat as a chairman of the Ad
2 Hoc Information Committee, I don't think it's my business
3 to ask you for those, and I won't be. So, no, I don't
4 think that that's something that I will be able to justify
5 asking you for, so I'm not.

6 MR. ELLISON: Well, one thing is that we
7 obviously don't have that information with respect to the
8 other site and with respect to this one is pretty
9 speculative.

10 With regard to the second paragraph, at least
11 from Calpine's perspective, we don't see any problem with
12 adding information about the actual measure of distances.

13 With regard to the third paragraph, we were
14 concerned -- share your concerns that the staff, FSA have
15 sufficient information on the no project alternatives and
16 what the implications of not building a project would be.
17 We've attempted to address that already in the testimony
18 of Beth Kinsell (phonetic) which goes into the economic
19 benefits of this project relative to the no project
20 alternative and also goes into some other issues of other
21 sorts of benefits.

22 I don't know that the Applicant has much more
23 information on that subject from what we've already
24 provided. If there is a desire on part of the Committee
25 to have more information from the applicant, we need to
26 discuss with you when that would be.

1 The land use and project alternatives discussion
2 under Paragraph B are part about the order. The Applicant
3 doesn't have -- if we understand this correctly that you
4 want a discussion of how the alternative analysis would
5 differ if the amendment of rezone did not occur, and I
6 think that we're comfortable with that.

7 On the socioeconomics discussion, again, I think
8 we have on the impact of the existing agricultural
9 complex, I think we have a problem with approving the
10 negative. It's certainly been a major issue in all of our
11 discussions here. It's not something that people have
12 overlooked in our workshops, and the analysis that the
13 various staff members and Calpine witnesses have looked
14 at. They certainly tried to look at that issue. I think
15 that the reason you don't see a lot of impacts identified
16 is because there aren't a lot of impacts because people
17 haven't looked at it. We'd certainly be happy to try to
18 supplement the information that exists, although we've
19 provided all the information that we have, at least in the
20 form of data requests and that short of thing and maybe
21 additional discussion by Calpine could provide.

22 COMMISSIONER MOORE: Well, again on this request
23 it seems to me and I have a number of questions which were
24 put into the record when I was taking testimony on this
25 before, it seems to me this is not so much addressed to
26 the Applicant as it is the staff who were in the position

1 to generate this type of data, ask these kinds of
2 questions in the preparation of the FSA, didn't change
3 very much the preliminary to the final, it seems to me
4 there was room for improvement on getting some of these
5 questions answered. Some of them, as I said, I put into
6 the record, but this was certainly not directed as much.
7 We're filling in the blank as it was for the staff.

8 MR. ELLISON: Okay. And then lastly, come to
9 closure funds did I mention last time the Committee asked
10 for and received from Calpine and the parties' briefs on
11 this issue back in April, and I think you're correct in
12 observing the information that Calpine developed in those
13 briefs is not actually in our evidentiary record. It
14 doesn't appear in the testimony. It doesn't appear
15 certainly in the final staff assessment which we would be
16 happy to supplement the record by taking that brief that
17 was already docketed and attaching, for example, a
18 declaration as to the facts that are pertained and then
19 put them in. It's quite an extensive discussion, so I
20 think it would complete the record on that.

21 COMMISSIONER MOORE: Thank you. It is almost
22 5:30 and we'll conclude at 5:30. Anyone else have any
23 questions on the Committee order?

24 HEARING OFFICER FAY: I think I just put things
25 in perspective. We all know the Applicant has the burden
26 of proof in the case. So it behooves the Applicant to

1 support the staff and any of the requirements placed on
2 staff to be sure that they have adequate information to
3 respond to the request.

4 COMMISSIONER MOORE: I think we heard
5 concurrence from Mr. Ellison that he would be willing to
6 do that.

7 Again, my concern is for a complete record,
8 complete decision document and to maintain the timely and
9 to the best that we're able.

10 All right. We're going to adjourn.

11 MR. RATLIFF: On behalf of staff I'd like to ask
12 that the Applicant be required to address a Subsection C
13 as well, unless they have reported reasons for not doing
14 so.

15 COMMISSIONER MOORE: I didn't say that -- thank
16 you for the correction. I didn't say that they wouldn't
17 assist in that. I was simply saying when I addressed this
18 point, I had in mind that I was addressing this staff, but
19 certainly there's data that the Applicant would have
20 that -- would support that. I'm sure Mr. Ellison has
21 plans to give you help on that as well.

22 All right. We're in adjournment till 6:30.

23 (Thereupon the conference adjourned until 6:30 p.m.)

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I, Cecilia E. Rodriguez, as the Official
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In the Matter of:) Docket No. 97-AFC-2
)
Application for Certification)
for the Sutter Power Plant Project)
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